

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 - Vacant
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
November 7, 2006**

A meeting of the Fayetteville City Council will be held on November 7, 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 September 19, 2006 and October 3, 2006 City Council meeting minutes.**

APPROVED.

2. **AB Reprographics, Inc:** A resolution approving the purchase of an Oce CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of \$20,753.27 for the Electronic Document Management System.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 175-06.

3. **Cando, Inc:** A resolution awarding Bid #06-52 and approving a contract with Cando, Inc. in the amount of \$157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision; and approving a 10% project contingency in the amount of \$15,798.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 176-06.

4. **Peyton Properties, LLC:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$200,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 177-06.

5. **GN Contractors, LLC:** A resolution approving a contract with GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive; and approving a project contingency in the amount of \$55,114.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 178-06.

6. **T-G Excavating, Inc:** A resolution awarding a construction contract to T-G Excavating, Inc. in the amount of \$4,413,664.50 for construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2; and approving a 5% project contingency in the amount of \$220,683.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 179-06.

7. **Insituform Technologies, Inc:** A resolution approving Change Order #2 to the construction contract with Insituform Technologies, Inc. in the amount of \$323,650.00 for Sanitary Sewer Lining Services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 180-06.

8. **Arkansas Democrat Gazette:** A resolution approving one-year agreements with the Arkansas Democrat-Gazette – Northwest Edition for display and legal advertising.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 181-06.

B. UNFINISHED BUSINESS:

1. **R-PZD 06-2169 - 6th & Wood:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2169, 6th & Wood, located south of 6th Street near Wood Avenue, containing approximately 1.80 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October.17, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4940.

2. **RZN 06-2240 Combs:** An ordinance approving RZN 06-2240 submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning the subject property from RSF-4, Residential Single Family, 4 units per acre to RMF-6, Residential Multi-family, 6 units per acre and C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 4941.

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1762 Stirman Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Ruby M. Abel and Lynn Edward

Abel located at 1762 Stirman Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$10,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 182-06.

2. **Buffco Inc. Taxi Service:** A resolution granting a Certificate of Public Convenience and Necessity to Buffco Inc. for the operation of four (4) to ten (10) taxicabs within the City of Fayetteville, Arkansas.

THIS ITEM WAS TABLED TO THE NOVEMBER 21, 2006 CITY COUNCIL MEETING.

3. **JC Animal Farms Entertainment:** A resolution granting a Certificate of Public Convenience and Necessity to JC Animal Farms Entertainment for the operation of a Non-Motorized Transportation Service.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 183-06.

D. NEW BUSINESS:

1. **Barloworld Freightliner Repair Unit # 477:** An ordinance waiving the requirements of formal competitive bidding and approving a quote from Barloworld Freightliner of Springdale in the amount of \$26,706.34 to repair accident damage to Unit # 477, a front-load refuse collection truck.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4942.

2. **R-PZD 06-2191, University Club Tower:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2191, University Club Tower, located north of Lowe's Home Center, east of College Avenue (Highway 71), containing approximately 10.39 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

3. **R-PZD 06-2256, 932 Garland:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2256, 932 Garland, located at 932 Garland, between Berry and Hughes Street, containing approximately 0.84 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

4. **ADM 06-2294 Amend Chapter 161, Zoning Regulations:** An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4943.

5. **ADM 06-2324 Amend Title XV: DMP Supplementary District Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Supplementary District Regulations for the Downtown Master Plan Area.

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

6. **Real Estate Sales Contract with Habitat for Humanity:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. in the amount of \$152,000 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing; and designating a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4944.

7. **Cato Springs Road Properties:** An ordinance repealing Section 2 of Ordinance No. 4787; designating the remaining balance of the proceeds from the sale of the Cato Springs Road Properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4945.

8. **Wilson Springs Property:** A resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs Property from General Fund Designated Fund Balance to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 184-06.

9. **South Industrial Park and the Tyson Site:** A resolution directing the proceeds from any future sale of Parcel 20W in South Industrial Park and the Tyson site to the Sales Tax Capital Fund to fund a portion of the construction costs of a police and court facility.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 185-06.

10. **Wilson Estes Police Architects:** A resolution to approve a contract in the amount of \$458,661.00 with Wilson Estes Police Architects, plus up to \$30,000.00 for reimbursable expenses and to approve a budget adjustment of \$100,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 186-06.

11. **GCM Building Lease:** A resolution to approve a thirty month lease with GCM, LLC for about 3,200 square feet within the GCM Building for \$45,250.00 the first year and an estimated total cost of \$114,825.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 187-06.

12. **Mayes Lot Split Appeal:** An appeal of the Planning Commission's decision to deny a lot split for Mayes located at 445 N. Canvas Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 188-06.

- 13. Emerald Point ADM 06-2282 Appeal:** An appeal of the Planning Commission's decision regarding ADM 06-2282 (Emerald Point).

THIS ITEM WAS TABLED TO THE NOVEMBER 21, 2006 CITY COUNCIL MEETING.

- 14. Sunbridge Villas R-PZD 06-2213 Appeal:** An appeal of the Planning Commission's decision regarding R-PZD 06-2213 Sunbridge Villas.

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

- 15. Ritchie Brothers Auctioneers:** An ordinance waiving competitive bidding and approving the purchases of a 2002 Komatsu BR380JG-1 24x42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5x12 foot Deck Screen Portable Screen Plant through Ritchie Brothers Auctioneers up to a maximum amount of \$318,000.00; and approving a budget adjustment in the amount of \$318,000.00.

THIS ITEM FAILED BY VOTE OF THE CITY COUNCIL.

E. INFORMATIONAL:

City Council Tour: November 6, 2006 -4:30 PM

Meeting adjourned at 10:20 p.m.

Adjourn 10:20 PM

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

7-0

Subject: Consent					
Motion To:					
Motion By:		Jordan			
Seconded:		Reynolds			
<u>Passed</u> Minutes Approved Res. 175-06 to 181-06	Thiel	✓			
	Cook	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

7-0

Subject: R-PZD 06-2169 - 6th & Wood					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Reynolds	Reynolds		
Seconded:		Thiel	Rhoads		
B.1. Unfinished <u>Passed</u> 4940	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

Subject: RZN 06-2240 Combs					
Motion To:		2nd read	Amend to RSF-8	3rd read	Pass
Motion By:		Rhoads	Thiel	Thiel	
Seconded:		Ferrell	Reynolds	Reynolds	
B.2. Unfinished <u>passed</u> 4941	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Reynolds	✓	✓	✓	✓
	Mayor Coody				

7-0

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7-0

Subject: <i>Raze & Removal 1762 Stirman Avenue</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Reynolds</i>			
Seconded:		<i>Thiel</i>			
<i>C.1. Public Hearing passed 182-06</i>	Thiel	✓			
	Cook	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

7-0

Subject: <i>Buffco Inc. Tax Service</i>					
Motion To:		<i>Tabled to 11/21/06</i>			
Motion By:		<i>Rhoads</i>			
Seconded:		<i>Jordan</i>			
<i>C.2. Public Hearing Tabled to 11/21/06</i>	Thiel	✓			
	Cook	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

7-0

Subject: <i>JC Annual Farms Entertainment</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Ferrell</i>			
Seconded:		<i>Reynolds</i>			
<i>C.3.</i> <i>Public Hearing</i> <i>passed</i> <i>183-06</i>	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Reynolds	<i>✓</i>			
	Mayor Coody				

7-0

Subject: <i>Barloworld Freightliner Repair Unit #477</i>					
Motion To:		<i>2nd read</i>	<i>3rd read</i>	<i>Pass</i>	
Motion By:		<i>Jordan</i>	<i>Jordan</i>		
Seconded:		<i>Reynolds</i>	<i>Ferrell</i>		
<i>D.I.</i> <i>New Business</i> <i>passed</i> <i>4942</i>	Thiel	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Cook	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Rhoads	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Ferrell	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Lucas	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Jordan	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Reynolds	<i>✓</i>	<i>✓</i>	<i>✓</i>	
	Mayor Coody				

7-0

7-0

7-0

Subject: <i>R-PZD 06-21-91 University Club Tower</i>					
Motion To:					
Motion By:					
Seconded:					
<i>D. 2. New Business Left on the first Reading</i>	Thiel				
	Cook				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

Subject: <i>R-PZD 06-2256, 932 Garland</i>					
Motion To:					
Motion By:					
Seconded:					
<i>D. 3. New Business Left on the first Reading.</i>	Thiel				
	Cook				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

Subject: ADM - 06-2294 Amend Chapter 161 Zoning Regulations					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Ferrell		
D.4, New Business <u>passed</u> 4943	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Rhoads	Absent during the vote.	Absent during the vote	Absent during the vote.	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

6-0

6-0

6-0

Subject: ADM 06-2324 Amend Title XV DMP					
Motion To:		Amendment	2nd read	Amend add as elsewhere	
Motion By:		Ferrell	Thiel	Thiel	
Seconded:		Jordan	Lucas	Lucas	
D.5, New Business Left on the Second Reading	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Rhoads	Absent during the vote	✓	✓	
	Ferrell	✓	Absent during the vote.	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

6-0

6-0

7-0

Subject: Real Estate Sales Contract Habitat for					
Motion To:		2nd read	3rd read	Pass	Humanity
Motion By:		Thiel	Jordan		
Seconded:		Jordan	Reynolds		
D. 6, New Business Passed 4944	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

Subject: Cato Springs Road Properties					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Reynolds	Reynolds		
Seconded:		Thiel	Thiel		
D. 7, New Business Passed 4945	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

Subject: <i>Wilson Springs Property</i>					
Motion To:		<i>Amend amount changing remaining balance to \$1.1 million</i>		<i>Approve</i>	
Motion By:		<i>Ferrell</i>		<i>Jordan</i>	
Seconded:		<i>Jordan</i>		<i>Reynolds</i>	
<i>D. 8</i> <i>New Business</i> <i>Passed</i> <i>as Amended</i> <i>184-06</i>	Thiel	✓		✓	
	Cook	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

7-0

7-0

Subject: <i>South Industrial Park & the Tyson Site.</i>					
Motion To:		<i>Amend \$1.1 Million from proceeds</i>		<i>Pass</i>	
Motion By:		<i>Thiel</i>		<i>Thiel</i>	
Seconded:		<i>Cook</i>		<i>Cook</i>	
<i>D. 9.</i> <i>New Business</i> <i>Passed</i> <i>185-06</i>	Thiel	✓		✓	
	Cook	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

7-0

7-0

Subject: Wilson Estes Police Architects.					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Reynolds			
D.I.O. New Business <u>Passed</u> 186-06	Thiel	✓			
	Cook	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

7-0

Subject: GCM Building Lease					
Motion To:		Amend		Pass	
Motion By:		Reynolds		Jordan	
Seconded:		Jordan		Cook	
D.H. New Business <u>Passed</u> 187-06	Thiel	✓		✓	
	Cook	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Mayor Coody				

7-0

7-0

Subject: Mayes Lot Split Appeal					
Motion To:		Approve Appeal with Conditions			
Motion By:		Ferrell	that Planning Commission recommended		
Seconded:		Reynolds			
D.12. New Business Approved 188-06	Thiel	✓			
	Cook	N			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

6-1

Subject: Emerald Point ADM 06-2282 Appeal					
Motion To:		Tabled to 11/21/06			
Motion By:		Jordan			
Seconded:		Lucas			
D.13 New Business Tabled 11/21/06 Check by.	Thiel	✓			
	Cook	Absent during the vote			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Mayor Coody				

6-0

Subject: <i>Sumbridge Villas R-PZD 06-2213 Appeal</i>					
Motion To:					
Motion By:					
Seconded:					
<i>D. 14, New Business Left on the first Reading</i>	Thiel				
	Cook				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Reynolds				
	Mayor Coody				

Subject: <i>Add Komatsu Jaw Crusher to Agenda</i>					
Motion To:		<i>Add to Agenda</i>	<i>2nd read</i>	<i>3rd read</i>	<i>Pass</i>
Motion By:		<i>Thiel</i>	<i>Reynolds</i>	<i>Cook</i>	
Seconded:		<i>Cook</i>	<i>Cook</i>	<i>Thiel</i>	
<i>Failed</i>	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	N
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	N
	Lucas	✓	✓	✓	N
	Jordan	✓	✓	✓	N
	Reynolds	✓	✓	✓	abstain
	Mayor Coody				

7-0

Failed 2-4

Agenda Session

10/31/06

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 - Vacant
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
November 7, 2006**

A meeting of the Fayetteville City Council will be held on November 7, 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**

Presentation on the Best Practices Manual for Foundations, Drainage and Compaction – Steve Cattaneo. Agenda Session Only.

A. CONSENT:

1. ☒ **Approval of the September 19, 2006 and October 3, 2006 City Council meeting minutes.**
2. ☒ **AB Reprographics, Inc:** A resolution approving the purchase of an Oce CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of \$20,753.27 for the Electronic Document Management System.
3. ☒ **Cando, Inc:** A resolution awarding Bid #06-52 and approving a contract with Cando, Inc. in the amount of \$157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision; and approving a 10% Project Contingency in the amount of \$15,798.00.
4. ☒ **Peyton Properties, LLC:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$169,800.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

5. **GN Contractors, LLC:** A resolution approving a contract with GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive; and approving a project contingency in the amount of \$55,114.00.
6. **T-G Excavating, Inc:** A resolution awarding a construction contract to T-G Excavating, Inc. in the amount of \$4,413,664.50 for construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2; and approving a 5% project contingency in the amount of \$220,683.00.
7. **Insituform Technologies, Inc:** A resolution approving Change Order #2 to the construction contract with Insituform Technologies, Inc. in the amount of \$323,650.00 for Sanitary Sewer Lining Services.
8. **Arkansas Democrat Gazette:** A resolution approving one-year agreements with the Arkansas Democrat-Gazette – Northwest Edition for display and legal advertising.

B. UNFINISHED BUSINESS:

1. **R-PZD 06-2169 - 6th & Wood:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2169, 6th & Wood, located ~~at the intersection of 6th Street and~~ ^{South} Wood Avenue, containing approximately 1.80 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.* *near*
2. **RZN 06-2240 Combs:** An ordinance approving RZN 06-2240 submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning the subject property from RSF-4, Residential Single Family, 4 units per acre to RMF-6, Residential Multi-family, 6 units per acre and C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*

Check Ordinance

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1762 Stirman Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Ruby M. Abel and Lynn Edward Abel located at 1762 Stirman Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$10,000.00.
2. **Buffco Inc. Taxi Service:** A resolution granting a Certificate of Public Convenience and Necessity to Buffco Inc. for the operation of four (4) to ten (10) taxicabs within the City of Fayetteville, Arkansas.
3. **JC Animal Farms Entertainment:** A resolution granting a Certificate of Public Convenience and Necessity to JC Animal Farms Entertainment for the operation of a Non-Motorized Transportation Service.

D. NEW BUSINESS:

1. ✓ **R-PZD 06-2191, University Club Tower:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2191, University Club Tower, located north of Lowe's Home Center, east of College Avenue (Highway 71), containing approximately 10.39 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
2. ✓ **R-PZD 06-2256, 932 Garland:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2256, 932 Garland, located at 932 Garland, between Berry and Hughes Street, containing approximately 0.84 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
3. ✓ **ADM 06-2294 Amend Chapter 161, Zoning Regulations:** An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.
4. ✓ **ADM 06-2324 Amend Title XV: DMP Supplementary District Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Supplementary District Regulations for the Downtown Master Plan Area.
5. ✓ **Real Estate Sales Contract with Habitat for Humanity:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. in the amount of \$152,000 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing; and designating a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland.
6. ✓ **Cato Springs Road Properties:** An ordinance repealing Section 2 of Ordinance No. 4787; designating the remaining balance of the proceeds from the sale of the Cato Springs Road Properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
7. ✓ **Wilson Springs Property:** A resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs Property from General Fund Designated Fund Balance to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
8. ✓ **South Industrial Park and the Tyson Site:** A resolution directing the proceeds from any future sale of Parcel 20W in South Industrial Park and the Tyson site to the Sales Tax Capital Fund to fund a portion of the construction costs of a police and court facility.
9. ✓ **Wilson Estes Police Architects:** A resolution to approve a contract in the amount of \$458,661.00 with Wilson Estes Police Architects, plus up to \$30,000.00 for reimbursable expenses and to approve a budget adjustment of \$100,000.00.
10. (10) **Mayes Lot Split Appeal:** An appeal of the Planning Commission's decision to deny a lot split for Mayes located at 445 N. Canvas Road.

*Need Planning
Commission Minutes
Get with Jerry*

11. Emerald Point ADM 06-2282 Appeal: An appeal of the Planning Commission's decision regarding ADM 06-2282 (Emerald Point).

12. Sunbridge Villas R-PZD 06-2213 Appeal: An appeal of the Planning Commission's decision regarding R-PZD 06-2213 Sunbridge Villas.

E. INFORMATIONAL:

City Council Tour: November 6, 2006 -4:30 PM

Council Tour—Mayes Rot Split — Bobby Ferrell

10/25/06 Mayor

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Vacant
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
November 7, 2006**

A meeting of the Fayetteville City Council will be held on November 7, 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

Presentation on the Best Practices Manual for Foundations, Drainage and Compaction – Steve Cattaneo. Agenda Session Only.

A. CONSENT:

- 1. Approval of the September 19, 2006 and October 3, 2006 the City Council meeting minutes.**
- 2. AB Reprographics, Inc:** A resolution approving the purchase of an Oce CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of \$20,753.27 for the Electronic Document Management System.
- 3. Cando, Inc:** A resolution awarding Bid #06-52 and approving a contract with Cando, Inc. in the amount of \$157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision; and approving a 10% Project Contingency in the amount of \$15,798.00.
- 4. Peyton Properties, LLC:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$169,800.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

5. **GN Contractors, LLC:** A resolution approving a contract with GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive; and approving a project contingency in the amount of \$55,114.00.
6. **T-G Excavating, Inc:** A resolution awarding a construction contract to T-G Excavating, Inc. in the amount of \$4,413,664.50 for construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2; and approving a 5% project contingency in the amount of \$220,683.00.
7. **Insituform Technologies, Inc:** A resolution approving Change Order #2 to the construction contract with Insituform Technologies, Inc. in the amount of \$323,650.00 for Sanitary Sewer Lining Services.
8. ~~GCM Building Coy Hurd Item: Waiting on staff review~~

B. UNFINISHED BUSINESS:

1. **R-PZD 06-2169 - 6th & Wood:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2169, 6th & Wood, located at the intersection of 6th Street and Wood Avenue, containing approximately 1.80 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*
2. **RZN 06-2240 Combs:** An ordinance approving RZN 06-2240 submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning the subject property from RSF-4, Residential Single Family, 4 units per acre to RMF-6, Residential Multi-family, 6 units per acre and C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1762 Stirman Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Ruby M. Abel and Lynn Edward Abel located at 1762 Stirman Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$10,000.00.
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3. **JC Animal Farms Entertainment:** A resolution granting a Certificate of Public Convenience and Necessity to JC Animal Farms Entertainment for the operation of a Non-Motorized Transportation Service.

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7. **Cato Springs Road Properties:** An ordinance repealing Section 2 of Ordinance No. 4787; designating the remaining balance of the proceeds from the sale of the Cato Springs Road Properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
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13. Sunbridge Villas R-PZD 06-2213 Appeal: An appeal of the Planning Commission's decision regarding R-PZD 06-2213 Sunbridge Villas.

14. Business Improvement District: Get information from Kyle Cook

E. INFORMATIONAL:

City Council Tour: November 6, 2006 -4:30 PM

The Agenda Session Meeting 10-25-06

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 - Vacant
Ward 3 Position 1 - Robert K. Rhoads
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Roll Call
Pledge of Allegiance**

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Delak
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 8. *Per Memo Gazette*

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8. **Wilson Estes Police Architects:** A resolution to approve a contract in the amount of \$458,661.00 with Wilson Estes Police Architects, plus up to \$30,000.00 for reimbursable expenses and to approve a budget adjustment of \$100,000.00. *Cato Wilson Springs South End Wilson Estes*
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E. INFORMATIONAL:

City Council Tour: November 6, 2006 -4:30 PM

11-7-06

Agenda

From: Steve Cattaneo
To: Sondra Smith
Date: 10/10/2006 2:55 PM
Subject: Agenda session Oct 24th

CC: Gary Dumas; Tim Conklin

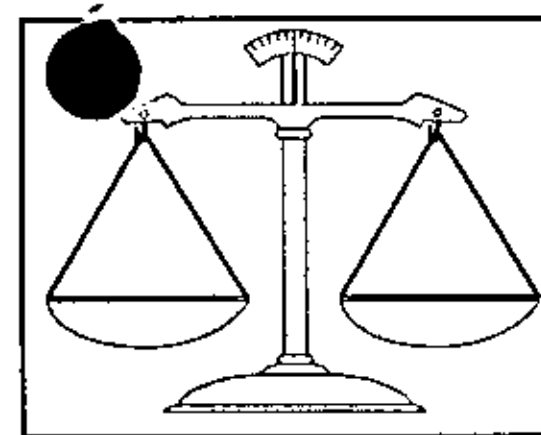
I'd like to have 10 minutes for a brief presentation of our Best Practices Manual for Foundations, Drainage and Compaction. This is informational only....no Council action requested or required. Do I need to do anything else besides this request?

Thanks.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
THRU: **Sondra Smith**, City Clerk
FROM: **Kit Williams**, City Attorney
DATE: **October 18, 2006**

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

RE: **Passed Ordinances and Resolutions from City Council meeting
of November 7, 2006**

1. **AB Reprographics, Inc.:** Resolution approving purchase of OCE CS4044 wide format full color scanner from AB Reprographics, Inc in amount of \$20,753.27 for Electronic Document Management System;
2. **Cando, Inc.:** Resolution awarding Bid #06-52 and approving contract with Cando, Inc. in amount of \$157,980.00 for installation of park amenities for development of the park in Salem Meadows Subdivision; and approving 10% contingency in amount of \$15,798.00;
3. **Peyton Properties, LLC:** Resolution approving Offer & Acceptance between City and Peyton Properties, LLC for sale of Parcel 20W in South Industrial Park for \$200,000.00; approving budget adjustment and authorizing Mayor & City Clerk to execute said agreement;
4. **GN Contractors, LLC:** Resolution approving contract with GN Contractors, in amount of \$275,571.00 for construction of improvements to Kings Drive; and approving contingency in amount of \$55,114.00;
5. **T-G Excavating, Inc.:** Resolution awarding contract to T-G Excavating, Inc. in amount of \$4,413,664.50 for construction of Gregg Avenue interceptor sewer WSIP subproject WL-2; and approving 5% contingency in amount of \$220,683.00;

6. **Insituform Technologies, Inc.:** Resolution approving Change Order #2 to contract with Insituform Technologies, Inc. in amount of \$323,650.00 for sanitary sewer lining services;
7. **AR Democrat-Gazette:** Resolution approving one year agreements with AR Democrat-Gazette – Northwest Edition for display & legal advertising;
8. **R-PZD 06-2169:** Ordinance establishing R-PZD 06-2169, 6th & Wood, located south of 6th Street near Wood Avenue, containing approximately 1.80 acres; amending Official Zoning Map of City and adopting Associated Master Development Plan;
9. **RZN 06-2240:** Ordinance approving RZN 06-2240 submitted by H2 Engineering for property located at southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning subject property from RSF-4, Residential Single Family, 4 units per acres to RSF-8, Residential Single Family, 8 units per acres and C-1, Neighborhood Commercial;
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13. **ADM 06-2294:** Ordinance amending Chapter 161, Zoning Regulations, §161.15 B.2 of Code of Fayetteville. To add Use Unit 15, Neighborhood Shopping Goods as a Conditional Use to the R-O, Residential Office Zoning District;

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16. Wilson Springs Property: Resolution transferring \$1.1 million of the remaining balance of the proceeds from the sale of the Wilson Springs property from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility;

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19. GCM Building Lease: Resolution approving two year lease with option to renew with GCM, LLC for about 3,200 square feet within the GCM Building for \$45,250.00 the first year and to increase by the CPI the second year;

20. Mayes Lot Split Appeal: Resolution granting appeal of Mayes and to grant the requested lot split for a tandem lot for LSP 06-2200.

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, Karen Caler, 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:

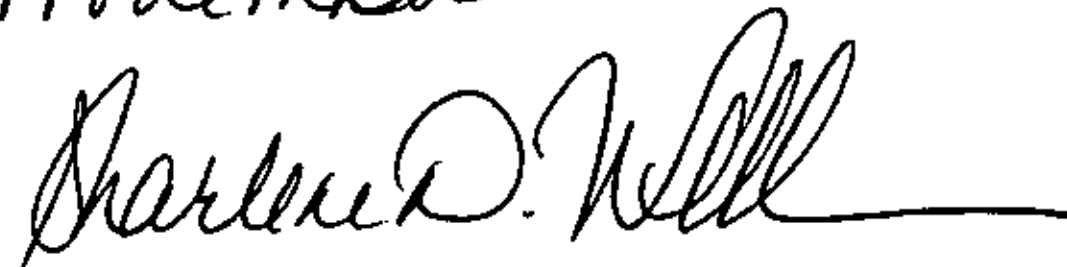
November 6, 2006

Publication Charge: \$331.59

Subscribed and sworn to before me

This 6 day of November 2006.

Notary Public



Sharlene D. Williams

Notary Public

State of Arkansas

My Commission Expires:

My Commission Expires

October 18, 2014

RECEIVED

NOV 09 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
COUNCIL MEETING
NOVEMBER 7, 2006**



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- **Roll Call**
- **Pledge of Allegiance**

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- **3. R-PZD 06-2256, 932 Garland:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2256, 932 Garland, located at 932 Garland, between Berry and Hughes Street, containing approximately 0.84 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- **4. ADM 06-2294 Amend Chapter 161, Zoning Regulations:** An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.
- **5. ADM 06-2324 Amend Title XV: DMP Supplementary District Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Supplementary District Regulations for the Downtown Master Plan Area.
- **6. Real Estate Sales Contract with Habitat for Humanity:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. in the amount of \$152,000 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing; and designating a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland.
- **7. Cato Springs Road Properties:** An ordinance repealing Section 2 of Ordinance No. 4787; designating the remaining balance of the proceeds from the sale of the Cato Springs Road Properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
- **8. Wilson Springs Property:** A resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs Property from General Fund Designated Fund Balance to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
- **9. South Industrial Park and the Tyson Site:** A resolution directing the proceeds from any future sale of Parcel 20W in South Industrial Park and the Tyson site to the Sales Tax Capital Fund to fund a portion of the construction costs of a police and court facility.
- **10. Wilson Estes Police Architects:** A resolution to approve a contract in the amount of \$458,681.00 with Wilson Estes Police Architects, plus up to \$30,000.00 for reimbursable expenses and to approve a budget adjustment of \$100,000.00.
- **11. GCM Building Lease:** A resolution to approve a thirty month lease with GCM, LLC for about 3,200 square feet within the GCM Building for \$45,250.00 the first year and an estimated total cost of \$114,825.00.
- **12. Mayes Lot Split Appeal:** An appeal of the Planning Commission's decision to deny a lot split for Mayes located at 445 N. Canvas Road.
- **13. Emerald Point ADM 06-2282 Appeal:** An appeal of the Planning Commission's decision regarding ADM 06-2282 (Emerald Point).
- **14. Sunbridge Villas R-PZD 06-2213 Appeal:** An appeal of the Planning Commission's decision regarding R-PZD 06-2213 Sunbridge Villas.

• **E. INFORMATIONAL:**

• **City Council Tour: November 6, 2006 4:30 PM**

RECEIVED

NOV 09 2006

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

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 - Vacant
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
November 7, 2006

A meeting of the Fayetteville City Council will be held on November 7, 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 September 19, 2006 and October 3, 2006 City Council meeting minutes.**
- 2. AB Reprographics, Inc:** A resolution approving the purchase of an Oce CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of \$20,753.27 for the Electronic Document Management System.
- 3. Cando, Inc:** A resolution awarding Bid #06-52 and approving a contract with Cando, Inc. in the amount of \$157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision; and approving a 10% project contingency in the amount of \$15,798.00.
- 4. Peyton Properties, LLC:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$200,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.
- 5. GN Contractors, LLC:** A resolution approving a contract with GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive; and approving a project contingency in the amount of \$55,114.00.

6. **T-G Excavating, Inc:** A resolution awarding a construction contract to T-G Excavating, Inc. in the amount of \$4,413,664.50 for construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2; and approving a 5% project contingency in the amount of \$220,683.00.
7. **Insituform Technologies, Inc:** A resolution approving Change Order #2 to the construction contract with Insituform Technologies, Inc. in the amount of \$323,650.00 for Sanitary Sewer Lining Services.
8. **Arkansas Democrat Gazette:** A resolution approving one-year agreements with the Arkansas Democrat-Gazette – Northwest Edition for display and legal advertising.

B. UNFINISHED BUSINESS:

1. **R-PZD 06-2169 - 6th & Wood:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2169, 6th & Wood, located south of 6th Street near Wood Avenue, containing approximately 1.80 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*
2. **RZN 06-2240 Combs:** An ordinance approving RZN 06-2240 submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning the subject property from RSF-4, Residential Single Family, 4 units per acre to RMF-6, Residential Multi-family, 6 units per acre and C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1762 Stirman Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Ruby M. Abel and Lynn Edward Abel located at 1762 Stirman Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$10,000.00.
2. **Buffco Inc. Taxi Service:** A resolution granting a Certificate of Public Convenience and Necessity to Buffco Inc. for the operation of four (4) to ten (10) taxicabs within the City of Fayetteville, Arkansas.
3. **JC Animal Farms Entertainment:** A resolution granting a Certificate of Public Convenience and Necessity to JC Animal Farms Entertainment for the operation of a Non-Motorized Transportation Service.

D. NEW BUSINESS:

1. **Barloworld Freightliner Repair Unit # 477:** An ordinance waiving the requirements of formal competitive bidding and approving a quote from Barloworld Freightliner of Springdale in the amount of \$26,706.34 to repair accident damage to Unit # 477, a front-load refuse collection truck.

2. **R-PZD 06-2191, University Club Tower:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2191, University Club Tower, located north of Lowe's Home Center, east of College Avenue (Highway 71), containing approximately 10.39 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
3. **R-PZD 06-2256, 932 Garland:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2256, 932 Garland, located at 932 Garland, between Berry and Hughes Street, containing approximately 0.84 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
4. **ADM 06-2294 Amend Chapter 161, Zoning Regulations:** An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.
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6. **Real Estate Sales Contract with Habitat for Humanity:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. in the amount of \$152,000 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing; and designating a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland.
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8. **Wilson Springs Property:** A resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs Property from General Fund Designated Fund Balance to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
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E. INFORMATIONAL:

City Council Tour: November 6, 2006 -4:30 PM

Added to
the Agenda
at the City
Council Meeting 11/7/06

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

November 7, 2006
City Council Meeting Date

Terry Gulley
Submitted By

Transportation
Division

Operations
Department

Action Required:

The Transportation and Fleet Operations Divisions request a resolution waiving competitive bidding and allowing a bid waiver to purchase a 2002 Komatsu BR380JG-1 24 x 42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5 x 12 ft. Deck Screen Portable Screen Plant through Ritchie Bros. Auctioneers and to approve a budget adjustment in the amount of \$318,000.00.

\$ 318,000.00
Cost of this request

\$ 321,145.00
Category/Project Budget

Construction Equipment
Program Category / Project Name

9700.1920.5802.00
Account Number

\$ 321,145.00
Funds Used to Date

Vehicles & Equipment
Program / Project Category Name

02077/1
Project Number

\$ -
Remaining Balance

Shop Fund
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

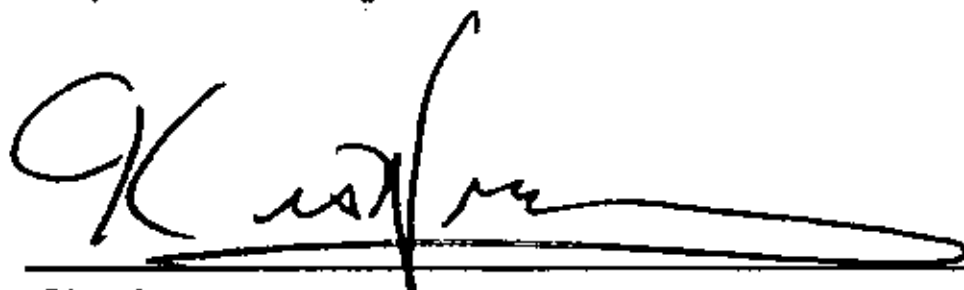

Department Director

11-07-06
Date

Previous Ordinance or Resolution # _____

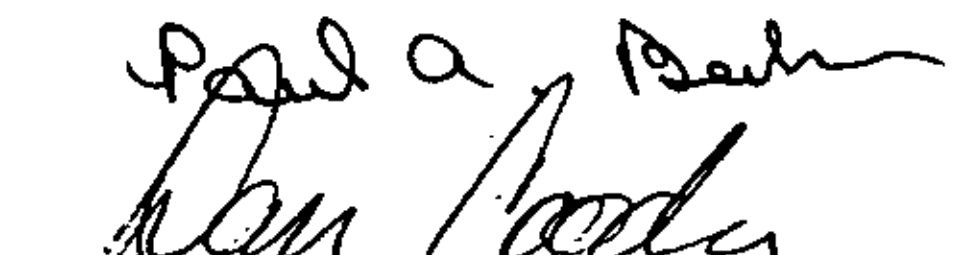
Original Contract Date: _____

Original Contract Number: _____


City Attorney

11-07-06
Date

Received in City Clerk's Office



Mayor

11-7-06
Date

Received in Mayor's Office


Comments:



City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations *GD*

From: Terry Gulley, Transportation Manager *TG*

Date: November 7, 2006

Subject: A resolution waiving competitive bidding and allowing a bid waiver to purchase a used 2002 Komatsu BR380JG-1 24 x 42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5 x 12 ft. Deck Screen Portable Plant through Ritchie Bros. Auctioneers and to approve a budget adjustment in the amount of \$318,000.00.

Background: The Transportation Division has been evaluating the potential cost savings of recycling both concrete and topsoil products generated by the Sidewalk, Trails, and Street Programs.

Discussion: Through the evaluation of potential methods for reducing costs and recovering usable material from waste concrete, it has been determined that a rock crusher would optimize this process. Through the use of this machine, we would accomplish several goals. The first would be to crush this material into a usable product that could be used for base materials under sidewalks, trails, and street projects. This would lead to less of this material having to be purchased. An additional benefit would be that current waste material would become beneficial product, thereby reducing the fill being stock-piled at our OMI dump site. This would benefit not only the Transportation Division, but various other divisions throughout the City.

The rock crusher could be set up at our fill site, located on Fox Hunter Road and be used to supply our own base material for projects. Not only would we be able to crush our demolition material, we could increase the fill site life by excavating and crushing years of material deposited there.

Our current use of crushed materials has resulted in the purchase of approximately \$150,000.00 worth of material per year. Through the purchase of a crusher, we estimate that we will generate or have stock-piled enough concrete waste to provide a volume of material, which will reduce or eliminate the need to purchase this material for the next few years.

Topsoil usage is another area that we have evaluated for potential cost savings. In the past, we have purchased approximately \$50,000.00 worth of topsoil per year to restore work areas to their previous condition. Since the trails program has started, we have

realized a great potential to use the topsoil generated, to replace the purchased topsoil. To condition this material for use, the purchase of a topsoil screen will be necessary. Such a machine would allow us to generate product equal to that currently being purchased. This would result in the Transportation Division being able to completely eliminate the need to purchase topsoil in the future. This product is also used by both the Water & Sewer and Parks & Recreation Divisions and could eliminate their need for purchasing this product in the future as well. Additional use of this material could be realized by the Solid Waste & Recycling Division, as it would allow for the screen of their compost material.

The evaluation of this potential new program has been thrust to the forefront due to a local company liquidating their equipment. In this auction, they have a rock crusher and a screen unit that would accomplish all of the goals outlined above. Through an evaluation by both myself and the Fleet Operations Manager, there exists an opportunity to purchase these machines at a greatly reduced cost.

This model of rock crusher retails at approximately \$340,000.00. Through a search of past sales, these machines have sold for nearly \$200,000.00, thus creating a savings of \$140,000.00. There is a soil screen available and the cost of this equipment purchased new would be approximately \$165,000.00. Through the evaluation of past auctions, this type of machine has sold between \$66,000.00 and \$100,000.00.

Maintenance costs for both the crusher and the screen has been included in cost savings calculations, as shown in the attached cost analysis. This analysis shows that the savings will be enough to cover these costs and still provide the additional funds necessary to replenish the Shop Fund in approximately five years.

Labor costs will not increase due to the purchase of this equipment, as we will schedule its usage to coincide with off-peak periods throughout the year. The use of the screen has the potential to increase our efficiency due to decreasing multiple handlings of the topsoil.

Recommendation: It is the recommendation of the Transportation Division that the City Council approve a resolution allowing a bid waiver for the purchase of a used 2002 Komatsu BR380JG-1 24 x 42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5 x 12 ft. Deck Screen Plant through an auction with Ritchie Bros. Auctioneers.

Attachment: Cost Analysis

ORDINANCE NO. _____

AN ORDINANCE WAIVING COMPETITIVE BIDDING AND APPROVING THE PURCHASES OF A 2002 KOMATSU BR380JG-1 24X42 INCH CRAWLER PRIMARY JAW CRUSHER AND A 2002 CEC ROADRUNNER 5X12 FOOT DECK SCREEN PORTABLE SCREEN PLANT THROUGH RITCHIE BROTHERS AUCTIONEERS UP TO A MAXIMUM AMOUNT OF \$318,000.00, AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$318,000.00

WHEREAS, the City Transportation Division recommends that the City Council authorize bidding upon and the purchase of a 2002 Komatsu BR380JG-1 24x42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5x12 foot Deck Screen Portable Screen Plant through Ritchie Brothers Auctioneers, up to a maximum amount of \$318,000.00; and

WHEREAS, bidding on these used pieces of equipment are projected to save the City hundreds of thousands of dollars within five years; and

WHEREAS, the unusual opportunity to bid on this type of equipment is only available because of a large company's decision to sell all of its equipment by auction.

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 the above circumstances constitute an exceptional situation where the normal competitive bidding procedure is deemed not feasible or practical and therefore waives the formal competitive bidding procedure and authorizes the expenditure of up to \$318,000.00 for the purchase of a 2002 Komatsu BR380JG-1 24x42 inch Crawler Primary Jaw Crusher and a 2002 CEC Roadrunner 5x12 foot Deck Screen Portable Screen Plant through Ritchie Brothers Auctioneers.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to sign any necessary documents or contracts to accomplish the above purchases and approves the budget adjustment of \$318,000.00 attached as Exhibit A.

PASSED and APPROVED this 21st day of November, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville, Arkansas

Request for Expansion/Replacement Equipment

Division: Transportation Program: Street/Trails/Sidewalks Date of Request: 11/07/06

Expansion ☒ or Replacement ☐ Purchase from Acct. Number: 9700.1920.5802.00

Unit # for Current Vehicle: Unit # for Expansion/Replacement: 812

Purchase Price: \$ 200,000 CIP Budget Amt: CIP Year Budgeted: Project # 02077

Total Annual Budgeted Motor Pool Charges for Unit: Acct. # for monthly charges: See NOTE below

Replacement: Maintenance: Overhead:

Monthly Motor Pool Charges for Current Unit:

Replacement: Maintenance: Overhead:

Monthly Motor Pool Charges for New Unit:

Replacement: 3,531.00 Maintenance: 750.00 Overhead: 464.57

of Months New Unit to be in Service for Current Year: 1.00 Budgeted Amount: 0.00

Annual Cost: 4,745.57

Is a Budget Adjustment Needed? Difference (Over)/Under Budget: (4,745.57)

☐ No ☒ Yes

BA to Council for capital purchase.

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2002 Komatsu BR380JG-1 24 x 42 in. Crawler Primary Jaw Crusher

Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

The Transportation Division will use this equipment to reduce the cost of base materials purchased for street overlays, trail construction, drainage maintenance and sidewalk construction. Year to date, Transportation has spent over \$109,000 to purchase aggregate. With this equipment Transportation will be able to supply base material from the fill site on Fox Hunter Road.

NOTE: Monthly charges to be paid 34% from Street In-House 4470.9470.5417.00, Proj. 02052.1

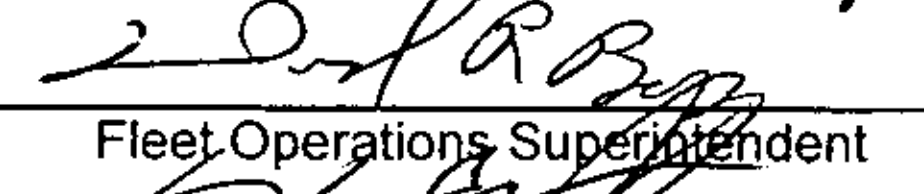
33% from Trails 4470.9470.5814.05, Proj 02016.1 and

33% from Sidewalks 2100.5530

CC856, 6 year life

Approval Signatures:

 11-7-06
Division Head Date

 11-7-06
Fleet Operations Superintendent Date


Budget Manager Date

 11-7-06
Department Director Date

 11-7-06
Finance & Internal Services Dir. Date

 11/7/06
Mayor Date

Please return original form to Fleet when signed by all

City of Fayetteville, Arkansas

Request for Expansion/Replacement Equipment

Division: Transportation Program: Street/Trails/Sidewalks Date of Request: 11/07/06

Expansion X or Replacement Purchase from Acct. Number: 9700.1920.5802.00

Unit # for Current Vehicle: Unit # for Expansion/Replacement: 813

Purchase Price: \$ 100,000 CIP Budget Amt: CIP Year Budgeted: Project # 02077

Total Annual Budgeted Motor Pool Charges for Unit: Acct. # for monthly charges: See NOTE below

Replacement: Maintenance: Overhead:

Monthly Motor Pool Charges for Current Unit:

Replacement: Maintenance: Overhead:

Monthly Motor Pool Charges for New Unit:

Replacement: 1,766.00 Maintenance: 500.00 Overhead: 232.29

of Months New Unit to be in Service for Current Year: 1.00 Budgeted Amount: 0.00

Annual Cost: 2,498.29

Is a Budget Adjustment Needed? No X Yes Difference (Over)/Under Budget: (2,498.29)

 BA to Council for capital purchase.

Description of equipment to be purchased/transferred: (Attach Additional Sheets if Necessary)

2002 CEC Roadrunner 5 x 12 FT Deck Screen It Portable Screen Plant

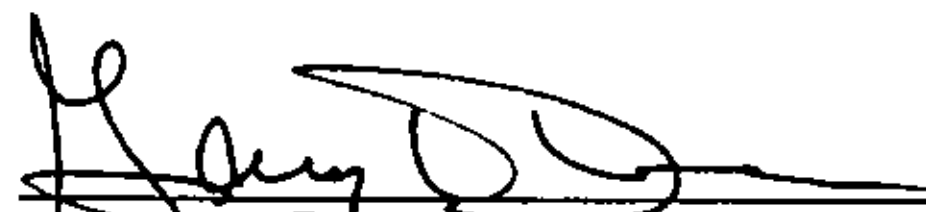
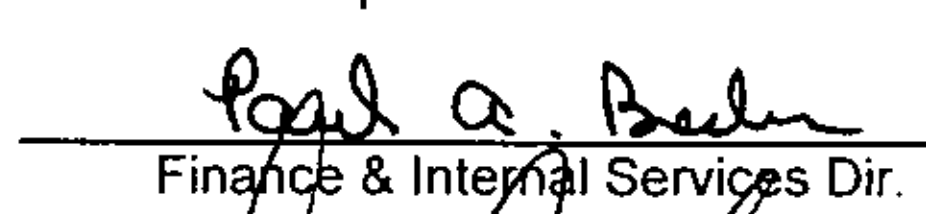
Justification for expansion/replacement: (Attach Additional Sheets if Necessary)

The Transportation Division will use this equipment to reduce the cost of topsoil purchased for all Transportation projects. Year to date, Transportation has spent over \$24,000 to purchase topsoil. With this equipment Transportation will be able to screen and use topsoil that is removed from Trails construction.

NOTE: Monthly charges to be paid 34% from Street In-House 4470.9470.5417.00, Proj. 02052.1
33% from Trails 4470.9470.5814.05, Proj 02016.1 and
33% from Sidewalks 2100.5530

CC852, 6 year life

Approval Signatures:

 Division Head	<u>11-7-06</u> Date	 Department Director	<u>11-7-06</u> Date
 Fleet Operations Superintendent	<u>11-7-06</u> Date	 Finance & Internal Services Dir.	<u>11-7-06</u> Date
 Budget Manager	<u> </u> Date	 Mayor	<u>11/7/06</u> Date

Please return original form to Fleet when signed by all.

Cost Analysis

City of Fayetteville

Transportation Division

2002 Komatsu BR380JG-1 Jaw Crusher	1 Year	5 Year
Cost of Aggregate Materials	\$150,000.00	\$750,000.00
Operating Expenses		
Motorpool, Replacement, & Shop Overhead	\$57,186.84	\$285,934.20
Fuel Expense	\$6,000.00	\$30,000.00
Personnel Cost	No Additional Personnel Required	No Additional Personnel Required
Net Income (Loss)	\$86,813.16	\$434,065.80

2002 CEC Roadrunner 5 x 12 ft. Portable Screen Plant	1 Year	5 Year
Cost of Topsoil Materials	\$50,000.00	\$250,000.00
Operating Expenses		
Motorpool, Replacement, & Shop Overhead	\$30,099.00	\$150,495.00
Fuel Expense	\$2,500.00	\$12,500.00
Personnel Cost	No Additional Personnel Required	No Additional Personnel Required
Net Income (Loss)	\$17,401.00	\$87,005.00

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

Budget Year 2006	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 11/7/2006	Adjustment Number
----------------------------	--	------------------------------------	-------------------

Project or Item Added/Increased:

Increase the Construction Equipment Project by \$318,000. to purchase a rock crusher and topsoil screener for use by Transportation Division.

Project or Item Deleted/Reduced:

None. Use of Shop Fund Balance by \$318,000.

Justification of this Increase:

The Transportation Division will use this equipment to reduce the cost of base materials purchased for street overlays, trail construction, drainage maintenance, and sidewalk construction. Year to date, Transportation has spent over \$133,000 to purchase these materials. With this equipment Transportation will be able to supply base material from the fill site on Fox Hunter Road and to screen topsoil from Trails construction to use as top dressing for all projects.

Justification of this Decrease:

There are sufficient reserves available for the purchase of the rock crusher and screen and to meet City policy and objectives.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	318,000	02077	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	9700	0970	4999	99	318,000		

Approval Signatures

Barbara Ober 11-7-6
Requested By Date

[Signature] 11-9-06
Budget Manager Date

[Signature] 11-7-06
Department Director Date

Paul A. Bahr 11-7-06
Finance & Internal Services Director Date

[Signature] 11/7/06
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

*New
Handed out at
City Council Meeting 11/7/06*

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A TWO YEAR LEASE WITH
OPTION TO RENEW WITH GCM, LLC FOR ABOUT 3,200 SQUARE
FEET WITHIN THE GCM BUILDING FOR \$45,250.00 THE FIRST
YEAR AND TO INCREASE BY THE CPI THE SECOND YEAR

**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 lease attached as Exhibit A with GCM, LLC for about 3,200 square feet
within the GCM Building for a period of two years at a first year's cost of \$45,250.00
and a second year's rent increase by the annual CPI for 2007, and authorizes Mayor
Coody to sign this lease.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

D. L. Habitat
11-7-06

Handed out at
Council Meeting

November 7, 2006

We met today with Seven Hills, Sage House, and Habitat for Humanity and all agreed to move forward with common planning of the remainder property outside of Seven Hills lease area. Sage House and Habitat for Humanity will go back to both boards with the concept of planning the entire site that will mutually benefit all parties and the possible relocation of the Sage House area to an appropriate area within the remaining property.

Staff has looked at the cross section and has recalculated the additional street cost to approximately \$53,455 by reducing the street from 28' to 24'. Habitat for Humanity has stated that they will connect to the new street that would be constructed by Seven Hills if the Sage House Board agrees to relocate within the commonly planned property.

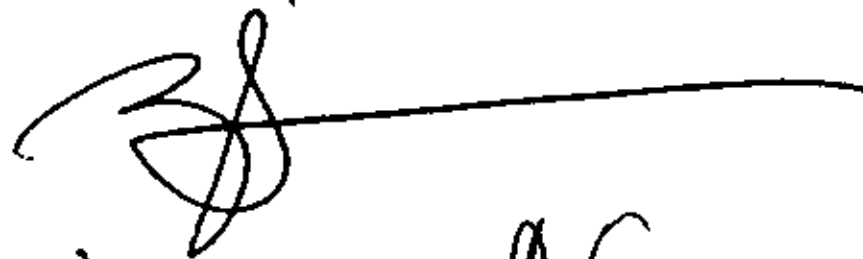
Habitat for Humanity Washington Co.

J. Miller

Patsy Brewer

Hugh Earnest

Gay Danner



Sage House - Nancy Bolin

Ron R. R.

F. L. L.

Daniel Hintz

From: Sonia Gutierrez [sonia@newdesigncenter.org]

Sent: Tuesday, November 07, 2006 5:39 PM

To: Lesha Shaver; Daniel Hintz; Doug Walsh

Subject: Please Read, thanks!!

In Regard to:

4. ADM 06-2294 Amend Chapter 161, Zoning Regulations: An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.

Please read the following:

As small businesses of the creative and educational sectors in downtown Fayetteville we support this ordinance.

We feel it will promote, support and diversify the creative and educational offerings for Fayetteville and Northwest Arkansas.

One of the reasons we support this is that it lays the groundwork for individuals in small-scale creative business endeavors — such as, artists living and working in the same space.

Regarding the signage regulations we feel it will also help set the stage for developing identities of the various forming districts, including our Mill District, by orienting locals and visitors to the unique resources that we contribute to the community.

Through this ordinance and the continued support of Fayetteville Downtown Partners (and the CADI?) we feel that these efforts will continue to encourage, retain and nourish its creative class.

Together lets continue the momentum that Fayetteville is a destination and supporter of creative and educational resources.

On behalf of:

Sonia Gutierrez, New Design Center

Lesha Shaver, Little Mountain Bindery

11-07-06

Jim and Linda Mayes
Mayes tandem lot split

Dear Council Members,

We have been trying to get our lot split through the city since July. I would like to give you some background on our situation.

We bought our lot in 1978 from Jim Lindsey and at that time he told us that the covenants provided for lot splits if we should ever wish to do so. We have lived on Canvas Mt. since 1979. We raised our family here and love Canvas Mt. We would never want to do anything to compromise the value of the property. Our kids are almost grown and we have bought a farm in Huntsville and plan to retire there.

Mary Bassett Broyles and Hank Broyles my brother are going to help us sell our property when we get ready to list it. We have noticed in the last year that the price of property has skyrocket in our area. The 4-acre lot down the street just sold for 164,000.00. We also know that the property in our subdivision with homes on them are not selling well due to the high price of land and that the homes don't meet those high prices. The house to the south of us took over 18 months to sell. The rest of the houses in the subdivision have been on the market a long time and keep dropping their prices, as did the house to the south of us. That's the only way they have been able to sell them.

Hank and Mary advised us that the best way to market our property was to split off the backside of our lot because we already have some utilities, a separate drive and entryway. The main reason we want to split our lot is because it is 720ft long. The back 1 1/2 acres is on the other side of the mountain from our home and is really of no use to our home. We can't see any of it. It does not protect us from our neighbors to the north or south. Those houses are very close but would not be close to a house on the back 1 1/2 acre. Mr. Toothtaker's house at the back of our lot would be over the length of a football field from where someone would want to build a house. Mr. Toothtaker wanted to buy the tandem lot but we did not want to sell it that way. Our intent is to split the lot and try to sell it all together but if someone can't afford to buy all of it, we would have the option to sell the house with 1 1/2 acres and then sell the 1 1/2 acres separately. This would give us options to move our property. It's not about trying to make a dollar as one of the neighbors said. We will make about the same amount of money. It's about being marketable and being able to move our property in a reasonable amount of time. We feel that we are within our rights as a property owner and because the covenants provide for it.

In June I met with Andrew at the city planning office. I showed him everything that we wanted to do. I brought the covenants, pictures and the plat. I asked him if this was possible before we spend all this money. He told me that it would be a tandem lot and that they do those all the time but that I should have a perk test done first to make sure a septic system would be approved. So we hired a Washington County septic inspector and it was approved. (See enclosed) We then hired Blew and Assoc. to do the survey and they got the utilities approved by the city and then we went to the subdivision meeting. Blew & Assoc. told me that we meet the city codes for a tandem lot split and because we are not in the city we were not required to get a conditional use permit. They said it should pass with no problems. When we get to the meeting, unknown to both of us, Suzanne Morgan says she recommends denial of the lot split and that she has pictures and complaints from my neighbor down the hill. We were shock! One that she allow Mr. Toothtaker to come in and say that my lot was not suitable to build on and that we had caused water damage to his property. We didn't even know if the pictures that he gave her were even pictures of my lot! We feel the ethical thing for Suzanne to have done was to contact either Blew & Assoc. or myself and to hear both sides of the story before she made her decision. At the least, let me tell her if the pictures he provided were even of my lot. She has never been here. How would she know?

When we were clearing our lot 4 years ago, Mr. Toothtaker came over and asked if we would leave a buffer in front of his house. He owns 7 acres below us but his house sits between our lot and lot 20. It is right next to the property lines. He said that he had drainage problems where he uses to live. We told him sure. We left trees and under brush at the bottom of our lot at his request. In 4 years he never

mentioned drainage problems until the subdivision meeting. We know the water does not come from our property. We have a letter (enclosed) from our engineers that states the land slopes away from his house. You will be able to see it when you tour on Monday. We all live on the side of a mountain. Everyone on Canvas Mt. has one or more retaining walls. We have them all over our property. It is the only way to have any flat ground. Mr. Toothtaker did not sign the petition against lot splits because he would like to split his 7 acres off at sometime in the future, but does not want us to have the same rights.

We felt like we should not have had to go into the planning commission meeting with a denial. We felt that had Suzanne listen to both sides and realized that there are 4 tandem lots on Canvas Mt. and that the city has already split off two other lots. And had she also known that there was an easement through Mr. Carfagno lot dedicated to the city for a street to develop that 200 acres. I brought all this information up at the subdivision meeting and she told the commissioners "she didn't think there was an easement." The easement and one of the tandem lots is printed at the top of our plat. She did not know that because when I asked her why she said that at meeting? She showed me what she had worked with. It was not a plat of the subdivision; it was a map she pulled up web site. She had not looked at the plat! She did not research our lot split. I told her with that easement they could build houses every 10,000sq. Ft. with a drip septic system. Mr. Carfagno could have 8 house on the north side of his property .. This could happen tomorrow. We don't see that our 2- 1 1/2-acre lots on the south side of him as being a problem!

Hank and I meet with Jeremy before the Planning Commission meeting and stated all the facts and ask him what we could do to fix this. We said we don't understand why you want the 75ft frontage. He said that they were afraid that the next person might try to split that 1 1/2 acres off again. Then it would need the 75ft. frontage. We said we would gladly put a restrictive deed for only one single family home on the lot. He made us feel that would make everything all right. We get to the planning commission meeting and Suzanne says that they still deny the lot split but if the commission were to pass it they would want to them to pass the tandem lot split! They wouldn't approve it before and wanted 75 frontage. So we redo everything and now they say they would rather the tandem lot be approved! That totally confused everyone. The planners kept asking what are we approving? Everyone was confused and it went downhill from there. You should see the video. The planners asked Jeremy about the tandem lots and the other lots split on Canvas Mt. He said that he was not sure they were done legally. More confusion! I gave Jeremy all the easement and lot splits file at the courthouse when we met with him. He could and should have looked up all that information before the meeting. I can only go back to 2004 on your web page or I would have done it. I don't feel I should have to confront my neighbors and ask, "did you split your lot legally or illegally." The planners ask him why they were denying this lot split and he said, "We don't split lots in platted subdivision." Where did that come from? That was the first time anyone had mentioned that! Well I got on the city's web page after the meeting and looked up the tandem lot splits in platted subdivision. They have passed all that I could find. That's 100%. Blew&Assoc. said they passed one for them just the other day. That is how we have been treated and why we are now before you! Please help us. We are legal in all aspects with the city's tandem lot requirements and with our covenants. It should not be a popularity contest with my neighbors.

Since that seems to be the process let me state a few facts. We have a letter from the engineers that states that the drainage problems that Mr. Toothtaker had were not caused by clearing our lot or by development of our lot.

Mr. Carfagno states that there are water pressure problems and that there is only a 2-inch line. Enclosed is a letter from the city's engineering department. It states that the main line is 6-inch line, not a 2-inch line. In 27 years we have never had water pressure problems. We have a separate water line to the tandem lot that we can hardly attach a sprinkler to the garden hose because the water pressure pops it off.

We have 19 signatures supporting our lot split and 4 that are neutral. Mr. Toothtaker's attorney has stated that some of our signatures were wrong. I got signatures back in Aug. and one piece of property has sold since this long process began. I can't help that. Lot 9, the people have moved and Southwest Energy has purchased their home because, like I said earlier, it has not sold in over a year. I spoke to Fred Shefte; he controls their re-locate property. I told him everything and he signed for Southwest Energy who owns the property. Signatures 3 and 4 are homeowners that live in the middle of Canvas Mt. Their home is completely surrounded by Canvas Mt. addition and they live 3 lots from us. Signatures 5, 14, 16 and 19 live

directly across the street from me and were split off the original plat and price list. (See enclosed) Signature 12 lives on lot 1 in his home which is in Canvas Mt. Subdivision. Signature 15 owns lot 5 on Mural Lane and has every right to his vote. The opposing petition has only 15 signatures instead of the 17 as stated in their letter. Signatures 8,9and10 count as one because the all live on lot13. Please pass this lot split because we are legal with the condition set by the city and with our covenants, not on emotion or popularity!

Thank-you for your time,

Jim and Linda Mayes



ENGINEERING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8206
Fax: (479) 575-8202

November 2, 2006

Mrs. Linda Mayes
445 N. Canvas Road
Fayetteville, AR 72701

RE: Water Line Along Canvas Road

Mrs. Mayes:

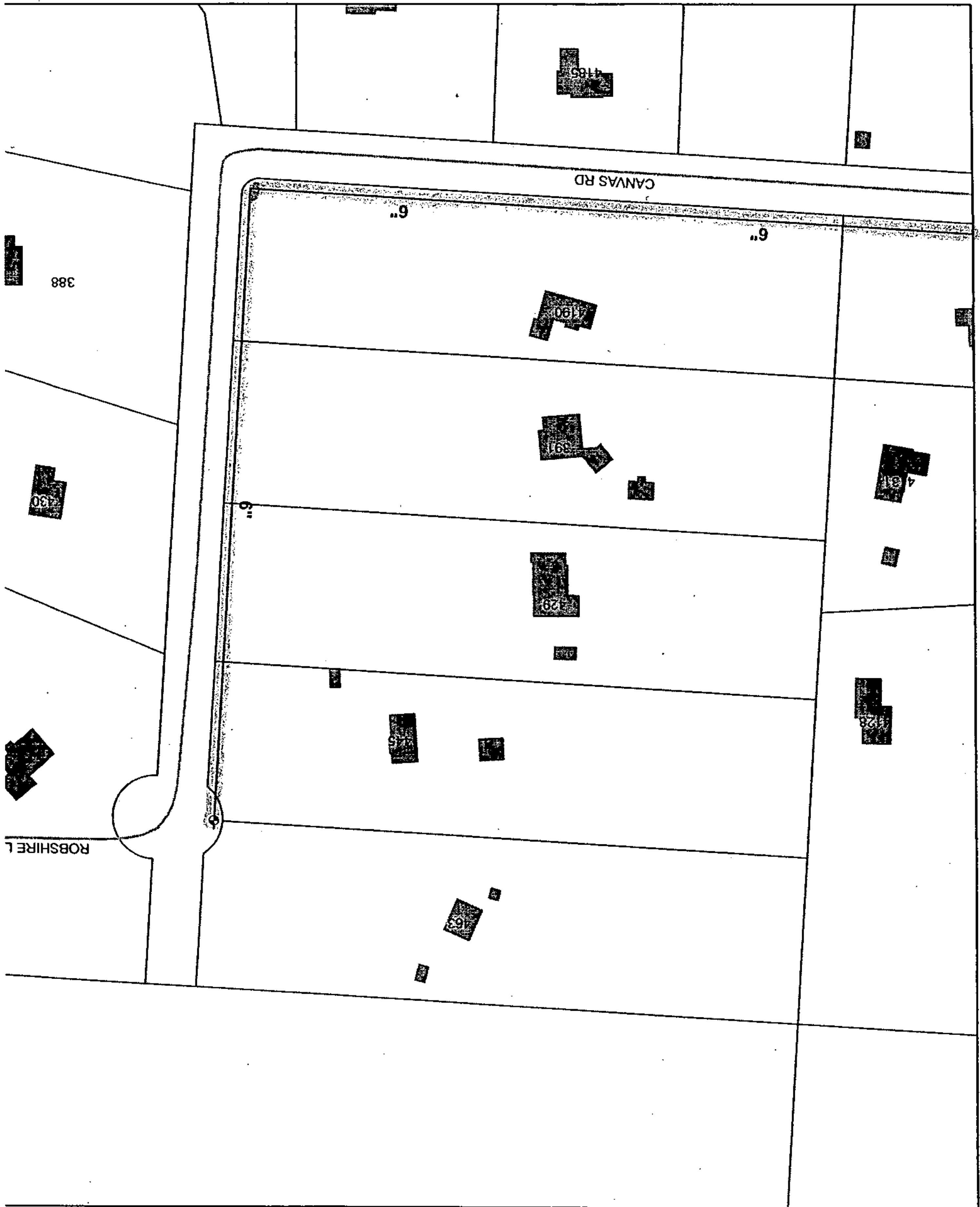
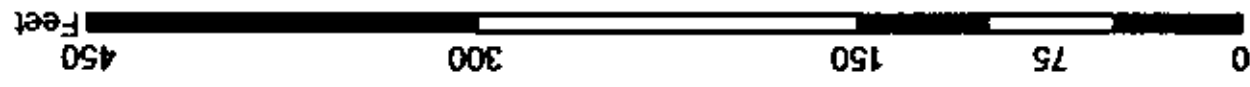
According to our records, there is a 6-inch water line along the western side of Canvas Road adjacent to your property located at Lot 21, Block 1, Canvas Mountain Addition as shown on the attached sketch.

If you have any additional questions, you may contact me at 575-8206.

CITY OF FAYETTEVILLE

A handwritten signature in cursive script that reads "Shannon W. Jones".

Shannon W. Jones, P.E.
Water & Wastewater Staff Engineer



Lindsey Management Co., Inc.

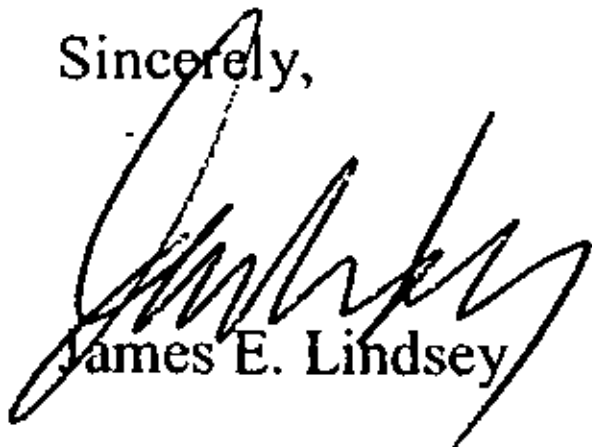
1200 E. Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

August 24, 2006

To Whom It May Concern:

I, James E. Lindsey, was the developer of Canvas Mountain Subdivision. This subdivision was built outside the city limits of the City of Fayetteville, but was in the city's growth area. When I developed this subdivision the lots varied in size from 1 1/2 acres to 3 acres tracts. I placed in the covenants the right for the developer to have future lot splits. When I no longer owned the lots that right was transferred to each individual lot owner as they were given the right to split the lot to give them added value when they bought the lots from me. It is my opinion that there is no question whatsoever that the lots can be split under the existing covenants and of course the covenants have been of record and stand as notice to every person who has bought property in Canvas Mountain Subdivision.

Sincerely,



James E. Lindsey



Blew, Bates & Associates, Inc.

Engineering & Surveying

3561 No. College / Fayetteville, AR 72703
PH: 479-443-4506 * FAX: 479-582-1883

To Whom It May Concern:

Linda Mayes is proposing a Tandem Lot Split in the City of Fayetteville Planning Area. She has been denied this split and is appealing this decision. Regulations for a tandem lot require a minimum of 25' access to a public street in which she is proposing 30'. The minimum lot area for lots in the planning area is 10,000 square feet and she will have 65340 square feet and 70131.60 square feet respectively in the two lots that she is creating. She has also indicated that she has been informed that the city does not approve tandem lots in a platted subdivision this also can be disproved in that Lot 4 of this same subdivision has already been split resulting in a tandem lot. We feel that in light of Mrs. Mayes meeting the requirements for a tandem lot and the fact that Lot 4 has already been split resulting in a tandem lot that this matter deserves another chance. If there are any further questions regarding this matter please feel free to give me a call here at the office.

Sincerely,
Bryan T. Bunch
Project Manager



Blew, Bates & Associates, Inc.

Engineering & Surveying

3561 No. College / Fayetteville, AR 72703
PH: 479-443-4506 / FAX: 479-582-1883

November 2, 2006

Linda Mayes
445 North Kansas Rd.
Fayetteville, AR 72701

RE: Hillside Drainage Lot 21

Dear Mrs. Mayes,

A site visit was made to your property (lot 21) on November 1, 2006. Per the site visit, it was determined that the majority of the storm water runoff will flow to the northwest corner of the property.

If you require additional information, or a detailed drainage study, please contact us at your convenience.

Sincerely,

Blew, Bates & Associates, Inc.

Geoffrey H. Bates, P.E.
President of Engineering

QUITCLAIM DEED
MARRIED PERSONS CONVEYING
ALL RIGHTS AND INTERESTS

KNOW ALL MEN BY THESE PRESENTS:

That we, KELLY R. DANKS and CHERYL BOND DANKS, husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid by KELLY R. DANKS and CHERYL BOND DANKS, co-trustees of the DANKS REVOCABLE TRUST w/d September 16, 1998, hereinafter called Grantees, do hereby grant, sell and quitclaim unto the said Grantees and Grantees' successors or assigns, the following described land, situate in Washington County, State of Arkansas, to-wit:

Lot Numbered Four (4), Block Numbered Two (2), Canvas Mountain Subdivision, a subdivision of Washington County, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; LESS AND EXCEPT beginning at the southwest corner of said Lot Four (4); thence North 00 degrees 11 minutes 57 seconds East along the West line of said Lot Four (4), 310.31 feet to an iron; thence South 89 degrees 53 minutes 36 seconds East 335.27 feet to an iron on the East line of said Lot Four (4); thence South 00 degrees 04 minutes 27 seconds West 310.31 feet to the Southeast corner of said Lot Four (4); thence North 89 degrees 53 minutes 36 seconds West 335.95 feet to the point of beginning.

TO HAVE AND TO HOLD the said lands and appurtenances thereto belonging unto the said Grantees and Grantee's successor or assigns, forever.

WITNESS our hands and seals this 29 day of December 2003.


KELLY L. DANKS (seal)


CHERYL BOND DANKS (seal)

ACKNOWLEDGMENT

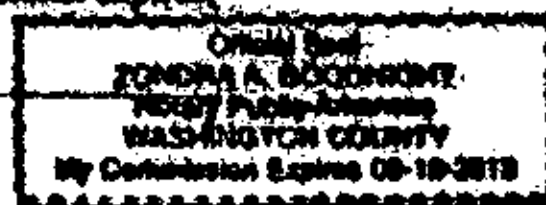
STATE OF ARKANSAS)
COUNTY OF WASHINGTON) ss.

On this the 29 day of December 2003, before me, a notary public, personally appeared Kelly L. Danks and Cheryl Bond Danks, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I haveunto set my hand and official seal.


Notary Public

My commission expires:

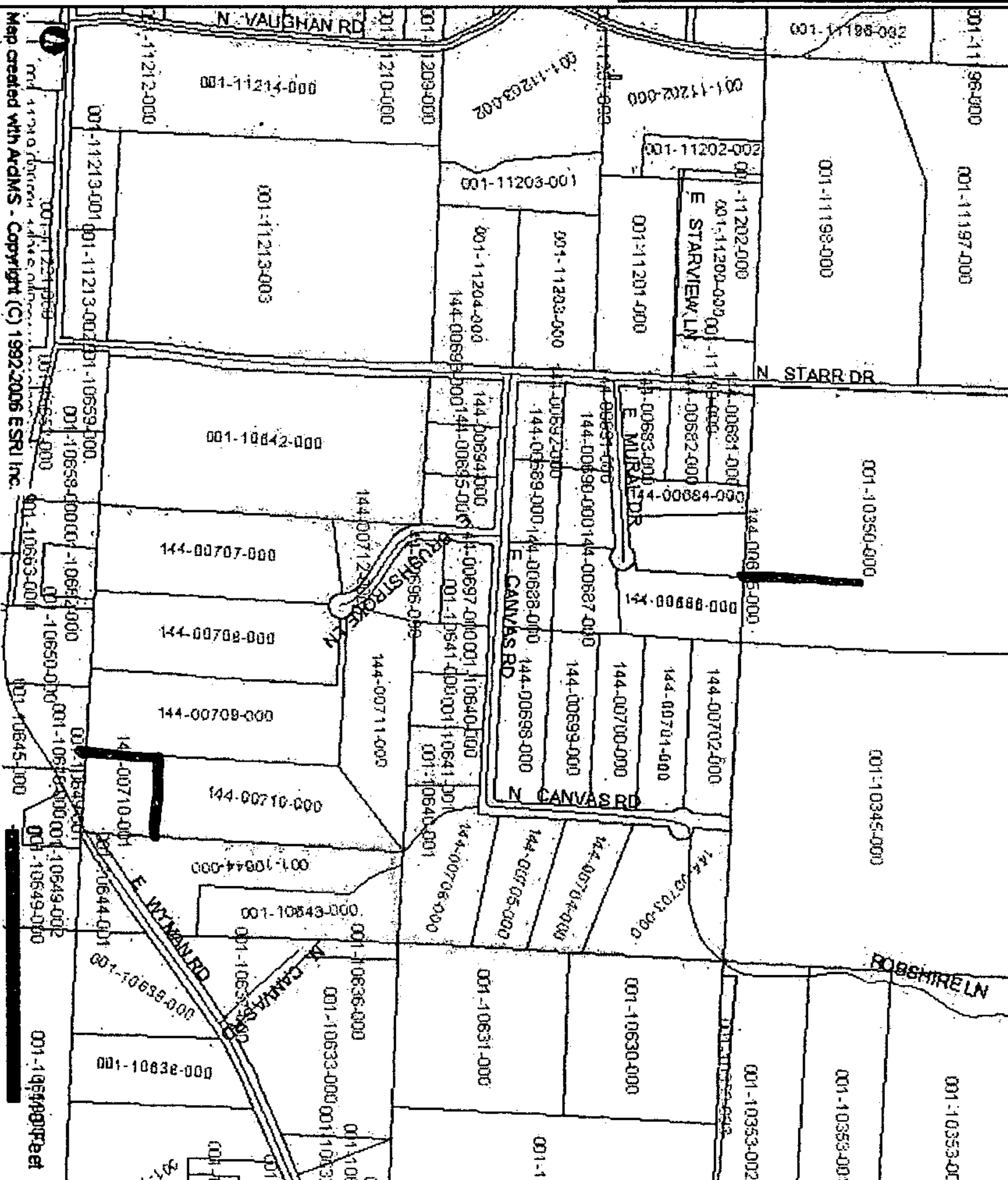


Mail tax statements to: First Federal Bank Of Arkansas
P.O. Box 550
Harrison, Arkansas 72402-0550
Prepared by: Remond Abstract Co., Inc., 3620 First Street, Ste 25, Fayetteville, AR 72703


Doc ID: 00000000000000000000000000000000
Recorded: 01/02/2004 at 03:28:11 PM
Fee Amt: \$1.00 Page 1 of 1
Washington County, AR
Notary Public Circuit Clerk
File # 2004-00000682

Lot 4

Washington County



Map created with ArcGIS - Copyright (C) 1992-2006 ESRI Inc.

Canvas Mountain
Subdivision
Previous Lot Splits
in Subdivision

Layers

- ☒ Visible Active
- ☒ Building Addresses
- ☐ DEM Addresses
- ☐ County Street
- ☐ Centerlines
- ☐ TIF Districts
- ☐ Building Footprints
- ☐ 2005
- ☐ County Parcel
- ☐ Labels Black
- ☐ County Parcel
- ☐ Labels Green
- ☐ 100' Contours
- ☐ 50' Contours
- ☐ 25' Contours
- ☐ County Parcels
- ☐ S-T-R
- ☐ City Limits
- ☐ County Boundary
- ☐ Soils
- ☐ School Districts
- ☐ City Planning Areas
- ☐ Timber Cover
- ☐ LIDAR2004
- ☐ AERIALPHOTO2006
- ☐ AERIALPHOTO2005
- ☐ AERIALPHOTO2004
- ☐ AERIALPHOTO2001

Refresh Map

ADJACENT LAND OWNERS

1) JAMES N. KITA
1649 N. MAXWELL DR.
FAYETTEVILLE, AR 72703-1521
PARCEL #765-08129-000
ZONED: RSF-4

2) WILSON, J.G.; WILSON, LYDIA;
WILSON, WANDA FAYE; WILSON,
1246 S. MAXWELL DR.
FAYETTEVILLE, AR 72703-1547
PARCEL #765-08149-000
ZONED: RSF-4

3) LAVINE, JARED R. &
MICHELLE DIETZ
1247 S. MAXWELL DR.
FAYETTEVILLE, AR 72703-1525
PARCEL #765-08131-000
ZONED: RSF-4

4) MCBRIDE, BEULAH M.
(SURVIVOR)
1332 W. HENDRIX ST.
FAYETTEVILLE, AR 72703-1511
PARCEL #765-06286-000
ZONED: RSF-4

5) KHODABANDER, MOHSEN &
RHONDA
2862 E. HYLAND PARK RD
FAYETTEVILLE, AR 72701-3817
PARCEL #765-06287-000
ZONED: RSF-4

6) GROTHAUS, DAVID L. & SUSAN C.
1540 N. STEPHENS AVE.
FAYETTEVILLE, AR 72703-1566
PARCEL #765-10988-000
ZONED: RSF-4

7) OUP, WILLIAM E. REVOCABLE
TRUST
1576 ACORN RD
JERUSALEM, AR 72080-9036
PARCEL #765-10989-000
ZONED: RSF-4

8) MILLER, WILLIAM S. & ALPHA N.
1620 N. STEPHENS AVE.
FAYETTEVILLE, AR 72703-1538
PARCEL #765-10990-000
ZONED: RSF-4

FIELD WORK:
JUNE 7, 2016
BASIS OF BEARING:
SURVEY BY DOUBLE ASG

LOT SPLIT

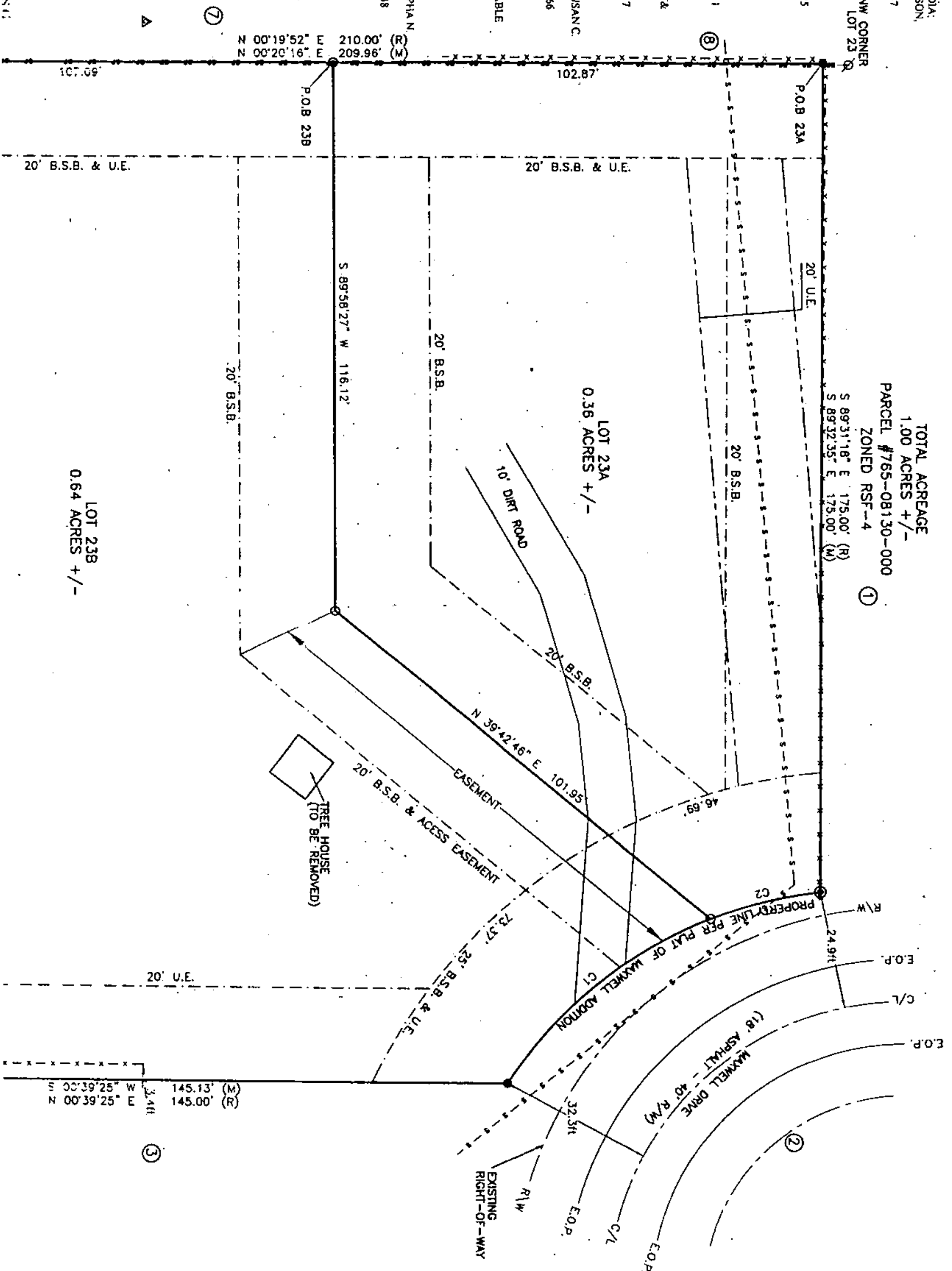
TOTAL ACRES
1.00 ACRES +/-

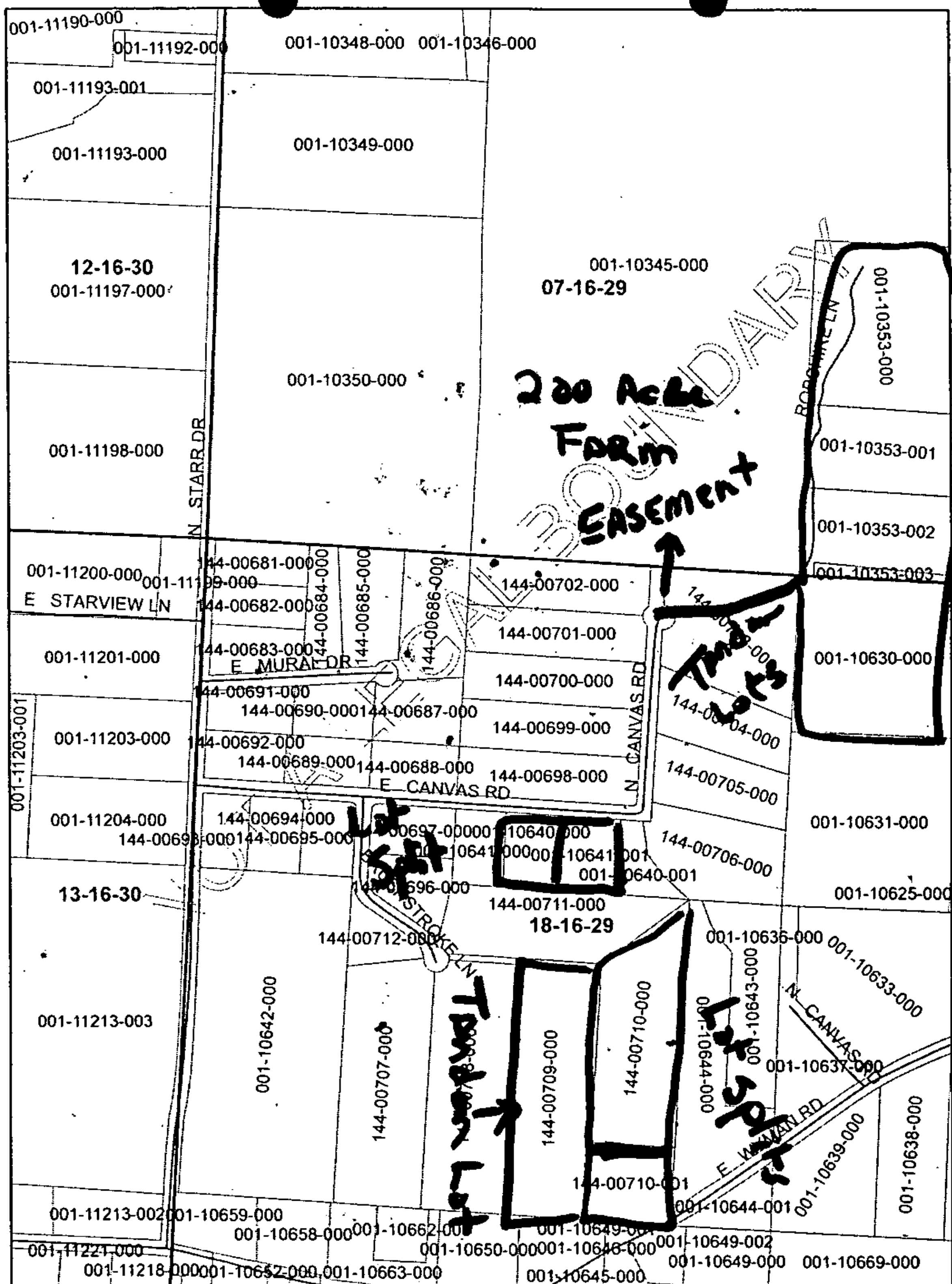
PARCEL #765-08130-000

ZONED RSF-4

S 89°31'16" E 175.00' (R)
S 89°32'35" E 175.00' (M)

①





County Disclaimer:

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Client Name: Jim Mayes

DR: Will Jones

Address: 415 N. CANVAS

5455 MAD 3375
Huntsville, AR 72740
479-790-2784

Phone #: 442-0740

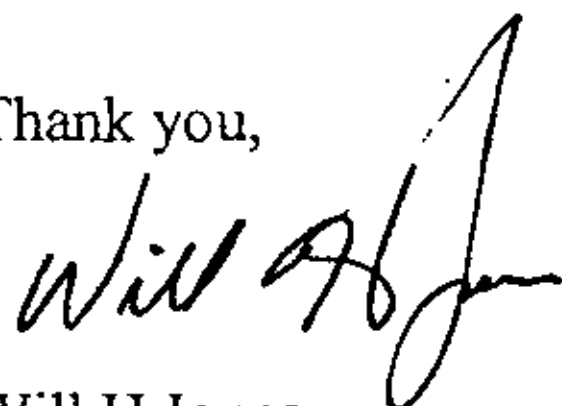
Name of Subdivision: Canvas Mt.

A four foot pit was located on each lot. The soils were evaluated based on the most current suitability guidelines made available by the ADH.

Pit Number	Acreage	Adjusted SWT	Type of System	Loading rate 8Ft on Center	Loading rate 10Ft on Center
1		34 Long	standard	.43 gal/sqft	.50 gal/sqft

Information contained in this report is no guarantee that permits will be issued on any of the lots. Individual lot owners will be required to obtain a septic system permit from the local health unit before initiating construction on any lot. I would like to assist you again in the permit process when owners are ready to proceed.

Thank you,



Will H Jones

Approval

Planning Commission
December 13, 2004
Page 4

LSP 04-1322: Lot Split (MCDONALD/ BRIDGEDALE, 569): Submitted by MEL MILHOLLAND for property located at 1341 ROBERTS RD AND E OF STONEBRIDGE S/D. The property is in the City of Fayetteville and the Planning Area and contains approximately 7.47 acres. The request is to divide the subject property into two tracts of 5.67 and 1.80 acres and approval of a waiver of lot width requirements.

Ostner: Our first item under new business is LSP 04-1322 for McDonald Bridgedale.

Morgan: The applicant is proposing to subdivide the almost 7.47 acre tract into two tracts of approximately 5.67 and 1.8 acres respectively. Tract A, the larger tract, is located within the city and Tract B is within the planning area. This property is part of the approved Bridgedale subdivision. The applicant has submitted a waiver request to the Planning Commission for approval of this lot with no frontage and it is shown within the Bridgedale subdivision to be utilized partially for detention. Staff is recommending approval of this Lot Split with five conditions of approval to include Planning Commission determination of a waiver request to permit the creation of a 1.8 acre lot with 0' frontage where 75' is required. Staff is in support of this. Additionally, staff does request that conditions be placed on this Lot Split restricting construction of a residential, commercial, or accessory structure until such time that right of way and infrastructure is provided to this tract. We have received signed conditions of approval and will entertain any questions that you may have.

Ostner: Is the applicant present? If you could introduce yourself and give us your presentation please?

Lefcoat: I'm Tom Lefcoat with Milholland Company Suzanne has presented the



Approved

100' 10"

Planning Commission
February 14, 2005
Page 15

CUP 05-1364: Childers, 524 was submitted by Barbara Childers for property located at 480 Huntsville Road. The property is zoned RMF-24, Multi Family, 24 units per acre and contains approximately .27 acres. The request is to approve a tandem lot.

Ostner: The next item is CUP 05-1364 for Childers.

Morgan: The subject property is located north of Huntsville Road within the Norwood's Second Addition. Two parcels being parts of Lots 10 and 11 under common ownership combine to create the .27 acres of property located within the RMF-24 zoning district. This property is adjacent to two streets, Kinsor Street and Wood Avenue. However, neither of these streets have been constructed at this time. The property is accessible by way of an alley along the south of the property running east and west between Wood Avenue and Barton Avenue. For a lot to be developed as a single family residence within the RMF-24 zoning district the lot shall have 6,000 sq.ft. of lot area and 60' of lot frontage. This lot, as it is, does not meet this criteria because it does not have any lot frontage on an approved public street. As such, this lot may be approved as a tandem lot defined in the Unified Development Code as a lot which does not have the required frontage on a public street and which is located behind a lot or a portion of a lot, which does have frontage on a public street. Staff is in support of granting a Conditional Use for the development of a tandem lot located on Wood Avenue and Kinsor Street. The result of this action will be that this property will be developed as an additional single family lot within an already existing residential neighborhood. With regard to findings, staff finds that granting the requested Conditional Use will not adversely affect the public interest. It will allow the subject property to be developed in harmony with the adjacent surrounding properties. The

Approved

100%

Planning Commission
January 12, 2004
Page 30

CUP 03-32.00: Conditional Use (Mark Brewer, pp 411) was submitted by Bill Rudasill of WBR Engineering Associates, P.A. on behalf of Mark Brewer for property located at 3501 Whippoorwill Ct. The property is zoned RSF-4, Residential Single-family, 4 units per acre and contains approximately 4.9 acres. The request is to allow for a tandem lot.

Hoover: The next item on the agenda is CUP 03-32.00 for property located at 3501 Whippoorwill Court. Jeremy?

Pate: Thank you Madam Chair. This Conditional Use was submitted by Bill Rudasill on behalf of Mr. Mark Brewer for property located on Whippoorwill Court and Whippoorwill Lane down to the southwest. The property is zoned RSF-4, Residential Single Family, four units per acre and contains approximately 4.9 acres in total. This is part of the Gaddy Acres subdivision that was platted in 1990 I believe. In your packets on pages 4.11, 4.12 and 4.13 there is sort of a dated time line of how this lot has changed from what it was platted in 1990 at 2.45 acres. In 2000 the property line was adjusted to 1.26 acres still with some 25' of frontage onto Whippoorwill Lane down to the southwest and the proposal before us tonight is to create a tandem lot of .71 acres out of Lot 17 which would allow for the property of Lot 21 to abut the right of way on Whippoorwill Lane as well as Whippoorwill Court up to the northeast. Just as a point, with the 2000 property line adjustment there was also an access easement so that the property owner of this lot, Mr. Brewer owns both of these lots, the property owner did have access, he is just adjusting the property line. Again, a property line adjustment is an administrative action and that is approved at staff level. The request tonight is to create the tandem lot. In the findings the applicant has complied with specific rules governing this individual Conditional Use request. The tandem lot will have access to a



CANVAS MOUNTAIN

DECEMBER 1, 1984

BLOCK I

1 - \$12,000
2 - \$12,000
3 - \$12,000
4 - \$12,000
5 - \$30,000
6 - \$37,200
7 - \$13,200
8 - \$13,200
9 - \$13,200
10- \$13,200
11- \$13,200
12- \$13,200
13- \$13,200
14- \$13,200
15- \$13,200
16- \$13,200
17- \$13,200
23- + 40 acres \$91,200
24- \$19,200
25- \$19,200
26- \$19,200

BLOCK II

1 - \$31,200
2 - \$31,200
6 - \$10,200

PRICES SUBJECT TO CHANGE

ADJACENT LAND OWNERS

- 1) CARFAGNO, MIKE B JR & MELODY F
463 N CANVAS MOUNTAIN RD
FAYETTEVILLE, AR 72701
PARCEL #144-00702-000
- 2) MORRISON, HOWARD KEITH & LYNN C.
460 N CANVAS RD
FAYETTEVILLE, AR 72701-4737
PARCEL #144-00703-000
- 3) WOMACK, SEAN L
430 N CANVAS RD
FAYETTEVILLE, AR 72701-4737
PARCEL #144-00704-000
- 4) JANDIK, TOMAS
429 N CANVAS RD
FAYETTEVILLE, AR 72701
PARCEL #144-00700-000
- 5) TOOTHAKER, DAVID G & JULIETTE T
4128 E MURAL DR
FAYETTEVILLE, AR 72701-7961
PARCEL #144-00686-000

FIELD WORK:
JULY 14, 2006

BASIS OF BEARING:
CANVAS-MOUNTAIN FINAL
PLAT BY FRANK BLEW
P.L.S.#56, DATE: 01/05/1979

REFERENCE DOCUMENTS:
1. CANVAS-MOUNTAIN FINAL
PLAT BY FRANK BLEW
P.L.S.#56, DATE: 01/05/1979

OWNER/DEVELOPER:
JAMES & LINDA MAYES
445 NORTH CANVAS RD
FAYETTEVILLE, AR 72701
PARCEL #144-00701-000

NOTE:
SUBJECT PROPERTY &
ADJACENT PROPERTIES ARE
WITHIN THE PLANNING AREA.

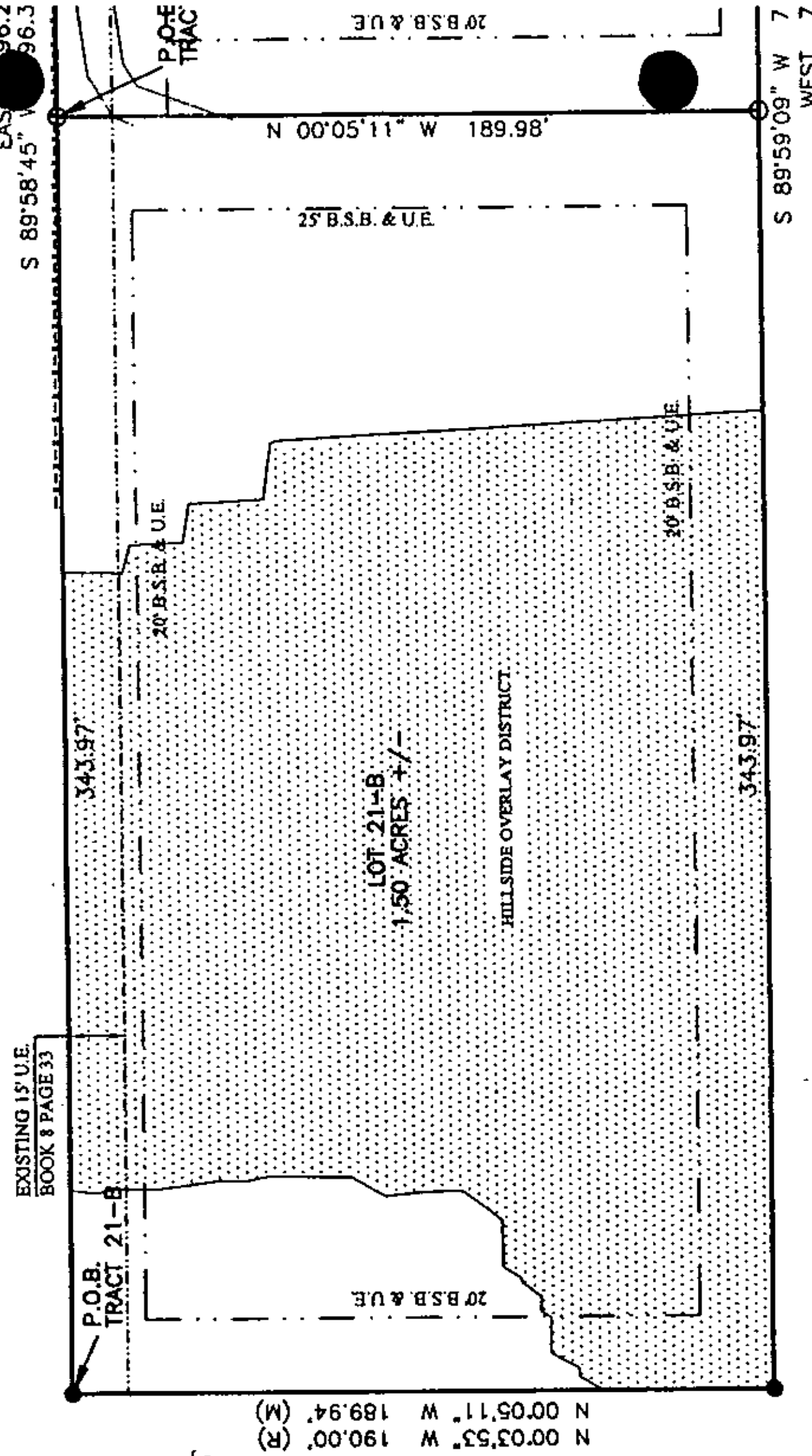
TANDEM L

FLOOD CERTIFICATION:
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN FLOOD
ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD
INSURANCE PROGRAM FLOOD INSURANCE RATE MAP FOR
WASHINGTON COUNTY, ARKANSAS.
(FIRM PANEL #05143C0115 E. DATED 12/20/2000)

PARCEL# 144-(
LOT 2
3.11 AC

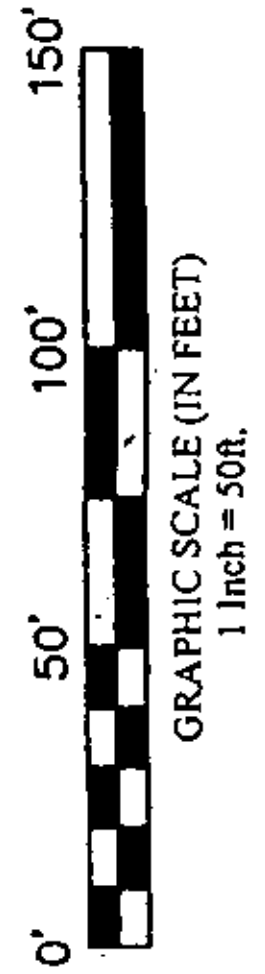
①

LOT 22



④

LOT 20



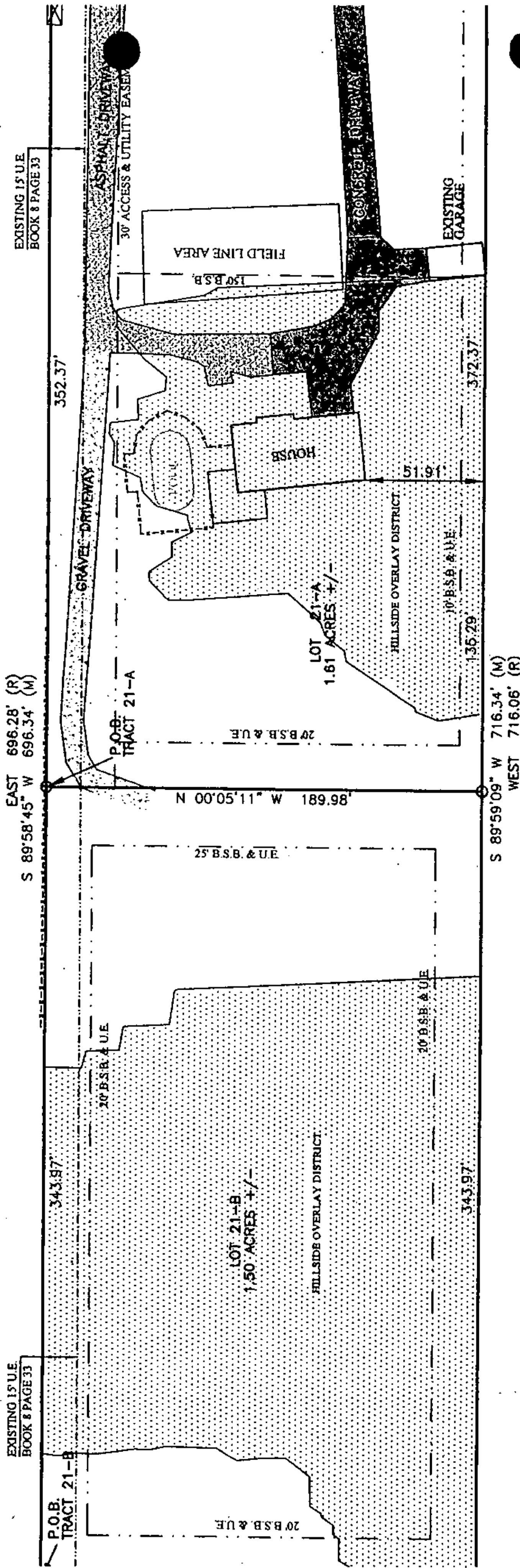
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH
C1	50.00'	46.61'	44.94'

TANDEM LOT SPLIT

FLOOD CERTIFICATION:
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ZONE "A" OR "AE" AS DETERMINED BY THE NATIONAL FLOOD
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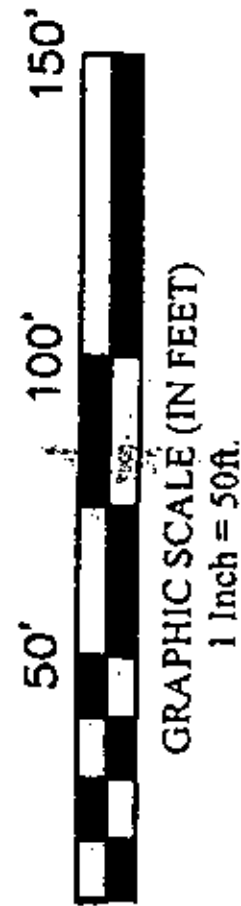
PARCEL# 144-00701-000
LOT 21
3.11 ACRES

①
LOT 22



④

LOT 20



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	46.61'	44.94'	S 26°50'41" E	53°24'37"

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Vacant
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
September 19, 2006**

A meeting of the Fayetteville City Council was held on September 19, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

ABSENT: Mayor Coody

Pledge of Allegiance

Nominating Committee Report

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

Alderman Thiel: I would like to add something. The Environmental Concerns is missing one person and we have not had a full committee for some time now. We had another applicant that came for an interview but he had not completed his voter registration in time. I think he became registered a week after his paperwork was submitted and our policy has always been that you are to be a registered voter on or before the deadline of the application. He did apply and he would make a very good committee member, he is an Environmental Scientist for CEI Engineering. We all were impressed with him but then we discovered this little glitch that he did not get registered to vote until a few days after the deadline. I don't like making exceptions but the Environmental Concerns Committee really does need to have a full committee. I am asking the full Council if they would consider adding him to the list.

Alderman Ferrell: Kit, what are your thought on this?

City Attorney Kit Williams: This is a committee that was established by the City Council and you control its membership so if you want to make an exception in this case you can.

Alderman Cook: One of the things Don Marr started when he was the chairman of the Nominating Committee was verifying voter registration that everyone has to be a registered voter in the City of Fayetteville to serve on the committees and that is one thing that I have stood on since being chairman of that committee also. We have made exceptions when we have had issues where we do not have enough applicants to fill positions and their applicant may have been a day late, we have made allowances for that. That is one thing I have always been very strong on is that you have to be a registered voter by the deadline for the application.

Alderman Jordan: So your recommendation as the chair of that committee is not to add?

Alderman Cook: I did not add him to the report but Alderman Thiel asked that we discuss it at the Council level and I certainly agreed with that.

Alderman Thiel: Up until several years ago the Nominating Committee met as needed but because of the cost in advertising and so forth it was determined several years ago that we would just do it quarterly that way the City Clerk's office would just do advertising quarterly. My point is if we were still under the old scenario we could probably get this done in a month but it will be another quarter before we can fill this position. I am urging the Council to consider this. In this case I would like to see this exception. Our policies do change based on a lot of things, they are not necessarily in stone.

Alderman Cook: Kit would that be an amendment to the Nominating Committee report or how would we do that.

City Attorney Kit Williams: That would probably be the best way to handle it.

Vice Mayor Jordan: What comments do we have from the Council on this? Who else is on the Nominating Committee?

Alderman Rhoads: I agree.

Alderman Lucas: I have a struggle with this because there might have been others that would have come forward and applied for some of the positions if they had known they could become a registered voter after they applied. I think this person would be good for the committee so I don't know.

Alderman Ferrell: Was the bio on this applicant included in the bio for the other applicants that we had?

Alderman Thiel: No we got it afterwards.

Alderman Thiel moved to amend the Nominating Committee Report to add Phillip Penny, Jr. to serve on the Environmental Concerns Committee. Alderman Reynolds seconded the motion. Upon roll call the motion failed 3-4. Alderman Reynolds, Thiel and Rhoads voting yes. Alderman Ferrell, Lucas, Jordan and Cook voting no.

Alderman Cook moved to approve the Nominating Committee Report as read. Alderman Reynolds seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the July 17, 2006 City Council and Planning Commission joint meeting and the August 15, 2006 City Council meeting minutes.

The July 17, 2006 City Council and Planning Commission Joint Meeting Minutes was removed from the agenda by City Clerk Sondra Smith.

The August 15, 2006 City Council Meeting Minutes were approved.

Time Striping, Inc: A resolution approving a contract with Time Striping, Inc. in the amount of \$29,504.70 for Airport Parking Lot Rehabilitation; approving a ten percent project contingency in the amount of \$2,950.00; and approving a budget adjustment in the amount of \$35,296.00.

Resolution 152-06 as Recorded in the Office of the City Clerk.

Garver Engineers, LLC; Van Asche Drive Extension Project: A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$135,750.00 for Construction Phase Services on the Van Asche Drive Extension Project.

Resolution 153-06 as Recorded in the Office of the City Clerk.

Garver Engineers, LLC; Mount Comfort from I-540 to Ruppel Road: A resolution approving a contract with Garver Engineers, LLC in an amount not to exceed \$320,050.00 for traffic studies, design surveys, and conceptual design services for Mount Comfort Road from I-540 to Ruppel Road.

Resolution 154-06 as Recorded in the Office of the City Clerk.

Arkansas & Missouri Railroad Safety Improvements: A resolution approving payment to the Arkansas & Missouri Railroad in an amount not to exceed \$362,000.00 for safety improvements to the crossing at Van Asche Drive and Gregg Avenue.

Resolution 155-06 as Recorded in the Office of the City Clerk.

Wayne Gentry d/b/a Nu Look Contract Amendment: A resolution approving Amendment #1 to the contract with Wayne Gentry d/b/a Nu Look in an amount not to exceed \$20,000.00 to continue the Redevelopment Program through the end of 2006.

Resolution 156-06 as Recorded in the Office of the City Clerk.

Northwest Arkansas Housing Coalition Ten-Year Plan To Reduce Homelessness: A resolution supporting the development of the Northwest Arkansas Housing Coalition Ten-Year Plan to Reduce Homelessness.

Resolution 157-06 as Recorded in the Office of the City Clerk.

Animal Services Building Contract: A resolution approving a contract with Roberts-McNutt, Inc. in the amount of \$43,817.00 to re-roof the Animal Services Building; and approving a project contingency in the amount of \$4,382.00.

Resolution 158-06 as Recorded in the Office of the City Clerk.

Alderman Reynolds moved to approve the Consent Agenda as read with the July 17, 2006 minutes removed. **Alderman Cook** seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

Annexation of Island Surrounded by the City of Fayetteville and Farmington: An ordinance to annex into the City of Fayetteville, Arkansas a parcel of land completely surrounded by the incorporated limits of Fayetteville and the City of Farmington, Arkansas. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning Development Management Director: At the last Council meeting there was a public hearing on this item. Tonight you have the ability to pass the ordinance annexing this property into the City of Fayetteville. The City of Fayetteville currently has more linear feet of corporate city limits than does the City of Farmington that is why we are able to annex this into the city. You do have to annex the entire area, you are not allowed to remove any individual parcels. At the last Council meeting there were several property owners in that area that had a desire to be in Farmington however in order to use the state law you have to take the entire 405.47 acres into the city.

Alderman Cook: Our city budget relies on sales tax revenue and we already enjoy the sales tax revenue from the county residents as we stand without having to offer them city services. As we annex more and more land we have to offer them city services without any extra income coming in. As we add more land it puts more strain on our budget.

Alderman Thiel: We have a percentage of property tax now and probably at some point in the future we may have to consider more. We are deriving something from these annexed areas and we are already providing some services to these areas anyway. These areas are going to develop and I want them to develop to our standards, we will generate impact fees from these annexed areas.

Alderman Reynolds: This annexation will give us our western boundary so we can plan with this and get this land developed as we need to meet city standards.

Alderman Ferrell: The task force did a tremendous amount of work in preparing this and they have recommended it to the Council for approval.

Alderman Lucas: Fayetteville is moving that way. We are seeing developments going in that direction, it is going to be developed so it should be a part of Fayetteville since we do provide services for it.

Tim Conklin: There is also an ordinance that the Council passed that set a special election for October that would extend, if the voters of Fayetteville and the qualified voters within the proposed annexation approve, would extend the city farther to the west.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Cook voting no.

Ordinance 4923 as Recorded in the Office of the City Clerk.

Annexation of Island Surrounded by the City of Fayetteville: An ordinance to annex into the City of Fayetteville, Arkansas a parcel of land completely surrounded by the incorporated limits of the City of Fayetteville, Arkansas. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Tim Conklin: This parcel of land is completely surrounded by the City of Fayetteville. When we considered this annexation in June it was not. It is a city policy to annex lands that are completely surrounded by the City of Fayetteville. This would continue to follow that policy, not annexing the lands has caused some issues with regard to planned improvements.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. Alderman Cook voting no.

Ordinance 4924 as Recorded in the Office of the City Clerk.

ADM 06-1955, 06-1956; Amend Title XV: Downtown Master Plan Zoning Districts and Map: An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Downtown Master Plan Zoning Code and Zoning Map. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: The donut hole as we have named it there has been some discussion since the last meeting between the property owners in that and the residents that live there and I think there has been some agreement on amendments to that donut hole area.

Tim Conklin displayed the map they have been discussing and the proposed changes to the map.

Alderman Cook: Several neighbors met and discussed these changes. They took these changes to all the property owners in that area and there seems to be complete agreement on these changes. From what I understand this proposed change is in agreement with everyone.

Alderman Cook moved to amend the map as presented by Tim Conklin. Alderman Ferrell seconded the motion. Upon roll call the motion to amend passed unanimously.

Alderman Reynolds moved to reconsider the Greg House area on the map. Alderman Rhoads seconded the motion. Upon roll call the motion passed 4-3. Alderman Ferrell, Reynolds, Thiel and Rhoads voting yes. Alderman Lucas, Jordan and Cook voting no.

Alderman Thiel: I still support this, the area we are talking about has always been commercial and we are not going all the way up to Lafayette. I understand there are still some neighborhood concerns but their concerns are mostly about the use and not so much the height. I think they like the idea that the residential will buffer any of the sounds they may hear now. The other area that we talked about we talked about a parking deck there.

Greg House discussed the area and his plans for the area. He stated that on the north half of the depot lot they had planned a parking deck. He stated the intent was to put three stories of parking with three stories of living above the parking. We are not doing any bars or dance halls, there might be some office space but no commercial uses in that portion.

Paula Marinoni, a resident asked why this needed to be zoned for six stories.

Tim Conklin: The height definition that we are proposing is measured from the existing grade.

Paula Marinoni voiced her concern about this being zoned six stories.

Tim Conklin: If it is changed to Main Street Center, it is a six story maximum building height.

A discussion followed on the grade in this area.

Michael Pritchard stated he felt the council should maintain the blue zoning in this area because it provides protection from the neighborhood zoning which has a lot of residents in it. He stated four stories provides ample ability to develop and that six stories will provide a very large dominating building right next to a residential area and will have a bad effect. He stated overall in terms of the entire neighborhood, the whole city and what we are trying to do to preserve some of the residential quality and historic quality in this area and the view shed of Old Main that leaving this as a blue zone makes sense. He stated in zoning decisions such as this there will be individual cases where people will say it will be better for them economically to have this happen to their piece of property.

Irene Pritchard, 339 North Gregg Street stated her property would be the most impacted by the six story condo that Greg House is proposing. She stated she is across the street and she does mind the height. She stated she would like for this to stay blue.

Rob Lewis, property owner of 322 West Watson Street, stated the Dover, Kohl plan as well as the plan that came from the Planning Commission showed this area in yellow. He stated the Dover, Kohl plan points out there is to be a regional core which is basically downtown and then they identified four Main Street Center areas. He explained the difference between the blue areas and the yellow areas. He stated this fits the Main Street Center. He also stated the proposed map shows many new buildings because this is identified by them as one of the under utilized areas that could accommodate the infill and the density that we need for the Dover, Kohl plan to work. He stated he feels it is really important that this area stay yellow. He presented petitions from every land owner in the 300 block of west Watson and the 300 block of West Lafayette supporting this. He thanked the Council for their time and effort in this.

Margaret Konert, 616 West Reagan, stated she was here to speak about the value of the quality of life. She stated that mixed use increases the value. She expressed her concerns about thinking that development equals more money by building bigger buildings, sometimes it's the opposite. She stated she believes in neighborhood development, strong families and housing that families can live in that is affordable. She stated she believes in mixed use. She said where she lives is priceless and that there is no amount of money that anyone can pay her for what she has in her neighborhood. She stated she thinks it is very important that we value that as highly as we do condos and big buildings. She stated she really wants to support neighborhoods because she believes neighborhoods are what make the condos near them valuable.

Alderman Thiel: You live on Reagan Street and we are not discussing that area.

Margaret Konert: I think it is important that whole blue area stays blue.

Eric Lloyd, stated this is about property rights. He also stated some of the developers should be given a medal for the properties they have rebuilt in this area.

Mark Risk, property owner on Reagan Street and Northeast Avenue: He stated his clients have a real estate contract on property they own in the area with the stipulation that a six story building be on the property and if this proposal to keep it at four stories passes that deal will fall through. His property owners will be damaged substantially.

Paula Marinoni suggested splitting off behind the depot and addressing it separately, leaving it blue and let the rest stay yellow.

Greg House explained the project he is proposing to the Council.

Charlie Ward property owner, voiced her concern about where the different boundaries are.

A discussion followed on the area and the zoning for the area by Dover, Kohl and the Ordinance Review Committee.

Vice Mayor Jordan asked shall the amendment pass. Upon roll call the **Greg House** amendment passed 4-3. **Alderman Ferrell, Reynolds, Thiel and Rhoads** voting yes. **Alderman Lucas, Jordan and Cook** voting no.

Alderman Ferrell explained the concerns he received from an apartment building owner about the zoning for his property.

Alderman Ferrell moved to amend the map to leave **Maple, Reagan, Lafayette and Gregg Streets** out of the Master Plan. **Alderman Reynolds** seconded the motion.

Alderman Cook: We have had three versions of this map that have shown that area green. I am a little surprised about this amendment.

A discussion followed on the zoning for the area **Alderman Ferrell** is requesting to be amended.

Mark Risk voiced his concern about the zoning creating a nonconforming use for some of his property. He stated this would be a down zoning for some of the properties in the area. He asked for more time to look at this. He is concerned about this devaluing the land. He stated they would like to be removed from the plan.

Mark Kinion stated he thinks that by taking this out of the Master Plan it is just chipping away at something that people have worked on. He does not agree with removing it from the Master Plan.

Margaret Konert: She stated this is very personal to her because it is her home. She stated it comes to what are we valuing. She stated she wants life style, where we live and Fayetteville to count just as much as those dollars.

A discussion continued on the zoning for this area.

Irene Pritchard stated she does not have sympathy for property owners in the area saying they did not know this was happening because this process has been going on for over two years. She stated this area is a neighborhood and it is one of the few diverse neighborhoods in Fayetteville. She stated there are affordable rentals in the area. She feels the area needs to stay Neighborhood Conservation. She stated this area is all residential.

Sikes Harvey stated he owns an apartment building on Arkansas Avenue. He stated it is a quite neighborhood environment. He stated his property is currently zoned residential multi-family 40 units per acre and there is not one single family residence on Arkansas Avenue. He stated leaving this area in the Downtown Master Plan and zoning it duplex or triplex hampers the property value and the ability to gain value from the property if it were to be destroyed through some unfortunate accident. He stated it would leave him with the choice of building something affordable. He stated height is not an issue for him but use is. He talked about the university wanting this property. He asked for support of this amendment.

Evelyn Stilwell, Arkansas Avenue and Lafayette stated they need this neighborhood to stay the way it is.

Paula Marinoni discussed the property that is currently owned by the university in the area. She stated if this is passed tonight it would be a severe violation of trust to the public. She stated

they need to put language in the plan for this area that if someone's building burns down they can rebuild with a similar building. She stated the Downtown Master plan called for preserving neighborhoods, the history and historic buildings.

Rob Lewis stated he thinks the Greg House is a historical house in Fayetteville and it needs to be preserved. He stated the West Lafayette Historic Neighborhood Association has never contacted him or other property owners in the area. He stated he is not sure about the relevance of what has been brought forward by this Neighborhood Association.

Bob Kelly stated he has a substantial investment in property in this area. He stated he is concerned that this is a chipping away of the process. He supports taking this out. He does not want to lose the quality of life.

Alderman Cook gave the definition of Neighborhood Conservation and the zoning for this definition. He stated pulling it out at this point does not seem right.

Alderman Thiel stated she agreed with Alderman Cook. She is also disturbed about the fact that they hear reference to a Neighborhood Association and when they hear that they believe that is reprehensible of that neighborhood and all the people that live or own property in that neighborhood. She asked what the process is if a property burns and they want to rebuild the same type of structure. Does that take Council Action?

Tim Conklin: He talked about the use units for this area and the ability to rebuild in this area.

A discussion followed on the use units and rebuilding.

City Attorney Kit Williams: There would have to be a rezoning no variance or conditional uses would allow the rebuilding of multi-family in Neighborhood Conservation

Alderman Lucas: It is zoned RME-40 now?

Tim Conklin: Yes. Tim went over the zonings for the area.

Alderman Lucas: Are there height limitations?

Tim Conklin: Height limitations and side set backs.

Upon roll call the amendment to the map failed 3-4. Alderman Ferrell, Lucas and Reynolds voting yes. Alderman Jordan, Thiel, Cook and Rhoads voting no.

Alderman Lucas stated she would like to amend the map to rezone the area to Downtown General.

Alderman Thiel: That is what came from the Planning Commission, what went through all the meetings and it was changed at an Ordinance Review meeting.

Tim Conklin showed the Council on the map the area they are talking about.

Paula Marinoni addressed the comments about her neighborhood. She discussed the items she has had to fight in her neighborhood to try to save it. She stated she has put tremendous effort into saving her neighborhood. She stated their goal is to preserve the livability and the right to live there peacefully and quietly and the quality of life. She stated it is a residential neighborhood. She asked this to be left green.

Mark Kinion stated there is a clear line written in the sand about how people feel about this area. He stated he is a neighborhood advocate but he does believe in development. He loves the vitality of living close to this area. He stated he thinks you have to look at this as Ward 2 and he appealed to the integrity of the City Council to table this until Ward 2 has equal representation on the City Council.

Alderman Ferrell stated he rejects the notion that it gives any inference of impropriety. Nobody has any control over when an alderman will resign and leave, so I reject that notion.

Michael Pritchard stated to rezone this blue will mean this will no longer be a residential neighborhood except for large apartment buildings.

Mark Rick: I can not remember one time in the past few years when I was notified about signing a petition to become a historic district. I have not been notified about any meeting recently. He pointed out on the map the area and said this is in the university's master planning area.

Sikes Harvey stated he admires anyone that participates in the neighborhood associates because they are a vital link between government and neighborhoods. They serve a protective purpose and they are a good thing. However I have never been contacted by the North Lafayette Neighborhood Association. I do not live at the property however my ownership of the property is a matter of public record as is my address and telephone number. Although I would prefer to be left out of the Master Plan, given the choices before us now I would support Alderman Lucas's amendment and I would ask my elected aldermen to do the same.

Irene Pritchard stated looking at the total Downtown Master Zoning Plan that she would think there is enough blue and green already. She said this area is residential. She asked for the Council to keep this green.

Lindsley Smith stated she lives on Ralston Avenue and she is pleased that they are still in the green area.

Bob Kelly property owner in the neighborhood stated they are all concerned that this will be a good neighborhood when this zoning is done. He stated for years this was zoned blue and it was a compromise to the area. He stated it was a surprise that the zoning had been changed. He supports the blue zoning for this area.

Alderman Lucas: I am a strong supporter of neighborhoods and always have been. She stated this area is zoned RMF-40. She is surprised this neighborhood had not down zoned this in the past. It seems like blue protects it more.

Tim Conklin stated the allowances in the different zonings. He stated the idea was to have a code that allowed a mixture of uses.

A discussion followed on the use units for this area.

Alderman Thiel stated you either like the concept of mixed use or you don't.

Alderman Cook: I think the concern that I hear is the Downtown General is more of an erosion of the residential aspect of that area. It does allow for eating places, neighborhood shopping and those items which I think is some concern of that area. The discussion was if we change it to green there are other uses in the Neighborhood Conservation that are more than just residential but those have to go through a conditional use process so there would be public input on those. Eating places and neighborhood shopping are given by right.

Alderman Reynolds: Eating places are allowed to serve alcohol if permitted.

Alderman Lucas moved to amend the map to rezone the area to Downtown General. **Alderman Thiel** seconded the motion.

Alderman Lucas moved to table her amendment to the next meeting. **Alderman Thiel** seconded the motion. Upon roll call the motion to table passed 4-3. **Alderman Lucas, Jordan, Thiel and Cook** voting yes. **Alderman Ferrell, Reynolds and Rhoads** voting no.

The amendment was tabled to the October 3, 2006 City Council meeting.

Alderman Cook: Is a Planned Zoning District not an option?

Tim Conklin: A Planned Zoning District is an option. Once we adopt the Downtown Zoning Map it does not mean that someone can't apply two weeks later and try to have it changed.

Alderman Cook moved to table the ordinance. **Alderman Thiel** seconded the motion. Upon roll call the motion to table passed unanimously.

The ordinance was tabled to the October 3, 2006 City Council meeting.

First Security Bancorp Contract: A resolution approving a five-year contract with First Security Bancorp and its wholly-owned subsidiary, Crews and Associates, Inc. to provide investment management services to the City of Fayetteville. *This resolution was Tabled at the September 5, 2006 City Council Meeting to the September 19, 2006 City Council Meeting.*

Paul Becker, Finance Director: You should have been provided a copy of First Security Bancorp's response to Garrison's concerns from the September 5, 2006 meeting. I feel that First Security Bancorp's responses adequately address the issue. I think the actions of the selection committee were fair and unbiased, I believe they followed procedure; I believe they had adequate information besides the RFP with their interview process to make an informed decision. Therefore I support the recommendation of the selection committee.

Mr. Becker suggested an amendment that they not use Crews and Associates for purchase or sale of portfolio assets to take away any perceived conflict that they may have since that is a wholly owned subsidiary.

Alderman Thiel: What if Crews and Associates had the best bond offer in the area because we are using First Security we would not be able to take advantage of that.

Paul Becker: You are absolutely correct. That is a decision for the Council to make.

Alderman Thiel: I agree with the suggestion but we are taking out an entire brokerage firm if we use First Security as our financial advisor. That is a concern.

Alderman Rhoads: Kit indicates in his memo that he has asked that they prepare a written response to each concern that directly answers Garrison's allegations. He states that First Security Bancorp has responded and a copy of their letter is attached. Do you believe that letter responds to the concerns?

Paul Becker: In my opinion it adequately addresses a response to them.

Alderman Rhoads: You too Kit?

City Attorney Kit Williams: I think they do close enough. One of the things I tried to emphasize in my memo is that a RFP is not like a contract or sealed bid where you have exact specifications for the product that you are looking for and the contractor must have precise things in the bid or it is not an acceptable bid. A request for proposals is similar to a request for qualifications in that you are asking much more general questions and that is why you go through a selection process. That is why you have the oral presentation before the selection committee for the first chair winners and any concerns I think at that point in time, any questions can be answered during the selection process. I think from a legal point of view First Security Bancorp is legally qualified to be our investment management agency. It is your judgment on how directly you think they answered every question. I think they have met the legal standard whether or not it is in the best interest is something that the selection committee looked at and made a decision on and it is at the City Council level for you to make the final decision.

Alderman Rhoads: I don't think I am necessarily in favor of Paul's amendment. I think we need to go out and find the best deal that we can and all of this is going to be transparent and if Crews gives us the best deal then we should get the best deal.

Alderman Thiel: I am still concerned that the RFP states that incomplete proposals will not be considered. This RFP was not adequately filled out. I am concerned about the public perception and future potential bidder's perception of a process that allows us to accept a RFP that by our own standards should not have been considered because it was not completed as requested.

I think there is definitely a perception of conflict of interest if Crews and Associates are used. I think First Security is legally qualified to do the job; I am not questioning their ability to do the job. I am questioning this process and the fact that it has been publicly aired and the public perception of this process. I would prefer that this go back out to bid again. From what I have heard from the public about this I think everyone will feel more comfortable if this whole process is done again.

Alderman Ferrell: This process has been under scrutiny for a second time by the City Attorney and the Finance Director and I feel the public can feel confident in the process that we use to award these contracts.

Alderman Rhoads: What I have read and what Kit said is this process is a little bit different than some sort of sealed bid for something that is very objective that you can quantify. The follow up interviews is when things get clarified. That gives me confidence especially when your Finance Director and your City Attorney are telling you that they think the process is appropriate.

Alderman Reynolds: Most committees have one alderman on it. I have been on numerous committees and we all work diligently to get the job done and do it well. I have a lot of faith in the people that worked on this.

Alderman Rhoads moved to approve the resolution. Alderman Ferrell seconded the motion. Upon roll call the resolution passed 5-2. Alderman Ferrell, Lucas, Jordan, Reynolds and Rhoads voting yes. Alderman Thiel and Cook voting no.

Resolution 159-06 as Recorded in the Office of the City Clerk.

ANX 06-2183 Lierly Lane Subdivision: An ordinance annexing that property described in annexation petition ANX 06-2183 (CC2006-16), for a part of Lierly Lane Subdivision located south of Lierly Lane, containing approximately 20 acres. *This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Cook was absent during the vote.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project.

Alderman Jordan: Is this the same development that the County approved that now is coming to the City. Have there been any changes to it?

Jeremy Pate: Not that I am aware of but I am not sure what the County saw. The Planning Commission reviewed a preliminary plat for this just as they do with any subdivision in the planning area. When this item came before the Water and Sewer Committee the developers and applicant submitted a plan to you which is the plan that is in your packet and what was approved with the City contract for extending sewer. The applicants at that point in time when they came through the City of Fayetteville showed a decentralized sewage treatment plant on the site and they showed lot standards that met our minimums in the County which is a 10,000 square foot minimum. That can accommodate a duplex or a single family home. There are no land use regulations currently in the County. In terms of the overall layout of the subdivision what was shown to you is pretty much what has been shown before the Planning Commission.

Alderman Jordan: The sewer is going to go to this development and it is going to develop. There is no stopping that, it is going to happen. It was going to happen anyway except it would have been County regulations.

Jeremy Pate: That's correct.

Alderman Lucas: Are the duplexes allowed in RSF-4?

Jeremy Pate: They are allowed by conditional use. At this time the Council has already acknowledged that they will be constructed on this property.

Alderman Lucas: So there is no way we can change that?

Jeremy Pate: You have already agreed to that as part of the sewer contract.

A discussion followed on the project and the location of the duplexes on the property.

Alderman Jordan: I will tell you what I think we need to do. I think this needs to be shown at a Ward 4 meeting. That would be my recommendation to see if we can work something out.

Alderman Lucas: I don't like the way this was handled and I am very uncomfortable with it.

City Attorney Kit Williams: I want to remind you how this came before you. It came before you because as one point it was approved by the Water and Sewer Committee and then it came to the City Council as a whole. At the City Council meeting there was a contract that was attached to resolution 76-06 that resolution was passed April 18, 2006. In that contract Exhibit B talks about the property shall be zoned as modified RSF-4 with de facto conditional uses allowing 16 duplexes on the lot shown on Exhibit B. The development of the property will consist of 16 duplexes and 43 single family units. Lot lines will be adjusted from the current plan to meet the city minimums. This was approved by the City Council in April. I know that the Water and Sewer Committee felt almost forced by the Department of Health to approve this. At this point in time we have contractually agreed to allow this to go forward in this configuration. It does not mean that you have to annex them, we have only agreed to provide sewer. However if you do annex them you have to let them develop as you agreed to in this contract.

A discussion followed on the proposed annexation.

Jennifer Price, 4089 North Lierly gave a brief history of the project. She told the Council she was not notified when this was approved in April. She also said this is urban sprawl. She stated this will add further problems to the school system. She asked the Council to urge the County to adopt zoning regulations in the planning areas.

Mike Threlkeld, 4222, Lierly Lane stated he is concerned about not receiving notification about the City Council meeting in April. He also stated the duplexes are a big concern for the neighborhood. This is creating a peninsula where you have RSF-4 surrounded by homes on larger areas. He stated he likes the idea of the Ward 4 meeting to see what they can come up with. He is also concerned about this causing suburban sprawl. He stated this does not fit with the community.

Wade Perish stated his concern with this being inconsistent with what is currently there. Last week the Quorum Court passed a resolution regarding one acre for single family homes, this will be inconsistent with that. He recommended that the City Council and Planning Commission develop a comprehensive plan with the County to address this new resolution. You could put together buffer zones to protect as you move out with your annexations in your growth areas. He stated based on what he has gathered this developer has shown a tendency to try and circumvent

regulatory authority over the past several years every time he has been given the opportunity. I know there is a contractual obligation but if you can find a way to test the strength of that contract I hope that you will do so.

Dr. Diana Haberman, Hughmount Road stated this subdivision is right below them. She discussed the projects this developer has planned. She stated she is upset that they were not notified about the meeting in April. She expressed her concern about the traffic this will produce. She asked for protection for the people in the planning area.

A Resident of, Velma Drive stated this development changes the whole character and completion of the community. Our community is a quite nice community and we do not need his kind of development.

Alderman Reynolds: Is there a question about the neighbors not being notified by the County, City or developer?

City Attorney Kit Williams: I can't speak to what the County does. When this was presented to the County we would have no reason as a City to notify the County residents of what is going on in the County because we have no zoning capabilities in the County. They should have been notified when it went to the Planning Commission.

Jeremy Pate: The notifications went out in 2005 for the preliminary plat and we publish in the newspaper and put a sign out for the annexation rezoning. I think a lot of the concern is there was no notification when this came before you for the resolution for the sewer. Those agendas go out but there is no notification of adjacent property owners that the city does for those types of applications.

Alderman Thiel: The provisions the County has just required has no weight on this what so ever?

City Attorney Kit Williams: I would think that this is too far along; it has already been approved by the County.

Jeremy Pate: The resolution that was passed by the Quorum Court was to direct the County Planning staff to come up with ordinances for zoning.

Alderman Thiel: There is not a lot that we can do about this at this point; this project is going to be built. The question is do you want it built to city standards and it to have city fire protection. We can not change this.

Alderman Jordan: When this was presented to me a few months ago, I voted against this. I did not want to run city services outside the city limits because of the very thing we are dealing with tonight. That was a concern of mine. It was presented that it was going to be built anyway and that it was going to be built to city standards. I didn't pay close enough attention to what we were really looking at and I apologize for that. I don't see much that will be accomplished from any more meetings because it is simply going to be built this way. I will not make this kind of mistake again. We will not be running city services outside the city limits in this kind of situation. We will know what is going in there before I ever make a decision like that again.

Alderman Lucas: I agree with you completely. I hate to see step systems and regarding this we were pressured with the Health Department's letter. I will not have this happen again. I will not support another thing like this.

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

Ordinance 4925 as Recorded in the Office of the City Clerk.

RZN 06-2184 Lierly Lane Subdivision: An ordinance rezoning that property described in rezoning petition RZN 06-2184 for approximately 20 acres, a part of Lierly Lane Subdivision located south of Lierly Lane from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: The Planning Commission will be required to issue conditional use permits on these duplex lots?

City Attorney Kit Williams: It is because we have agreed by contract to duplexes being built.

Alderman Thiel: Will they have to do a large scale development?

Jeremy Pate: They will have to do a final plat to record these lots. The lots will be adjusted somewhat to accommodate zoning requirements.

A discussion followed on the proposed project.

Mike McDonald, Hometown: Right now the infrastructure we have installed is based on the duplex layout that is at the back of that contract. Those 12 lots are along the west property line where the electrical easement was. The other 4 duplexes are spread in the center of the project. We felt like the proposal that we gave you in April isolated those 16 units from the neighborhood as best as we could.

Liz Lester, 3052 Hughmont: The utility cut is my east boundary. Our neighbors to the south of us own that entire six acres. We are the neighborhood these duplexes are going up against.

Speaker unknown: I would like to speak to the green space they have left open and urge that if this is going to allow such a high density neighborhood with the duplexes that not be allowed to be developed. That it be some sort of park or left as green space and that there will be some assurances that there will be a POA to take care of that green space that is left there.

Alderman Thiel: If we have to accept as is then that has to stay like it is. Is that right?

Jeremy Pate: I believe so yes.

City Attorney Kit Williams: I think it is a good idea to have a POA established to take care of the green space so it can actually be a benefit to that neighborhood.

A discussion followed on the green space and the contract that was approved by the Council.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 5-2. **Alderman Ferrell, Lucas, Jordan, Thiel and Rhoads** voting yes. **Alderman Reynolds and Cook** voting no.

Ordinance 4926 as Recorded in the Office of the City Clerk.

RZN 06-2181 Life Covenant Church: An ordinance rezoning that property described in rezoning petition RZN 06-2181, for approximately 1.36 acres, located at 1855 Porter Road from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 units per acre. *This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: It is surrounded by all kinds of zonings.

Jeremy Pate gave a brief history of the project.

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

Ordinance 4927 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

RZN 06-2199 Red Arrow Downzoning: An ordinance rezoning that property described in rezoning petition RZN 06-2199, for approximately 88 individual properties, located south of Eighteenth Street, east of I-540, and west of Razorback Road from RMF-24, Residential Multi-Family, 24 units per acre to RSF-4, Residential Single Family, 4 units per acre.

Jeremy Pate gave a brief description of the rezoning. He stated the Planning Commission and staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan: This is something that is very important to that neighborhood. It is a small neighborhood. Over the last few years we have had apartments built all the way around us. I thought that whole area was RSF-4 and then found that some of it was RSF-24.

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

Ordinance 4928 as Recorded in the Office of the City Clerk.

RZN 06-2201 Mariscal: An ordinance rezoning that property described in rezoning petition RZN 06-2201, for approximately 1.50 acres, located at 4041 Wedington Drive from R-A, Residential Agricultural to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the proposed rezoning. The Planning Commission voted 6-1 to recommend approval of this rezoning request. Staff did not find in favor of this rezoning request sighting the interim Future Land Use Plan that we are looking at. The interim plan shows residential in this area and it also indicates that it should be part of a larger traditional neighborhood development pattern.

Alderman Lucas: I would like the developer to come to the Ward 4 meeting and present this to get some input.

Alderman Thiel: What would staff recommend this be zoned as?

Jeremy Pate: I think one of the primary concerns we have in this location is one access is Wedington. We had concerns about access. A zoning action changing it from something agricultural obviously a low use to something as high intensity of a use as a restaurant or something in the C-1 neighborhood district especially with peak hour traffic periods, we had some concerns about that. We mentioned in our staff report a Planned Zoning District to look at potential for cross access and maybe working that out to have the access off of Meadowlands Drive as opposed to a direct access to Wedington. An R-O District would allow for more office use, it would not be nearly as high of a peak hour traffic period. There are also residential units directly behind this and so looking at the buffering between those uses is something we would consider as well.

Alderman Thiel: I agree with the idea of a PZD.

Dave Mersky representing the applicant: They have a restaurant and they want to move to this area. The information that I received back before the Planning Commission meeting was that there were not many issues with traffic. The only issue was that the Master Plan did not show the property to be zoned this way.

Jeremy Pate: I believe our comments have mentioned that and it is part of the Planning Commission review.

Alderman Lucas 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.

This ordinance was left on the second reading

Sweetser Construction Contract: A resolution approving a construction contract with Sweetser Construction in the amount of \$3,165,079.80 for the Van Asche Drive extension project; approving a project contingency in the amount of \$158,254.00; and approving a budget adjustment in the amount of \$2,173,496.00.

Ron Petrie gave a brief description of the project.

Alderman Thiel stated she support this.

There was discussion on the street and changing the design of the street.

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

Resolution 160-06 as Recorded in the Office of the City Clerk.

Amend §117.41 of the Code of Fayetteville – Taxicabs: An ordinance to amend §117.41 of the Code of Fayetteville to eliminate the administrative fee for replacement taxicabs.

City Attorney Kit Williams read the ordinance.

Alderman Reynolds: I would like the ordinance to say that the old decal be removed and presented to the shop superintendent for a new decal.

City Attorney Kit Williams: You can certainly put that in. What I would do is rely upon the Police and the Fleet Departments to handle the administrative decision on how to enforce this. I don't think we need to add that to the ordinance.

Captain Brown: This is just a way to transfer that registration without having to pay an extra fee. They will still be inspected and we will collect the \$300 for the shop's time for inspecting.

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

City Attorney Kit Williams read the ordinance.

Tom Brinkley, Brinkley Limousine Service stated he thinks the ordinance is a little vague regarding limousine's. He stated that he feels the fee is excessive for a limousine. He voiced his concern about being checked by the Police Department. He stated he felt like the ordinance is too vague.

Captain Brown: Officers were put on Dickson Street this past weekend in response to several complaints about taxicabs and limousine's operating illegally and they did write tickets to some of the limousines.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4929 as Recorded in the Office of the City Clerk.

Cherokee Nation Contract Amendment #1: A resolution approving Contract Amendment # 1 to the contract with the Cherokee Nation to provide the combined services of receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's transfer station.

Gary Dumas, Operations Director gave a brief summary of the contract. We are working with them to get a certificate from the lien holder and we will have that in order by this Friday.

Alderman Ferrell: Kit, are you comfortable with this?

City Attorney Kit Williams: I think if you look at the entire situation that is facing you which includes a significant cost savings then I think this is a reasonable accommodation to make for this particular bidder.

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

Resolution 161-06 as Recorded in the Office of the City Clerk.

Meeting adjourned at 10:25 p.m.

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



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

**City of Fayetteville Arkansas
City Council Meeting Minutes
October 3, 2006**

A meeting of the Fayetteville City Council was held on October 3, 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 Reynolds, Thiel, Cook, Rhoads, Lucas, Jordan, Mayor Dan Coody, Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Ferrell was absent.

Pledge of Allegiance

A Presentation was given by Ray Boudreaux announcing that Fayetteville Drake Field Airport received the Arkansas Airport Operators Association Airport of the Year Award and the FAA Southwest Region Airport of the Year Award.

CONSENT

Approval of the July 17, 2006 and August 29, 2006 City Council meeting minutes.

APPROVED.

Water Service Territorial Boundary: A resolution to adjust the Water Service Territorial Boundary between Fayetteville and Springdale.

Resolution 162-06 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon Roll call the motion passed 6-0. Alderman Ferrell was absent.

UNFINISHED BUSINESS

ADM 06-1955, 06-1956; Amend Title XV: Downtown Master Plan Zoning Districts and Map: An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Downtown Master Plan Zoning Code and Zoning Map. *This ordinance was left on the First Reading at the August 15, 2006 City Council Meeting. This ordinance was left on the Second Reading at the September 5, 2006 City Council Meeting. This ordinance was left on the Third Reading at the September 19, 2006 City Council Meeting and then Tabled to the October 3, 2006 City Council Meeting.*

There was also an amendment to this ordinance that was tabled. The amendment was to amend the ordinance to rezone the Reagan Street area to the Downtown General zoning. The motion was made by Alderman Lucas and seconded by Alderman Thiel and then tabled to the October 3, 2006 City Council meeting.

Alderman Lucas and Thiel asked that their amendment be withdrawn.

Mayor Coody: Tim, I understand that you have some amendments that you would like to bring forward?

Tim Conklin, Planning and Program Development Director: I would like to thank the City Council and the Mayor for working with us for the last eleven months on this. There are some amendments that need to be made prior to passage and I would like to walk through those.

He gave an overview of the working process of the Downtown Zoning Districts and map thus far.

Lief Olsen handed out a copy of the proposed amendments. The amendments were listed as follows:

1. (Map Amendment) Change Denelle Campbell's Property Zoned PZD to Main Street Center.
2. (Text Amendment Page 9 of 144 CC Agenda) All Building Height Variances to go to Planning Commission (Sec. 156.02)
3. (Text Amendment) Apply the Building Height Definition to Apply to all Zoning and Development Ordinances When Measuring Building Height.
4. (Map Amendment) Remove the West Lafayette Street Neighborhood from the Downtown Zoning Map and Leave as RMF-40.
5. (Map Amendment) Change South Side of Rock Street (Block Ave. to College) From Downtown General to Main Street Center.

Tim Conklin briefly went over each amendment. He stated those are the amendments that staff is aware of. Of course you may propose any amendments that you wish but I wanted to put on the table this evening that in order to pass this we should have a discussion with regard to whether or not we want to make these changes.

Before we move to the map I would recommend that we vote on the text amendments and then move to the map in order to make those changes that this Council so desires.

Alderman Rhoads moved to approve proposed Amendments #2 & #3. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

Mayor Coody: Now we will move to Amendment #1.

Tim Conklin: I have some slides that show that amendment. This is the property that Denelle Campbell rezoned as a PZD to the north as a metro building. The Center Prairie Trail is to the east and we are working with Ms. Campbell to obtain that easement. She is requesting that this property be rezoned Main Street Center. It would be bounded on all four sides with Main Street Center.

Alderman Thiel moved to approve Amendment #1. Alderman Reynolds seconded the motion. Upon roll call the motion passed 5-0. Alderman Rhoads recused. Alderman Ferrell was absent.

Mayor Coody: We'll move to #4, a map amendment.

Tim Conklin: Since this was voted on and the motion failed at the last City Council Meeting, the Alderman that voted in favor of the amendment to remove it from the Downtown Master Plan zone do they need to add that to be reconsidered or can it be a new motion?

City Attorney Kit Williams: The best thing to do would be to have a motion to reconsider from someone who voted on the winning side. Since it's simply an amendment I think you can probably just move another amendment forward.

Paula Marinoni with Lafayette Neighborhood Association stated that she wanted to be clear by saying this is not the whole neighborhood that is being polled. The whole neighborhood goes all the way to College and to clarify from last time that is not a Property Owners Association, it is a Neighborhood Association where we have our own goals for livability and such. It was mainly people who live there and owned property there on your occupied properties. If this can be called the Lafayette/Gregg Historic Area that would be more descriptive of what this is as opposed to what we have been talking about for years. I would also like to clarify that on alley 333 if that line could go straight up to include the Sigma Nu house that will not make any difference because the University owns that and they don't care what the zoning is. As far as a concise area there are a number of us who are interested in proceeding with nominating that area as a Historic District. It is the original entrance to the University of Arkansas and many of the buildings in there are original. We would like that included in this so we can talk about a specific piece of property.

She thanked the City Council, Planning Commission and staff for all the work they put into this. She thanked her neighborhood and her representatives who have helped. She stated I sincerely hope that we can come to a place where this little neighborhood up there who has its own place in Fayetteville history can endure through on going communication.

Mayor Coody: Can we change this name administratively or does this take an act of the Council?

Tim Conklin: We are not proposing to adopt a zoning. If you approve the amendment to remove them from this Downtown Zoning we would come back with a Zoning District in the future and that could be named. We are not proposing that tonight.

Alderman Reynolds: So in the future Tim you are going to give us that border that this particular amendment is going to cover? It's not going all the way to College it's just going to Gregg Street to Arkansas Avenue. Is it from Dickson to Maple then?

Tim Conklin showed Alderman Reynolds where it was located on the map.

Mark Rest, a homeowner on Gregg Street complimented Tim Conklin on assisting everyone to work this out. He stated I think everybody is pretty happy about the conclusion we've come to, remove it from this and leave it RMF-40. So we can still have our properties the way they are but at the same time leave the door open to reconsider and come up with a new zoning district that may work for both parties. He also thanked the Council for considering these issues and stated I hope you vote in favor of removing us from the district and hopefully we can all come together and have a solution that is good for everybody.

Alderman Rhoads: I presume staff supports the inclusion of Sigma Nu House?

Tim Conklin: Yes we do.

Alderman Reynolds moved to approve Amendment #4 and to include all of the area to the North of alley 333 all the way to Arkansas Avenue and includes the Sigma Nu House. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent

Mayor Coody: We'll move along to the last amendment to change southside Rock Street from Block Avenue to College from Downtown General to Main Street Center.

Tim Conklin pointed out the proposed area on the map.

Alderman Reynolds: Being an Alderman of Ward 1 I certainly support this move.

Alderman Thiel: The reason the Ordinance Review Committee changed this was because of requests from Ward 1 residents that lived on the west side of East Avenue. They were concerned because of the typography of the land there, it drops down so much that they felt like the street

should be the dividing line in that case. I think this property because there is not a residence below it, like there were on these other areas, that I would support this.

Alderman Rhoads: I would support it as well.

Alderman Lucas: It's across from the Town Center is that right?

Tim Conklin pointed out the location on the map.

Alderman Lucas: So if a six story building was built across the street, one of the things about the Town Center is the view from the deck, would that affect it?

Tim Conklin: Potentially you could impact the view of the Town Center. The balcony is about four stories up.

Alderman Lucas: If this is left blue can a PZD be used in there to where there could be a variance for height and density?

Tim Conklin: Yes, all of our zoning ordinances could be utilized within those Downtown Master Plan areas, a PZD or a different zoning classification could be requested in that area.

Mayor Coody: Thank you for brining that up. I think that one of the important things about the Town Center is the view to the south and I would hate to see a building get built that would totally block it.

Alderman Thiel: I agree with that. I would rather it just end at East Avenue.

Mayor Coody: Yes, if it ended there you would lose your view to the southeast but at least you would still maintain the view to the south and the southwest.

Kit Williams: I should note for the record on the corner of East and Rock there is a new house built there in the corner lot.

Mayor Coody: So that's not going to change any time soon.

Rick Alexander, downtown property owner stated a down zone to the Neighborhood General would limit the density to RMF-24 which on a half acre lot would be 12 units. The reason they bought the lot in the first place was because it was zoned C-3 and because it was next to the parking lot.

He went on to read sections of the Downtown Master Plan, Dover Kohl study and describe the things that he remembered from previous meetings.

Mayor Coody: Tim, do you see a way that we can accommodate Richard's concerns and also the concerns of the Council about not blocking the view of the Town Center to the south?

Would they be allowed to build up to the height that they need not including their parking garage?

Tim Conklin: If you leave it Downtown General they would have to apply for a PZD just as the Mountain Inn/Renaissance came through as a PZD. Height as it is measured, just to clarify that in theory you could build up to the six stories on Rock Street itself but as you went down hill you would have to transition down as you measured building height, depending on how high your floors are and parking decks. The space in between typically it's not a full floor height. You could potentially put six stories there if you designed it in a certain manner up against Rock.

Mayor Coody asked Tim if there were any recommendations that would allow them to build the density they want but not get in the view of the Town Center.

Tim Conklin: The only way you would be able to do that, if you left it blue, would be to review the project as a Planned Zoning District and see what's proposed.

Richard Alexander: The problem with that is that is not a given. I had C-3 property three months ago; it got down zoned to a six story height limit as a result of the Divinity building. Now within two months we want to take it down to four and I don't know of any of my neighbors that are asking for that, it's next to the Town Center. If you don't have density and height there then where do you put it on Joyce? I'm not even asking for anything. What I'm saying is Dover Kohl recommended that it be Main Street Center two and a half years ago. Let's take Dover Kohl's recommendation and put the transect line in the middle of Block. Let's have a transition from red to blue.

Mayor Coody: We got your point I think Rick.

Alderman Thiel: That was one of the first changes made at the Ordinance Review Committee meeting based on comments from the public. If we went back to the original Dover Kohl recommendations there would be a lot more green and blue. What was the process whenever the heights were determined on these zones?

Tim Conklin: Dover Kohl made recommendations with regard to the height and then the Planning Commission discussed that.

Alderman Thiel: At what time did that happen? Was that after?

Tim Conklin: That was part of the original proposal that came out of the Downtown Master Plan draft code.

Alderman Thiel: Was that at the charrettes? There was no discussion at the charettes about the height?

Tim Conklin: We did not discuss the code at the charrettes. There was discussion at the Planning Commission with regard to measuring building height and the number of stories and

that's where that came out. One of the Planning Commissioners who is an architect worked with staff on understanding building height and how many stories in relationship between those two.

Richard Alexander: I am a supporter of the plan. I've been a supporter all along. A lot of work went into those meetings and I know it's a difficult job. I'm not even being critical. I'm only talking about assuming we resolved issues over 90% of it. I'm talking about one small area and I support the work of the staff and the city and the Dover Kohl Master Plan. I'm only asking that being consistent with that that we consider this amendment and consider that it has for many years been designated Main Street Center.

Irene Pritchard, 339 North Gregg St.: One of the things Dover Kohl made a very big thing of was view shed and whether it's on Old Main, the courthouse or south of the Town Center. What is Fayetteville going to do about the view sheds and what do we think is important? When you are taking this into consideration I hope you will think of that because we are being impacted right now with the taller buildings as they go in.

Alderman Cook: We could debate every single piece of property in this plan until the end of time and we would never get anything passed. If we try to pass a perfect plan we will never get it done. We should just move forward with what we have. There will be adjustments instantly. I really think we should stop changing it individually and move forward at this point.

Eric Lloyd, a citizen: I am 100% in favor of this redistricting thing. All we are asking you to do is go by Dover Kohl. I understand the sympathy of Kyle Cook because I know where he's coming from.

Mayor Coody asked Rick Alexander if he would be willing to work with the City on not blocking the view of the Town Center.

Richard Alexander: Absolutely.

Alderman Thiel: I would rather leave it like it is which was the full recommendation to this Council from the Ordinance Review Committee and then have Richard come back in the future with a PZD and I think it would be fully accepted as long as we maintain a view shed with the Town Center because that really is valuable.

Alderman Lucas: I like Kyle's idea. We've got to decide on this thing sometime. I know it's been recommended that we wait until we have a Council member that sits next to Kyle but I hate to put it off any longer, with property owners having the option of coming back and changing things with PZD's. I am in agreement with Kyle's suggestion that we pass it as is and not make any changes tonight.

Alderman Rhoads: I think Alderman Ferrell was in favor of this amendment as well and in response to Kyle's point that you have to stop somewhere, as far as I can tell this is the last amendment before us. We have made a lot of changes at a lot of the other meetings and so I would urge my fellow Council members to make this one last change and then move forward.

Alderman Rhoads moved to approve Amendment #5. Alderman Reynolds seconded. Upon Roll call the motion failed 4-2. Alderman Reynolds and Rhoads voting yes. Alderman Lucas, Jordan, Thiel and Cook voting no. Alderman Ferrell was absent.

Tim Conklin: I think we have covered the minor amendments that needed to be made and it is your decision this evening whether or not you want to vote on the final reading.

Mark Kenyon, a resident of 418 W. Ila Street brought a resolution passed by the Wilson Park Neighborhood Association. He stated that it did concern them that there is a vacancy in Ward 2 which is the Ward where the Wilson Park Neighborhood Association is located. Our neighborhood feels pressured by the expanse of the Downtown Master Plan by the University on one side, North Street and College Street on the other sides. Our neighborhood association wants to protect what we have and we feel like we are being squeezed on a regular basis. There were amendments made tonight that I think we might need some time for our neighborhood to look at and be sure that we understand.

He read the resolution and asked for due consideration of the City Council. He stated this is a request to have fair and equal representation on a Downtown Master Plan where the development will be impacting our neighborhood and our ward for perpetuity because it will be developed as this Master Plan is established.

Mayor Coody: I know you have representation of Kyle Cook. Have you all been able to work together on these things? Is there a conflict here that we are not understanding?

Mark Kenyon: The conflict is fair and equal representation. There is no finger pointing here. I think that we have to look at the general public's perception of this situation.

Alderman Cook: When I saw that on the email this morning I struggled with that because usually when a neighborhood speaks I try to listen to them. On this one I have to respectfully disagree with Mr. Kenyon in the neighborhood because we have worked so hard to get to this point. We are at the point where this zoning change can be passed. We have support on Council from comments that I've heard at the last two meetings. This plan gives opportunity for protections for the neighborhoods that we didn't have in the past. Don Marr represented Ward 2 throughout this whole process. Ward 2 is represented all the way up until through the first reading at City Council. I talked to a lot of other Ward 2 people today after I got the email and I feel good at recommending moving forward on this right now. We will see changes. This plan will change over time but that is a part of zoning. This is the snap shot that we should take at this point

Eric Lloyd: I am 100% for Kyle Cook and what he is trying to do and I believe the spirit of the Council is right by getting this thing voted on tonight. The rest of this stuff is poppycock. We want to vote this in tonight.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Ferrell was absent.

Ordinance 4930 as Recorded in the Office of the City Clerk.

RZN 06-2201 Mariscal: An ordinance rezoning that property described in rezoning petition RZN 06-2201, for approximately 1.50 acres, located at 4041 Wedington Drive from R-A, Residential Agricultural to C-1, Neighborhood Commercial. *This ordinance was left on the Second Reading at the September 19, 2006 City Council meeting.*

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 6-0. **Alderman Ferrell** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Jordan stated this was shown at the Ward 4 meeting. He asked staff why they did not recommend this.

Jeremy Pate: In our findings for a rezoning request it asks if this zoning is justified at this time. With all the rezoning applications we look at certain properties to see what zoning designations are in the area. We found several properties that are zoned either R-O or C-1 which would allow this type of use in the area that had not been developed. A second issue is with the adoption of the City Plan 2025 we did look at that area and it is currently showing on the interim map as a residential area which would not comply with that guiding policy. Also it is shown as a traditional neighborhood type of development which would incorporate both residential development and commercial development all in one cohesive plan. This makes it challenging for staff on standard rezoning request of small one-two acre parcels. We thought that it would be more comprehensively addressed with an overall look at circulation and development patterns of this project in general. Those are the reasons we did not recommend it.

Alderman Jordan: They want to be rezoned to C-1 is that correct?

Jeremy Pate: Yes.

Alderman Jordan: I know at the Ward 4 meeting a restaurant was proposed. Does it have to be a restaurant?

Jeremy Pate: It does not. It would be allowed to be any use within the C-1 Neighborhood Commercial Zoned District if it were to be rezoned.

Alderman Jordan: Which could be what?

Jeremy Pate described all the uses in a C-1 Zoned District.

Alderman Jordan: So if they did want to put the restaurant in they could by right if we go through a simple rezoning without a PZD and they could put a gas station in there if they wanted to?

Jeremy Pate: That would be allowable within the zoning district.

Alderman Lucas: And the conditional uses that would be allowed?

Jeremy Pate described all the conditional uses within C-1 Zoning Districts.

Alderman Thiel: So the Aldermen from this ward are opposed to this?

Alderman Jordan: I am not real keen on it.

Alderman Thiel: It's a rezoning without knowing for sure what's going to be there and that is why I can't support this for those reasons.

Mayor Coody: Are they amendable to the idea of a PZD or are they opposed to it all together?

Jeremy Pate: We haven't discussed it in great detail. This is the option that they chose to come through.

Alderman Cook: We look at College Avenue and Highway 62 towards Farmington and we look at how we zoned those areas and we constantly zone them commercial. Wedington is one road that we have not completely done that to. We all complain about those roads and how they look, why would we continue to keep zoning like that on these major thoroughfares. I'm more interested in the zoning as a larger issue for the city as a whole and I hate to see us keep zoning those strips down the major thoroughfares like that.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 0-5. Alderman Rhoads was absent during the vote. Alderman Ferrell was absent.

This item failed upon vote of the City Council.

NEW BUSINESS

R-PZD 06-2190 Woodbury: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2190, Woodbury, located south of Zion Road and east of Taliesin Lane, containing approximately 11.66 acres, amending the official zoning map of the City of Fayetteville; and adopting the associated Master Development Plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated that staff is recommending approval of this Planned Zoning District.

Alderman Reynolds moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the third and final reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-1. Alderman Lucas, Jordan, Reynolds, Thiel, Rhoads and Mayor Coody voting yes. Alderman Cook voting no. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Alderman Cook: I hate to blast through three readings in one sitting. Certainly there may not be any comments on that but if you all feel that way its fine but I don't think we should go through three readings in one sitting.

An unknown representative of the project stated this is a great project for the city. We haven't had any adjacent property owner conflicts or complaints about this project. It was voted unanimously by the Planning Commission. In the interest of keeping this thing on track; it has been delayed in the Planning process, so we request that this be finally approved tonight.

Alderman Jordan asked Robert Rhoads what he thought since this is in his ward.

Alderman Rhoads: I have had no calls against it and the comments that I have heard have been nothing but positive. With that said I would hope that we could approve it tonight.

Alderman Reynolds: Mr. Ferrell also said at the tentative agenda meeting he had no problem with it and it was a win win situation.

Alderman Thiel stated that she agreed with Kyle but this project really does look good. It does everything we want a project to do. It's in an area that's already being built out. In this case I really don't have any problems with going through it in one night.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-1. Alderman Lucas, Jordan, Reynolds, Thiel and Rhoads voting yes. Alderman Cook voting no. Alderman Ferrell was absent.

Ordinance 4931 as Recorded in the Office of the City Clerk.

VAC 06-2136 Petunia Court: An ordinance approving VAC 06-2136 submitted by John Carpenter for property located between Lots 31 & 32 of Glenbrook Phase II, vacating un-constructed right-of-way within the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommended denial of this request to vacate this right-of-way. Planning Commission disagreed with staff's findings and recommended approval with a vote of 7-1.

Alderman Rhoads: With the changes the Planning Commission made does that change the Planning Departments view of it?

Jeremy Pate: No sir. We strongly feel that the connectivity between these developments is crucial, especially in turning movements.

Alderman Thiel: This is in Ward 1. Would they still have room to build a house on this even with the access that you've required?

Jeremy Pate: No ma'am.

Alderman Thiel: So they couldn't build a house on it anyway? I think by even placing these conditions on this we're just asking for it to be utilized in such a way that in a few more years they will come back and say we've done this and that and we would like for you to vacate all of it so we can build a house on it. I do think in this case there is no safe way to get out of this except one and that really concerns me about this project.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Staff is not recommending this but I would ask if you could leave this on a reading. There was a lot of public comment the last time. The actual applicant delayed this project to get some legal descriptions together. So, I would like for the public to at least be able to present their concerns because there were several at the Planning Commission just to have a fair hearing on it.

Mayor Coody: Were they generally in favor or were they nonsupportive?

Jeremy Pate: They were certainly in favor of vacating the right-of-way.

This item was left on the second reading of the ordinance.

VAC 06-2219 North Point: An ordinance approving VAC 06-2219 submitted by Tim Patterson for property located at Lot 5 Block 1 of the North Point Subdivision, vacating the southern 15' of the utility easement located within the subject property.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Lucas seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell 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 6-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Ferrell was absent.

Ordinance 4932 as Recorded in the Office of the City Clerk.

VAC 06-2220 Emerald Avenue and Hillcrest: An ordinance approving VAC 06-2220 submitted by CEI Engineering Associates, Inc. located at the north end of Emerald Avenue, vacating 0.05 acres of a 20 foot utility easement located within the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated that all utility companies that are in the city their representatives have given their approval of this vacation.

Alderman Lucas: Is this the area that we went out and toured that was so steep?

Alderman Cook: It's around the hill from there actually.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell 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 Reynolds seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Ferrell was absent.

Ordinance 4933 as Recorded in the Office of the City Clerk.

VAC 06-2270 Kirk Elsass: An ordinance approving VAC 06-2270 submitted by Kirk Elsass for property located at 620 Rockcliff Road, Lot 9, Phase 1 of Hyland Park Subdivision, vacating a portion of a 20 foot utility easement located along the west property line of the property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the item. He stated the Planning Commission voted 8-0 for recommendation of approval and Planning staff is also recommending approval.

Alderman Thiel: I'm glad you addressed Mr. Dickson's Letter of concerns. Basically he said that if we can be sure that these problems don't exist or will not arise we will consider waiving our exemption to vacating the easements. So that's good to know that their concerns have been addressed.

Jeff Erf, resident of 2711 Woodcliff Road.: There was no public comment at the Planning Commission meeting because the item was on the Consent Agenda and they would not allow public comment. I talked to some neighbors that were interested in going but it was on the Consent Agenda. Regarding Bruce Dickson, he has expressed some concerns to me about some gravel and cement that's been left on his property and part of the sewer relocation project. Perhaps you could add a condition to the ordinance to require that they cleanup the site completely on their property.

Mayor Coody: Now you say sewer work, is it public city sewer or is it private?

Jeff Erf: No I think this is something that the builder did.

Unknown Citizen from the Audience: That's already done.

Mayor Coody: I think what he is saying is consider it done.

Jeff Erf: That brings another issue then. I was curious if on January 14, 2005 a notice of violation was still in effect on this property that had to do with the retaining wall being built and the street right-of-way and the sewer right-of-way.

Alderman Thiel: What is your question?

Jeff Erf: Is the notice of violation that was written up for this project still in effect?

Jeremy Pate: For this portion of the encroachment they are pursuing a remedy for that. I would have to check with our Engineering office to determine if that has been resolved or not.

Jeff Erf: My question is if the notice of violation is still in effect and if there has been a final decision.

Alderman Lucas: I am also concerned about this happening, building over sewer and water lines and everything. We had something at the Ordinance Review Committee one time and decided that the staff thought that they had found a solution for it so we didn't bring it forward to the City Council. These things are still happening. What can we do Jeremy to keep this from happening?

Jeremy Pate: Obviously this structure was permitted long before we had that discussion. What we discussed at the Ordinance Review Committee, the Building Safety Director was there and stated that they would use all the measures that they had including requiring developers to string lots to ensure that the building setbacks are made. We went through a series where Planning hosted some workshops with Building Safety Inspectors because they are the only ones that are in the field in terms of inspecting homes as they are under construction. There are a series of inspections that a house has to go through for that period of time before a certificate of occupancy is issued. We did look at those issues and I believe we have some resolution with all the new construction we are seeing. It has become more difficult with the size of lots and the narrow setbacks. I know Steve Cattaneo's office is working hard to ensure that that is still kept at a minimum.

Alderman Lucas: Are they stringing it?

Jeremy Pate: In any instance where it is at all questionable I believe they are. I can certainly check into that and see if they are doing it for every lot.

Kirk Elsass, the property owner apologized for all the problems with the property. He stated I have worked with Jeremy and the staff in trying to clean up a bad deal. I take full responsibility for all the problems that have happened. I currently have a young couple with three children that want to move into this house and occupy it. I've tried to make everything right that has been wrong so far and I have worked my way down it and now I am down to this easement.

He went on to describe the changes that have been made to improve the property. He stated I think I have addressed everything. The real issue here is I've spent every dime I could towards fixing things as the staff has asked me. I need to get these people in there if we possibly can. My goal is to get people in that home, living there without construction going on and on.

Alderman Reynolds moved to suspend the rules and go to the second reading. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Ferrell** was absent.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I am still concerned with Mr. Erf's questions. I wish our City Engineer was here or somebody that could confirm that the only thing left unresolved on getting the final Certificate of Occupancy is just this. Is that your understanding?

Jeremy Pate: I believe the issue of moving the sewer line has been addressed and I know there were some issues with the retaining wall that had to be at a decreasing height or moved back from the right-of-way. I'm not sure what the final determination was that was made by Mr. Petrie. I would rather rely on Mr. Petrie to ensure those details. We obviously would still not issue that Certificate of Occupancy until this was resolved. A final inspection has not occurred for the house.

Mayor Coody: So even if we approve this you've still got to get this all cleaned up before the Certificate of Occupancy can be issued.

Alderman Reynolds moved to suspend the rules and go to the third and final reading. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Ferrell was absent.

Ordinance 4934 as Recorded in the Office of the City Clerk.

2006 Millage Levy: An ordinance levying a tax on the real and personal property within the City of Fayetteville, Arkansas, for the year 2006 fixing the rate thereof at 1.3 mils for General Fund-Operations, 0.4 mils for the Firemen's Pension and Relief Fund, 0.4 mils for the Policemen's Pension and Relief Fund and 1.0 mils for the Fayetteville Public Library; and certifying the same to the County Clerk of Washington County, Arkansas.

City Attorney Kit Williams read the ordinance.

Jeff Erf: For several years the millage rate was 0% for General Fund Operations. Last year you decided to raise 2 mils. My understanding was some of you voted for that thinking it was temporary and now this year we are talking about 1.3 mils. Is this going to be a permanent thing or I'm just wondering why is the millage necessary?

Mayor Coody: We had zero property tax for operations for years. We initiated this 1.3 mils last year and I think Rogers has the next lowest tax for operations at 3.5 mils or just under 4 mils so we are very low on the property tax millage. One of the reasons we are have to do this is because we couldn't continue to operate on 0% yet continue to pay the wage increases and pay for the work that needed to be done for the City. There is a reason why the other cities are charging more than we are because the money is necessary. We are being more efficient than the other cities are with our revenue. Paul if you have any other information on why we need this 1.3 mils you are welcome to answer this but I think it is basically that we have the need and if we didn't have the millage then we would have to cut services and lay people off.

Jeff Erf: My concern is that you are doing this before you have a budget. I am just wondering if you have picked out things that could provide cost savings to the city before automatically jumping and adding the millage rate.

Mayor Coody: One thing I can say is that with this new Wage and Benefit Survey we are going to have to come up with more money than we have now to make up what we need to do to stay competitive so that right there is going to be a bigger increase than this 1.3 mils. We are going to need more money than what we have right now just to meet the payroll for next year.

Alderman Thiel: We always have this discussion every year when we discuss the millage because we have to have this to the County by November 1st. There is no way we can discuss our budget in depth between now and then. We might consider less but I am assuming because staff is bringing this forward that based on their information of a budget there hasn't been any major reductions in operation expenses that would justify reducing this.

Mayor Coody: Plus we have seen a slowing growth in our income as well as sales tax revenue not coming in as we would have liked to have seen so we have to find the funding somewhere.

Paul Becker: I will be prepared to have a presentation at Agenda Session to talk about the summary General Fund Budget but in fact this is necessary to continue operations on a current level. The expenses are growing at a more rapid rate than revenue at this point in time so I feel that this is important at this time.

Alderman Rhoads moved to suspend the rules and go to the second reading. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell 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 Reynolds seconded the motion. Upon roll call the motion passed 6-0. Alderman Ferrell was absent.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Ferrell was absent.

Ordinance 4935 as Recorded in the Office of the City Clerk.

Bond Ordinance: An ordinance authorizing the issuance and sale of the City's Sales and Use Tax Capital Improvement Bonds, Series 2006A, for the purpose of financing a portion of the costs of (1) certain improvements to the City's wastewater treatment plants, sewerage, and related facilities, (2) certain street improvements, and (3) certain trail system 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.

City Attorney Kit Williams read the ordinance.

Mayor Coody: I want to say thanks to the public for allowing us to sell these bonds. It was a very good turnout of the public and a good strong show of support on this Bond issue and I want to say thanks.

Alderman Jordan moved to suspend the rules and go to the second reading. **Alderman Reynolds** seconded the motion. Upon roll call the motion passed 6-0. **Mayor Coody** voted in order to move to the next reading. **Alderman Rhoads** was absent during the vote. **Alderman Ferrell** 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 6-0. **Mayor Coody** voted in order to move to the next reading. **Alderman Rhoads** was absent during the vote. **Alderman Ferrell** was absent.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Ferrell** was absent.

Ordinance 4936 as Recorded in the office of the City Clerk.

Washington County Quorum Court's Density Regulations: A resolution to support the Washington County Quorum Court's Density Regulations for land located within two miles of Fayetteville's City Limits.

Alderman Thiel: This was Alderman Jordan's and my proposal.

Alderman Jordan: Probably because I got a little sideways at the last meeting. The situation was there was a development that came through six months ago and basically they wanted to run sewer lines outside the city limits. I think I voted against that on two occasions but the last time they came back and said they would build everything according to city standards. I supported that when it was brought to the Council. The problem that we ran into last week was this development had been approved by the County first so you had a County development coming into the City.

Mayor Coody: Was it being developed to County standards?

Alderman Jordan: I thought that we could tweak the development when it got here but basically what we were told by the City Attorney is that it was like a contract.

Kit Williams: The problem was the developer had gone through the County and had his development approved with the diversified or decentralized sewer system and it had a lot of density including duplexes sitting on our border, something the City Council probably wouldn't want to see. I think the City Council felt pressured by the Department of Health to grant sewer to them and so a contract was approved to allow sewer and to hold them to what they had already gotten approval for. It was not something that the City Council or the neighbors were really happy with because it was too dense sitting right on our border. Springdale had already passed a resolution to support the Quorum Court in doing this so I think that Alderman Thiel and Jordan wanted the Fayetteville City Council to also support this.

Mayor Coody: So Springdale has passed something similar to this already?

Kit Williams: To support the Quorum Court study of this property.

Mayor Coody: What do you think the results of this resolution are going to be?

Alderman Thiel: Just lending support.

Mayor Coody: But the County Quorum Court's going to come back with what? Do you know?

Kit Williams: They are looking at a limitation of one unit per acre in order to try to protect the neighborhoods that are already out there. Who knows for sure what they will really do but at least they are beginning to look at this area within two miles of Fayetteville and Springdale and within one mile of the smaller cities to give some protection to the cities and their own constituents that live near the cities. I think it's a good idea that the County is willing to look at this.

Alderman Jordan: Here's the thing, if it's one house per acre, if they want us to run city services out we know that's going to be on a one house per acre; an R-1; instead of the development sitting out there. Once we ran those sewer lines out there it was a done deal. I will never run any more city services outside the city limits to a development again. I won't support any of that.

Alderman Lucas: I do agree with everything he said. There was one more thing that really disturbed me, which was that we found out, that when they came forward and asked for the sewer to be brought out they didn't have to notify the neighborhood so they did not realize this type of development would be there once we voted to give them sewer.

Mayor Coody: What development was this?

Alderman Lucas: Lierly Lane.

Alderman Cook: Besides Lierly Lane, I fully support the County's efforts in trying to conduct some zoning in the County. Issues that we face at this city level are issues that we see right outside our city limits. If you look at Northwest Arkansas as fast as it is growing and you look at other areas of the country where counties actually have Planning Commissions and regulations throughout the County, in my opinion it's time that we start approaching that level in this area. I certainly applaud the County for beginning this conversation at least within the one mile radius of city limits.

Alderman Thiel: You ask what the end result of this would be; I think the fact that the City of Springdale and Fayetteville are adopting resolutions supporting this will send a stronger message to the County that this is something we hope that they support. I think there are still some JP's who are a little reluctant to property rights particularly on the south part of the County.

Jennifer Price, resident of 4089 W. Lierly Lane: I would like to thank you for putting this before the City Council so quickly. As you know the Washington County Quorum Court has passed a resolution in support of limited zoning in portions of Washington County including the planning area surrounding Fayetteville. The full ordinance will come to a vote within the next month. It is important that the Washington County Quorum Court members know that the cities are behind their goal of stopping urban sprawl in the County which is Goal #2 of the City Plan 2025. This is a good first step in that direction. I think it is important for the City and the County to have an overall comprehensive plan that looks at the whole picture and acts proactively and takes a leadership role in stopping suburban sprawl in the County and encouraging smart controlled growth.

Alderman Jordan moved to approve the resolution. Alderman Reynolds seconded the motion. Upon roll call the resolution passed 6-0. Alderman Ferrell was absent.

Resolution 163-06 as Recorded in the Office of the City Clerk.

Tim Conklin reminded the City Council and Mayor of the Special Election with regard to annexation in West Fayetteville. He stated since we passed that ordinance last summer several annexations have occurred by the City of Fayetteville and Farmington.

He distributed a map to the City Council and went on to describe the changes that have been made.

Meeting adjourned at 8:30 p.m.

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

From: James Nicholson
To: Kit Williams; Sondra Smith
Date: 10/30/2006 11:37 AM
Subject: Sale of Lot 20W

CC: Ray Boudreaux
Sondra, Kit,

There is an error on our Agenda Item, "Peyton Properties LLC", the amount should be \$200,000 and not \$169,800 which is the amount shown in the Tentative Agenda which originated on the Staff Review form.

I apologize for the error, which resulted from copying the form from another file. Please revise the sale price amount on the Agenda Item. If you need additional info or documentation please let me know.

James Nicholson, Financial Coordinator
Fayetteville Municipal Airport / Drake Field
479-718-7643 office
479-718-7646 fax
jnicholson@ci.fayetteville.ar.us

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND PEYTON PROPERTIES, LLC FOR THE SALE OF PARCEL 20W IN THE SOUTH INDUSTRIAL PARK FOR \$200,000.00; APPROVING A BUDGET ADJUSTMENT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$200,000.00. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment recognizing the revenue.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said agreement with Peyton Properties, LLC.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

Added at Agenda Session

10/31/06

City of Fayetteville
Staff Review Form
City Council Agenda Items
or

Contracts

11/7/00

11/6/2000

City Council Meeting Date

D. 1
Barloworld Freightliner Repair Unit # 477
Page 1 of 6

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Ordinance

Action Required:

A ~~resolution~~ awarding Barloworld Freightliner of Springdale the job to repair accident damage to unit #477 in the amount of \$24,445.16 plus tax. Due to the urgent nature of this repair Fleet requests the requirement for sealed bids be waived.

\$ 26,706.34

Cost of this request

\$ -

Category / Project Budget

Unbilled Accounts Receivable

Program Category / Project Name

9700.0301.00

Account Number

\$ -

Funds Used to Date

Accident Repairs

Program / Project Category Name

\$ -

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



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

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DB*
Date: October 27, 2006
Subject: Accident Repairs to Unit #477

RECOMMENDATION: That City Council approve awarding the accident repair of unit #477 to Barloworld Freightliner of Springdale in the amount of \$24,445.16, plus tax. Due to the urgent nature of this repair Fleet requests the requirement for sealed bids be waived.

BACKGROUND: Unit #477, a front load refuse collection truck, was damaged in an accident on September 25, 2006. Fleet received quotes from four vendors to repair this unit. Barloworld Freightliner is the only vendor who quoted to repair both the truck and the body. A quote sheet is attached.

This repair will be paid out of 9700.0301.00 Unbilled Accounts Receivable – the account Fleet uses for all accident repairs. Funds are available for this repair as the insurance check from the Municipal League has been received and deposited into this account.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A QUOTE FROM BARLOWORLD FREIGHTLINER OF SPRINGDALE IN THE AMOUNT OF \$26,706.34 TO REPAIR ACCIDENT DAMAGE TO UNIT #477, A FRONT-LOAD REFUSE COLLECTION TRUCK.

WHEREAS, Unit #477, a front-load refuse collection truck suffered accidental damage; and,

WHEREAS, Unit #477 needs to be returned to service as quickly as possible; and,

WHEREAS, the Fleet Operations Divisions secured four quotes, and Barloworld Freightliner was the only one who quoted to repair both the truck and body.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical; waives the requirements of formal competitive bidding, and approves a quote from Barloworld Freightliner of Springdale in the amount of \$26,706.34 to repair accident damage to Unit #477, a front-load refuse collection truck.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

	City of Fayetteville, Arkansas Purchasing Department Request and Quotations Form - Revised 8/25/2005
---	---

Amount	Quote Requirements	Notes
\$1000-\$2499.99	3 Verbal Quotes	Please put vendor names and quote amount in comment section of your P-Card/PO request. Please write "sole source" if it applies.
\$2500-\$20,000	3 Written Quotes	Purchases \$2500 and up cannot be processed by using a P-Card, you MUST USE A PO. Please make sure that your quotes are attached to your PO Request before you send it to Purchasing.
\$20,000 - above	Contact Purchasing Division	Formal Bid Process - Contact Purchasing Division

Quote Number: _____ GL Account Number: 9700.0301.00
Your records only
 Date: 1 / 1 Purchase Order Number: _____
Please use a P-Card if possible. Only order after request is approved (P-Cards) or after obtaining a PO Number first.
 Date Needed: 1 / 1 Department: Fleet
 Taken By: Jesse Beeks

Description of Item (s):
Repair truck (Autocar) and Body (New Way Mammoth) - from accident damage

Quantity: 1 JOB

Vendor List	Unit Price	Total Price	Terms/Remarks
Vendor #1: BARLOWORLD Address:	26706.34	26706.34	Repair <u>both</u> TRUCK + BODY
Vendor #2: DIAMOND INT'L Address:		23302.85	Repair <u>TRUCK ONLY</u>
Vendor #3: MHC KENWORTH Address:		20538.57	Repair <u>TRUCK ONLY</u>
Vendor #4: DOWNING SALES Address: SERVICE		26022.63	Repair <u>BODY ONLY</u>

Comments:

City Of Fayetteville

(Not a Purchase Order)

Vendor # 13048 Vendor Name: BARLOWORLD

Address:

City: State: Zip Code: Ship to code: 050

Requester: MARGARET HATTABAUGH

Requester's Employee # 2256

Extension: 495

Requisition No. 10/23/2006

Date: 10/23/2006

Expected Delivery Date: OCT 23 2006

Item Description Quantity Unit of Issue Unit Cost Extended Cost Account Numbers Project/Subproject # Inventory # Fixed Asset #

1 REPAIR ACCIDENT DAMAGE TO 1 JOB \$24,445.16 \$24,445.16 9700.0301.00

2 #477 PER ESTIMATE EA \$0.00

3 EA \$0.00

4 EA \$0.00

5 EA \$0.00

6 EA \$0.00

7 EA \$0.00

8 EA \$0.00

9 EA \$0.00

10 EA \$0.00

Shipping/Handling Lot \$0.00

Special Instructions:

Subtotal: 24,445.16

Tax: 2,261.18

Total: 26,706.34

Approvals:

Mayor: Department Director: Purchasing Manager:

Finance & Internal Services Director: Budget Manager: IT Manager:

Dispatch Manager: Utilities Manager:

Added at
Agenda Session
10/31/06

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

11/7/2006
City Council Meeting Date

Coy Hurd
Submitted By

Building Services
Division

Operations
Department

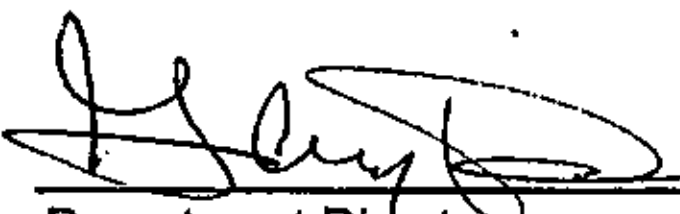
Action Required:

The action required is for the City Council to approve the attached lease for 3,200 square feet of space for a period of 2.5 years in the GCM Building at 101 West Mountain Street. The City Prosecutor's Office requires more space than is available in their present building.

Cost of this request	Category / Project Budget	Program Category / Project Name
\$114,825	\$45,250	Miscellaneous Program
1010 6600 5309 00	\$ -	Lease Expense
Account Number	Funds Used to Date	Program / Project Category Name
N/A	\$ 45,250.00	General Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

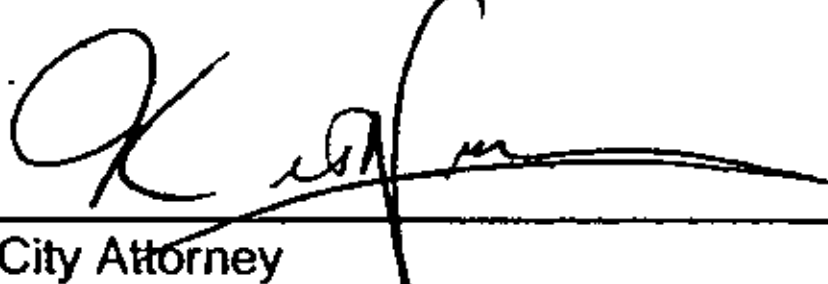

Department Director

10-20-06
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____


City Attorney

10-20-06
Date

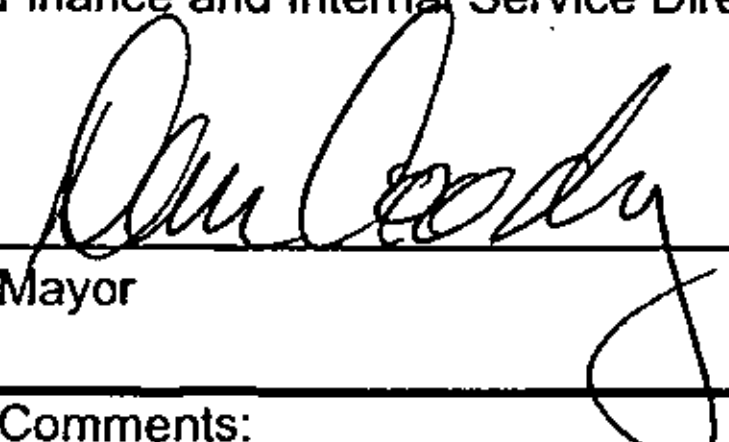
Received in City Clerk's Office

Paul A. Beck
Finance and Internal Service Director

10-23-06
Date

Received in Mayor's Office

ENTERED
10/20/06
BEP


Mayor

10/30/06
Date

Comments:

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A THIRTY MONTH LEASE
WITH GCM, LLC FOR ABOUT 3,200 SQUARE FEET WITHIN
THE GCM BUILDING FOR \$45,250.00 THE FIRST YEAR AND
AN ESTIMATED TOTAL COST OF \$114,825.00**

**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 lease attached as Exhibit A with GCM, LLC for about 3,200 square feet within the GCM Building for a total period of 30 months at a total estimated cost of about \$114,825.00 and authorizes Mayor Coody to sign this lease.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

D. 11
GCM Building Lease
Page 3 of 10

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and the Fayetteville City Council

THROUGH: Gary Dumas, Operations Director

FROM: Coy Hurd, Project Manager

DATE: October 20, 2006

SUBJECT: Lease of 3,200 square feet of space in the GMC Building.

Recommendation:

Staff recommends that the City Council approve the attached lease for 3,200 square feet of space in the GMC Building (101 West Mountain Street). This space will be used as office space for the City Prosecutor. The Prosecutor needs more space than is available in his present building.

Background:

For some time, the City Prosecutor has been in dire need of more office space to enable the efficient execution of his mission. In his present building, there is no more space available. Preliminary plans are being formulated for the possibility of a new facility which would house the Prosecutor's operation (among others). This possibility is two to three years into the future in its best case. An interim solution has been researched. One viable option is a move into the GMC Building.

Discussion:

The City Prosecutor will need around 3,200 square feet of space for its operation during the next two and a half years. Such space is available in the GMC Building at 101 West Mountain Street. Advantages of this space are availability, and, adjacency to many of the City Departments with which the Prosecutor must interact. The price of the lease is within the present market for the area.

memo of October 20, page two

Budgetary Impact:

Among the terms of the attached lease is the cost of \$14.14 per square foot per year. This amounts to \$45,250 per year. There is an escalation clause for the second year that is linked to the Consumer Price Index. With this in mind, the likely cost of the lease for 2.5 years is \$114,825.

GCM PROPERTIES, LTD, LLC.
101 WEST MOUNTAIN STREET
P.O. BOX 4704
FAYETTEVILLE, AR 72702

LEASE AGREEMENT

This LEASE AGREEMENT is made and entered into on this _____ day of _____, 2006, by and between GCM PROPERTIES, LTD, LLC, designated herein as LESSOR, and CITY OF FAYETTEVILLE, ATTN: DAN COODY, designated herein as CITY OF FAYETTEVILLE:

WITNESSETH:

1. **PREMISES:**

The Lessor hereby leases and demises to the City of Fayetteville and the City of Fayetteville hereby leases from the Lessor premises in the building commonly known as the GCM BUILDING, the premises being the indicated area of the second floor of the building as shown on the attached floor plan and consisting of approximately 3,200 square feet of area. See Exhibit "A".

2. **TERM:**

The City of Fayetteville is to have and to hold the above described premises for a term of TWO (2) years beginning on the 1st day of January, 2006. The City of Fayetteville is hereby granted the option to extend this lease, upon the same terms and conditions, for four (4) successive six (6) month terms. The option shall be exercised in writing by the City of Fayetteville not later than Ninety (90) days prior to the expiration of the then current term.

3. **RENT:**

The City of Fayetteville and the LESSOR agree to accept as rent for the original two year term the sum of \$45,250.00 annually, payable in equal monthly installments of \$3770.83 due the first day of each month throughout the duration of the term. In the event the City of Fayetteville exercises its right to extend the lease as described in paragraph 2, the annual rental amount will be calculated by adding to the annual rental amount of the original term the consumer price index (CPI) as set during the second year of the original term. Payments will be made in accordance to payment terms established in the original term with payments being made in equal installments and due on the first of each month of the term.

4. **SERVICES TO BE FURNISHED BY LESSOR:**

- (a) Water and sewer service.
- (b) Heating and Air Conditioning, when necessary, for normal comfort in premises.
- (c) Electrical current for standard building lighting fixtures and electrical outlets for office equipment for ordinary purposes in general office use.

LESSOR does not warrant that any service will be free from interruptions caused by repairs, renewals, improvements, changes of service, alterations, civil commotion, riot, accidents, inability to obtain electrical power, fuel, water supplies or labor or other cause beyond the reasonable control of the LESSOR. No such interruption of service shall be deemed an eviction or disturbance of the City of Fayetteville's use and possession of the premises or any part thereof, or render the LESSOR liable to the City of Fayetteville for damages, any abatement of rent, or relieve the City of Fayetteville for performance of the City of Fayetteville's obligations under this lease.

5. **RIGHTS RESERVED TO LESSOR:**

Lessor shall have the following rights exercisable without notice:

- (a) To name the building and change the name or street address of the building.
- (b) To install and maintain signs on the exterior and interior of the building, excluding the premises leased to the City of Fayetteville.
- (c) To have and retain a paramount title to Premises free and clear of any act of the City of Fayetteville.

6. **PROPER USE OF PREMISES:**

The City of Fayetteville agrees that the premises shall be used only for City of Fayetteville offices and related business activities and for no other use without written consent of the Lessor.

7. **FIXTURES:**

Any fixtures or other property of the City of Fayetteville which may be either placed in or upon or affixed or attached to the premises hereby demised by the City of Fayetteville are to remain the property of the City of Fayetteville and the City of Fayetteville is to have the right to remove the same at any time prior to or upon vacating the said premises, provided that the City of Fayetteville shall repair any damages resulting from such removal.

8. **LESSOR'S DUTY TO REPAIR:**

Lessor agrees to maintain the structural integrity of the GCM building, including the premises leased to the City of Fayetteville, including without limitations, the building walls, roof and the glass portion of said building, except such of the above as may be due to the accidental, negligent, or intentional act of the City of Fayetteville or its employees, agents, or privies.

9. **CITY OF FAYETTEVILLE'S DUTY TO REPAIR:**

The City of Fayetteville shall keep and maintain the premises leased in a state of good repair and tenable condition at the City of Fayetteville's expense. The City of Fayetteville shall at its cost and expense, repair and replace any part thereof, caused by the City of Fayetteville, or its agents, employees, invitee's or visitors.

10. **ACCEPTANCE OF PREMISES:**

The City of Fayetteville is familiar with the premises, acknowledges and receives the premises in their present state of repair and condition.

11. **MODIFICATION TO PREMISES:**

The Lessor acknowledges and approves the improvements and modifications to be undertaken by the City of Fayetteville at the City of Fayetteville's expense to the premises leased as described in the attached Exhibit B.

12. **DESTRUCTION BY FIRE OR OTHER CASUALTY:**

If the leased premises shall be damaged by fire or other peril specified in the extended coverage insurance endorsement, so as to be substantially destroyed, or the use of the leased premises shall be prohibited by such destruction or peril to the building known as GCM, then this lease shall cease at the option of either the Lessor or the City of Fayetteville by one giving to the other written notice of cancellation within 30 days after such destruction. Any unearned rent paid in advance by the City of Fayetteville shall be apportioned as of the date of the destruction and be refunded to the City of Fayetteville.

13. **RESTRICTION UPON ASSIGNMENT OR SUBLETTING:**

The City of Fayetteville agrees not to assign or in any manner transfer this lease or any estate or interest herein without prior written consent of the Lessor; however, the City of Fayetteville may assign or transfer this lease to any affiliate or subsidiary of the City of Fayetteville without the Lessor's consent.

14. **NOTICE:**

Whenever, under this lease, a provision is made for notice of any kind, it shall be deemed sufficient notice, if such notice to the City of Fayetteville is in writing and addressed to the Mayor's Office, 113 West Mountain, Fayetteville, Arkansas 72701. The notice shall be deposited in the U.S. Mail with postage prepaid. Notice to the Lessor shall be in writing, addressed to the last known post office address of the GCM Properties, LTD LLC and deposited in the U.S. Mail with postage prepaid.

15. **SURRENDER:**

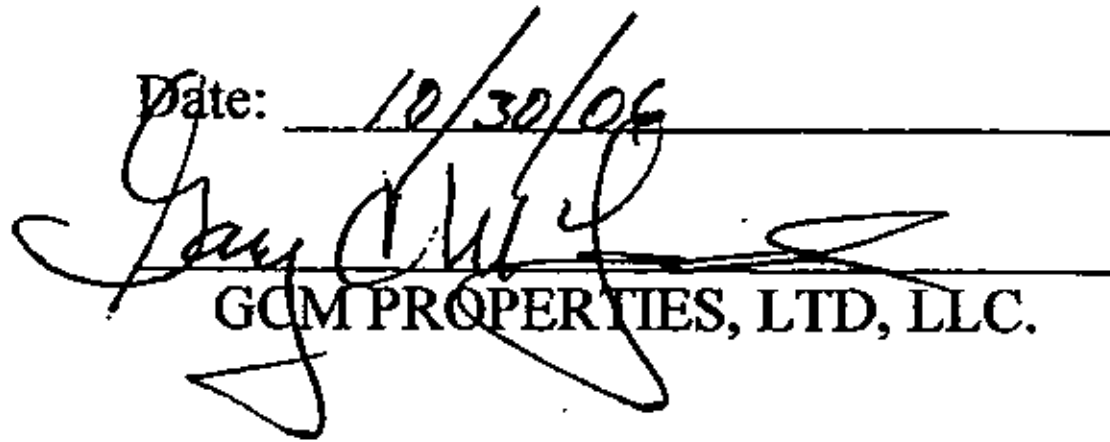
At the expiration of the term or extended term hereof, the City of Fayetteville will quit and surrender the demised premises, in as good state and excepting improvements in Attachment C, in the condition as received. The City of Fayetteville will not be liable to the Lessor for reasonable wear and tear, damage from fire or the elements or from causes beyond the City of Fayetteville's control.

16. **RIGHTS OF SUCCESSORS:**

Each and every provision of this lease agreement shall bind and shall inure to the benefit of the parties hereto, their legal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the date first hereinabove written.

Date: 10/30/06

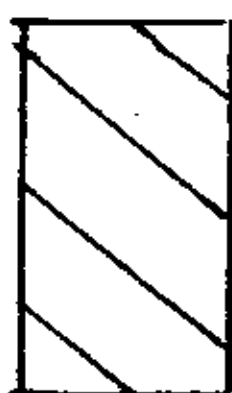

GCM PROPERTIES, LTD, LLC.

Date: _____

DAN COODY,
MAYOR, CITY OF FAYETTEVILLE

ATTEST:

SONDRA SMITH, CITY CLERK



= Leased Premises

12/23/49

17

FLOOR PLAN - UPPER LEVEL

00300000

COR. BLACK & MOUNTAIN

FAYETTEVILLE ARK AND ASS

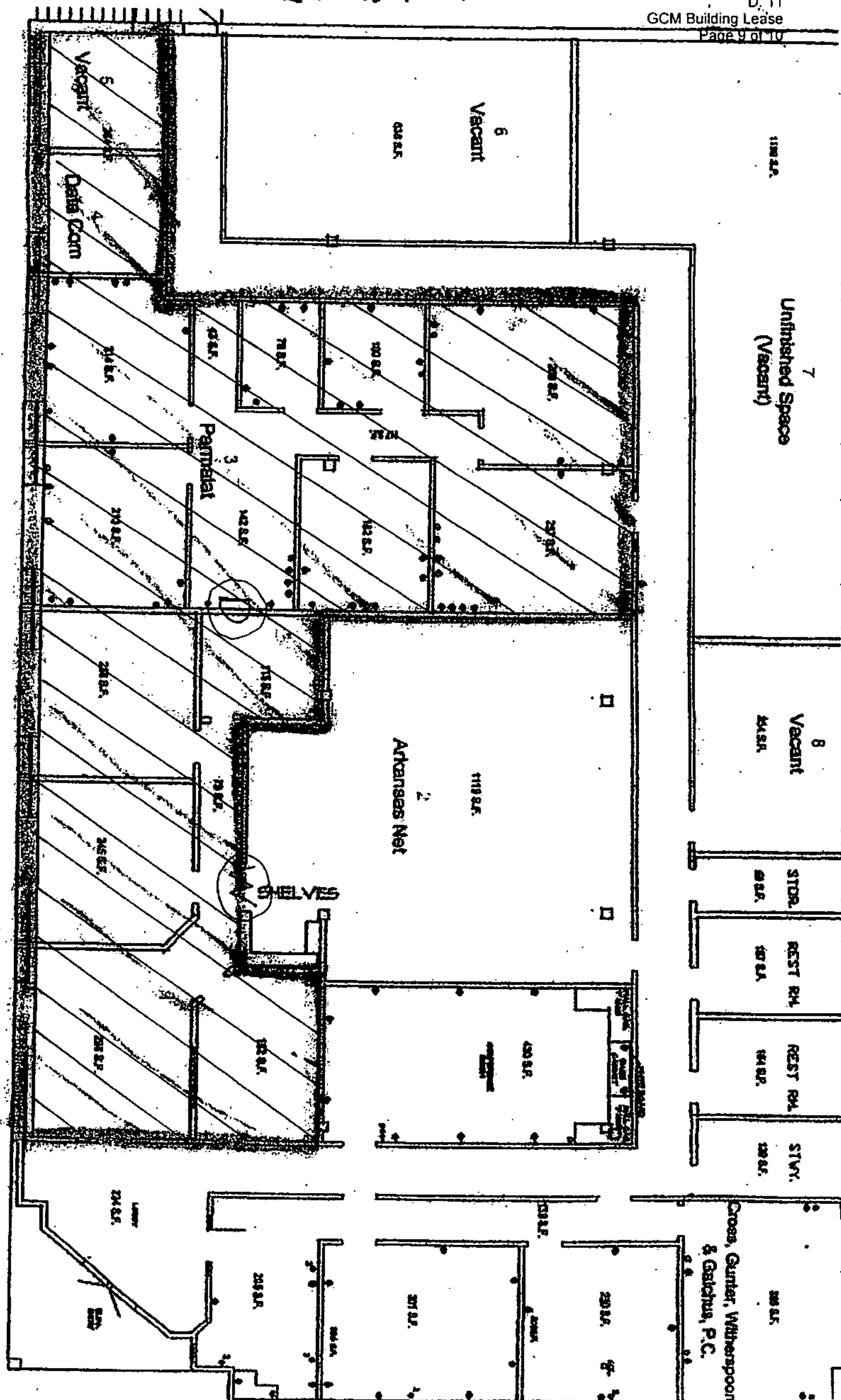


EXHIBIT B

Renovations and improvements to be undertaken by the City of Fayetteville at the City's expense to the leased premises located in the GCM Building.

1. Replacement of wall to wall carpeting throughout the leased premises.
2. Painting of interior walls throughout the leased premises.
3. Installation of bullet resistant doors, windows, and wallboard at the interior North and West entrances to leased premises.
4. Installation of City of Fayetteville network data wiring throughout the leased premises.
5. Installation of multi-line phone system throughout the leased premises.
6. Construction of wall, as located and marked on Exhibit A by the letter (W).
7. Installation of doorway between separate business suites that comprise the leased premises, as located and marked on Exhibit A by the letter (D).

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 - Vacant
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
November 7, 2006**

A meeting of the Fayetteville City Council will be held on November 7, 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**

Presentation on the Best Practices Manual for Foundations, Drainage and Compaction – Steve Cattaneo. Agenda Session Only.

A. CONSENT:

- 1. Approval of the September 19, 2006 and October 3, 2006 the City Council meeting minutes.**
- 2. AB Reprographics, Inc:** A resolution approving the purchase of an Oce CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of \$20,753.27 for the Electronic Document Management System.
- 3. Cando, Inc:** A resolution awarding Bid #06-52 and approving a contract with Cando, Inc. in the amount of \$157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision; and approving a 10% Project Contingency in the amount of \$15,798.00.
- 4. Peyton Properties, LLC:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$169,800.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

5. **GN Contractors, LLC:** A resolution approving a contract with GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive; and approving a project contingency in the amount of \$55,114.00.
6. **T-G Excavating, Inc:** A resolution awarding a construction contract to T-G Excavating, Inc. in the amount of \$4,413,664.50 for construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2; and approving a 5% project contingency in the amount of \$220,683.00.
7. **Insituform Technologies, Inc:** A resolution approving Change Order #2 to the construction contract with Insituform Technologies, Inc. in the amount of \$323,650.00 for Sanitary Sewer Lining Services.
8. **Arkansas Democrat Gazette:** A resolution approving one-year agreements with the Arkansas Democrat-Gazette – Northwest Edition for display and legal advertising.

B. UNFINISHED BUSINESS:

1. **R-PZD 06-2169 - 6th & Wood:** An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-2169, 6th & Wood, located at the intersection of 6th Street and Wood Avenue, containing approximately 1.80 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*
2. **RZN 06-2240 Combs:** An ordinance approving RZN 06-2240 submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street, for approximately 61.98 acres, rezoning the subject property from RSF-4, Residential Single Family, 4 units per acre to RMF-6, Residential Multi-family, 6 units per acre and C-1, Neighborhood Commercial. *This ordinance was left on the First Reading at the October 17, 2006 City Council meeting.*

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1762 Stirman Avenue:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Ruby M. Abel and Lynn Edward Abel located at 1762 Stirman Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$10,000.00.
2. **Buffco Inc. Taxi Service:** A resolution granting a Certificate of Public Convenience and Necessity to Buffco Inc. for the operation of four (4) to ten (10) taxicabs within the City of Fayetteville, Arkansas.
3. **JC Animal Farms Entertainment:** A resolution granting a Certificate of Public Convenience and Necessity to JC Animal Farms Entertainment for the operation of a Non-Motorized Transportation Service.

D. NEW BUSINESS:

1. **R-PZD 06-2191, University Club Tower:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2191, University Club Tower, located north of Lowe's Home Center, east of College Avenue (Highway 71), containing approximately 10.39 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
2. **R-PZD 06-2256, 932 Garland:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2256, 932 Garland, located at 932 Garland, between Berry and Hughes Street, containing approximately 0.84 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
3. **ADM 06-2294 Amend Chapter 161, Zoning Regulations:** An ordinance amending Chapter 161, Zoning Regulations, Section 161.15 B.2 of the Code of Fayetteville, to add Use Unit 15, Neighborhood Shopping Goods as a conditional use to the R-O, Residential Office Zoning District.
4. **ADM 06-2324 Amend Title XV: DMP Supplementary District Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend various sections of the code in order to implement the Supplementary District Regulations for the Downtown Master Plan Area.
5. **Real Estate Sales Contract with Habitat for Humanity:** An ordinance waiving the requirements of §34.27, Code of Fayetteville and approving a Real Estate Sales Contract with Habitat for Humanity of Washington County, Inc. in the amount of \$152,000 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing; and designating a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland.
6. **Cato Springs Road Properties:** An ordinance repealing Section 2 of Ordinance No. 4787; designating the remaining balance of the proceeds from the sale of the Cato Springs Road Properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
7. **Wilson Springs Property:** A resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs Property from General Fund Designated Fund Balance to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.
8. **South Industrial Park and the Tyson Site:** A resolution directing the proceeds from any future sale of Parcel 20W in South Industrial Park and the Tyson site to the Sales Tax Capital Fund to fund a portion of the construction costs of a police and court facility.
9. **Wilson Estes Police Architects:** A resolution to approve a contract in the amount of \$458,661.00 with Wilson Estes Police Architects, plus up to \$30,000.00 for reimbursable expenses and to approve a budget adjustment of \$100,000.00.
10. **Mayes Lot Split Appeal:** An appeal of the Planning Commission's decision to deny a lot split for Mayes located at 445 N. Canvas Road.

11. Emerald Point ADM 06-2282 Appeal: An appeal of the Planning Commission's decision regarding ADM 06-2282 (Emerald Point).

12. Sunbridge Villas R-PZD 06-2213 Appeal: An appeal of the Planning Commission's decision regarding R-PZD 06-2213 Sunbridge Villas.

E. INFORMATIONAL:

City Council Tour: November 6, 2006 -4:30 PM

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

A. 2
AB Reprographics, Inc
Page 1 of 8

11/7/2006
City Council Meeting Date

Lesa Brosch
Submitted By

Information Technology
Division

FISD
Department

Action Required:

Approval to purchase Wide Format Scanner.

\$ 20,753.27
Cost of this request

\$ 71,252.00
Category / Project Budget

Document Imaging System
Program Category / Project Name

4470.9470.5801.00
Account Number

\$ 21,548.98
Funds Used to Date

Program / Project Category Name

02094-1
Project Number

\$ 49,703.02
Remaining Balance

Capital Improvement Const.
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Paul A. Beinhart
Department Director 10-18-2006
Date

Previous Ordinance or Resolution #

Original Contract Date:

D. P. Whit
City Attorney 10/18/06
Date

Original Contract Number:

Paul A. Beinhart
Finance and Internal Service Director 10-18-2006
Date

Received in City Clerk's Office
ENTERED 10/18/06

Alan Cady
Mayor 10/19/06
Date

Received in Mayor's Office
ENTERED 10/19/06 BRF

Comments:



City of Fayetteville

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

A. 2
AR Perographics, Inc
Page 2 of 8

To: Mayor Dan Coody

From: Lesa Brosch

Thru: Scott Huddleston

A handwritten signature in black ink, appearing to be "SH" or "Scott Huddleston".

Date: October 18, 2006

Subject: Large Format Scanner Request

The Information Technology Division along with the City Clerk's office would like to request approval to purchase a wide format scanner for the Electronic Document Management System (EDMS).

The City currently has approximately 20,000 to 25,000 paper plans and maps that date back to 1925. The wide format scanner will be utilized to input these plans and maps into the EDMS.

City staff participated in demos of various wide format scanners and found the Oce Scanner to be the most efficient and purpose driven scanner. The Oce scanner can enhance the quality of current images needing restoration. Many older plans and maps were folded for storage to save space. When these documents are unfolded, they begin to tear on creases and have discoloration. The Oce scanner is able to improve the quality of the image by almost eliminating tear or crease lines and discoloration. Scanning these plans and maps into the Electronic Document Management System will prevent further handling of these documents and will give access to a wider audience.

Currently, there are approximately 53,800 documents in the Electronic Document Management System contributed by Accounting, Utilities, City Clerk, Purchasing and Police. Two more divisions, Planning and Code Compliance will began inputting documents into the system in mid November. The web application with security is currently available through the City's Intranet. Future enhancements will include the implementation of public documents to citizens through the City's website.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF AN OCÉ CS4044 WIDE FORMAT FULL COLOR SCANNER FROM AB REPROGRAPHICS, INC. IN THE AMOUNT OF \$20,753.27 FOR THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of an Océ CS4044 Wide Format Full Color Scanner from AB Reprographics, Inc. in the amount of \$20,753.27 for the Electronic Document Management System.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By _____
DAN COODY, Mayor

ATTEST:

By _____
SONDRA SMITH, City Clerk

City Of Fayetteville

(Not a Purchase Order)

Vendor #:

7731

Vendor Name:

AB Reprographics, Inc.

Address:

2397 Green Acres Road

Fob Point:

City:

State: AR

Zip Code:

72703

Ship to code:

Fayetteville

Requester's Employee #:

2048

Extension:

214

Division Head Approval:

Project/Subproject #

Requester:

Lesla Brosch

Account Numbers

Inventory #

Fixed Asset #

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	CS4044 Scanner (42")	1	EA	19,607.80	\$19,607.80	4470,9470,5801.00	02094 - f		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions:

Subtotal: \$19,607.80
Tax: \$1,246.47
Total: \$20,753.27

Approvals:

Mayor:

Department Director:

Finance & Internal Services Director:

Budget Manager:

Dispatch Manager:

Utilities Manager:

Purchasing Manager:

IT Manager:

Other:

RECEIVED
OCT 13 2006
PURCHASING



8/21/2006

City Of Fayetteville

Fayetteville, AR

Att: Scott Huddleston &

Lesa Brosch

Proposal for Oce CS4044 Color Scanner

CS4044 Scanner (42")

#4962081 Oce Scan Software

Gui Kit - 17" Monitor, Keyboard & Mouse

#PC-GE2 General PC

#4962249 Scanner Maintenance Kit

Shipping

Delivery, Set-up & Tutotial

Total List Price **\$24,571.00**

Total Sale Price **\$19,507.80**

Note 1: Price Does Not Include Sales Tax

Note 2: Prices In This Quote Are Good For Thirty (30) Days

Thank You For Letting Us Provide You With This Machine Quote

Mike Becker

Sales Manager



PROPOSAL FOR THE CITY OF FAYETTEVILLE

PROPOSED SYSTEM: Océ CS4044 Wide Format, Full Color Scanner

Océ Model CS4044 42" – Scanning System:

\$23,950.00

System Includes:

- Océ Scan Software
- Océ PC-GE2 General Purpose PC and GUI Kit
- Scanner Maintenance Kit
- Delivery and Installation

Terms: Net is due upon receipt of invoice
This quotation is valid for thirty (30) days
Tulsa, Oklahoma – September 15, 2006

Joe Fox
President South Central Region
Ridgway's Ltd
918-663-8100
jfox@ridgways.com



CITY OF FAYETTEVILLE

PROPOSED METHOD: Océ CS4044 Wide Format, Full Color Scanner

Océ Model CS4044 42" – Scanning System:

\$22,450.00

Includes:

- **Océ Scan Software**
- **Océ PC-GE2 General Purpose PC and GUI Kit**
- **Scanner Maintenance Kit**
- **Delivery and Installation**

Terms: Net is due upon receipt of invoice
This quotation is valid for thirty (30) days
Tulsa, Oklahoma – September 14, 2006

Todd Wilson
Senior Account Manager
Océ North America, Inc. - WFPS

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 3
Cando, Inc
Page 1 of 20

7-Nov-06

City Council Meeting Date

Alison Jumper/Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

A resolution awarding Bid #06-52 and approval of a contract with Cando, Inc. in the amount of \$157,980 with a 10% project contingency of \$15,798 for a total project cost of \$173,778, for the installation of park amenities for the development of the park in Salem Meadows Subdivision.

\$173,778.00
Cost of this request
2250.9255.5314.00
Account Number
02013.3
Project Number

\$ 175,705.00
Category/Project Budget
\$ 1,927.00
Funds Used to Date
\$ 173,778.00
Remaining Balance

Neighborhood Park Development
Program Category / Project Name
Park Land Dedication/ NW Quadrant
Program / Project Category Name
Parks Development
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature] 10-23-06
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature] 10/23/06
City Attorney

Received in City Clerk's Office
ENTERED 10/23/06

Paul A. Becher 10-23-06
Finance and Internal Service Director Date

Received in Mayor's Office
ENTERED 10/23/06

[Signature] 10/23/06
Mayor Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
Connie Edmonston, Parks and Recreation Director *CE*
From: Alison Jumper, Park Planner *WJ*
Date: October 20, 2006
RE: Salem Meadows Park Land Construction

RECOMMENDATION

A resolution awarding Bid #06-52 and approval of a contract with Cando, Inc. in the amount of \$157,980, with a 10% project contingency of \$15,798 for a total project cost of \$173,778 for the development of the park in Salem Meadows Subdivision.

BACKGROUND

The park in Salem Meadows Subdivision is a 1.84 acre park located at 3508 Marsh St., west of Gary Hampton Softball Complex and Holcomb Elementary School. The land was dedicated with the development of Salem Meadows subdivision in 2004 to meet the requirements of the Park Land Dedication Ordinance. Two public neighborhood meetings were held to gather input for the design. A master plan of the neighborhood park including sidewalks, play equipment, a pavilion, tree plantings and half basketball court was developed by Park Staff and presented to the neighborhood. The plan was approved by the Parks and Recreation Advisory Board at the July 10th 2006 meeting. Development of this park was approved in the 2006 Capital Improvement Plan.

DISCUSSION

The project was advertised on October 2nd and 9th and opened on October 19^h, 2006. Four vendors consisting of Benchmark Construction of NWA, Inc., Cando, Inc., Midland Construction and Pick-It Construction, Inc. submitted bids. Pick-It Construction, Inc. was the low bid, however the bid was rejected due to shriver error. The next low bid was Cando, Inc. in the amount of \$163,715. The contract was negotiated down to \$157,980. If approved, the project will begin in November and be completed in March.

BUDGET IMPACT

This project is funded with Park Land Dedication Funds from the Northwest Park District. Total project cost including a 10% contingency is \$173,778.

Attachments:

PRAB July 10, 2006 Minutes
Master Plan
Bid Tabulation Sheet
Contract

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #06-52 AND APPROVING A CONTRACT WITH CANDO, INC. IN THE AMOUNT OF \$157,980.00 FOR THE INSTALLATION OF PARK AMENITIES FOR THE DEVELOPMENT OF THE PARK IN SALEM MEADOWS SUBDIVISION; AND APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$15,798.00.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby awards Bid #06-52 and approves a contract with Cando, Inc. in the amount of \$157,980.00 for the installation of park amenities for the development of the park in Salem Meadows Subdivision. 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 10% project contingency in the amount of \$15,798.00.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes July 10, 2006

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 5:30 P.M. on July 10, 2006 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members Bitler, Colwell, Davis, Bailey, Langsner and new Parks Board member, Free were present; Burke and Davidson were absent; Trail Coordinator Mihalevich, Park Staff Jumper, Curry, Jones, Edmonston, Whillock, Wright, Cole and audience were in attendance.

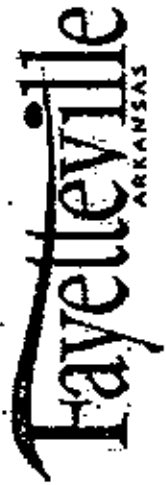
11. Salem Meadows Master Plan Presentation: Alison Jumper, Park Planner

Jumper reported the Salem Meadows Park is 1.8 acres in size. The planned equipment will focus on younger children because Holcolmb Elementary play area is across the street for use by older children. There is also a pavilion and a half basketball court in the plan.

PRAB Motion: Langsner moved to approve the plan as presented. The motion was seconded by Davis. The motion passed with a vote of 6-0-0.

Minutes submitted by Cheryl Whillock

BID: 06-52
DATE: 10/19/06
TIME: 2:30 PM
CITY OF FAYETTEVILLE



Bid 06-52, Salem Meadows Parkland

BIDDER			Deductive Alternates	Total Base Bid
1	Benchmark Construction of NWA Inc	\$10,000.00		\$215,501.13
2	Cando Inc	\$20,000.00		\$163,715.22
3	Midland Construction Inc	\$12,280.00		\$164,089.50
4	Pick-It Construction Inc	\$11,436.00		\$142,350.00

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

CERTIFIED: P. Vice P. VICE PURCH MGR
WITNESS: [Signature] DATE: 10/20/06

Section 00 52 13

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CANDO, INC.

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2006 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Contractor (herein after called CANDO, INC.).

CITY OF FAYETTEVILLE and CANDO, INC., in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CANDO, INC. shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the construction of a neighborhood park consisting of signage elements, metal work, stone masonry, play equipment, earthwork, concrete work, and for *Salem Meadows Park Land*; and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by

City of Fayetteville Parks and Recreation Division
1455 South Happy Hollow Road
Fayetteville, Arkansas 72701

will be hereinafter called PARKS AND RECREATION DIVISION PROJECT MANAGER and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work for Salem Meadows Park Land Construction shall be substantially completed within 75 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 100 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and CANDO, INC. recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by

CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and CANDO, INC. agree that as liquidated damages for delay (but not as a penalty) CANDO, INC. shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CANDO, INC. shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CANDO, INC. shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay CANDO, INC. for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. For all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

PAYMENT ITEMS

ITEM NUMBER	DESCRIPTION	UNIT	EST. QTY.	Cando, Inc.	
				Unit Price	Cost
1	Mobilization (1)	L.S.	1.00		\$8,000.00
2	Construction Staging	L.S.	1.00	\$2,500.00	\$2,500.00
3	Temporary Silt Fence (3)(5)	L.F.	150.00	\$4.00	\$600.00
4	Topsoil-complete in place (8)	C.Y.	1371.00	\$15.00	\$20,565.00
5	Seed and Straw (4)	AC.	1.00	\$3,500.00	\$3,500.00
6	Nyloplast Area Inlet or equal - 12" - complete in place (6)(9)	EA.	2.00	\$500.00	\$1,000.00
7	8" ADS drain pipe - complete in place (6)(9)	L.F.	33.00	\$25.00	\$825.00
8	Select Fill - complete in place (8)	C.Y.	1500.00	\$8.50	\$12,750.00
9	Unclassified Excavation	C.Y.	60.00	\$40.00	\$2,400.00
10	Shelter - 20' Hexagon - complete in place (6)(9)	L.S.	1.00	\$22,000.00	\$22,000.00
11	Concrete Flatwork - 4" thick (7)	S.Y.	354.00	\$35.18	\$12,453.72
12	Shelter Slab - 5" thick (7)	S.Y.	31.00	\$40.00	\$1,240.00
13	Basketball court, goal and striping complete in place (6)(9)	L.S.	1.00	\$20,000.00	\$20,000.00
14	Play equipment - orbiter or equal (6)(9)	L.S.	1.00	\$5,400.00	\$5,400.00
15	Play equipment - saddle spinner or equal (6)(9)	L.S.	2.00	\$1,232.50	\$2,465.00
16	Play equipment - mobius equal (6)(9)	L.S.	1.00	\$9,000.00	\$9,000.00
17	Rubber Safety Surfacing - Tiles-complete in place (6)(9)	S.F.	1849.00	\$14.00	\$25,886.00
18	Picnic Tables - 7' ADA Accessible - complete in place (6)(9)	EA.	2.00	\$1,200.00	\$2,400.00
19	Bike Rack - complete in place (6)(9)	EA.	1.00	\$500.00	\$500.00
20	6' Benches - complete in place (6)(9)	EA.	2.00	\$1,700.00	\$3,400.00
21	Trees -Pinus strobus	EA.	3.00	\$350.00	\$1,050.00
22	Trees - Magnolia stellata	EA.	2.00	\$400.00	\$800.00
23	Seed Mix	S.F.	12455.00	\$0.10	\$1,245.50
Total Base Bid					\$157,980.22

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CANDO, INC. shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in the General Conditions.

5.1. Progress Payments. CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of CANDO, INC.'s Applications for Payment as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DIVISION PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DIVISION PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CANDO, INC. to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.3 Final Payment. Upon final completion and acceptance of the Work in accordance with
City of Fayetteville

paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. CANDO, INC.'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement CANDO, INC. makes the following representations:

6.1. CANDO, INC. has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. CANDO, INC. has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, or furnishing of the Work.

6.3. CANDO, INC. is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. CANDO, INC. has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CANDO, INC. accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CANDO, INC. is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CANDO, INC. acknowledges that such reports and drawings are not Contract Documents and may not be complete for CANDO, INC.'s purposes. CANDO, INC. acknowledges that CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CANDO, INC. has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CANDO, INC. and safety precautions and programs incident thereto. CANDO, INC. does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. CANDO, INC. is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. CANDO, INC. has correlated the information known to CANDO, INC., information and
City of Fayetteville

observations obtained from visits to the site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

6.7. CANDO, INC. has given PARKS AND RECREATION DIVISION PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that CANDO, INC. has discovered in the Contract Documents and the written resolution thereof by PARKS AND RECREATION DIVISION PROJECT MANAGER is acceptable to CANDO, INC. and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and CANDO, INC. concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 8, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by CANDO, INC. prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 42, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 13 inclusive).
- 7.7. Specifications consisting of Divisions 1 through 16 as listed in table of contents thereof.
- 7.8. Addenda numbers 1 and 2 , inclusive.
- 7.9. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through seven with each sheet bearing the following general title:
Salem Meadows Park Land.
- 7.10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
 - 7.10.1. Notice to Proceed
 - 7.10.2. All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an

assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3. CITY OF FAYETTEVILLE and CANDO, INC. each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

8.6. Freedom of Information Act. City contract 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, CANDO, INC. will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.) Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

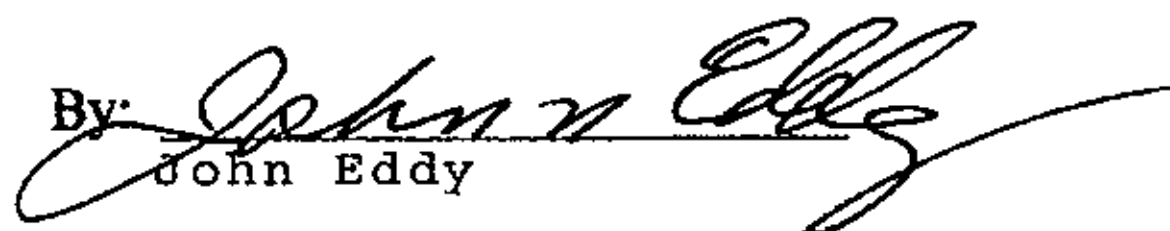
IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and CANDO, INC. have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, and two counterparts have been delivered to CANDO, INC.. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and CANDO, INC. or identified by PARKS AND RECREATION DIVISION PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2006 (which is the Effective Date of the Agreement).

CITY OF FAYETTEVILLE: City of Fayetteville

CANDO, INC.:

By: _____
Mayor

By: 
John Eddy

Title President

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

* Attest 
Steve Eddy, Secretary/Treasurer

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

305 West Center Street, Morrilton, AR.

(If CITY OF FAYETTEVILLE is a public body, attach License No. _____
evidence of authority to sign and resolution or other documents Agent for service of process:
authorizing execution of Agreement.)

72110

(If CANDO, INC. is a corporation, attach evidence of authority to sign)



ARKANSAS STATE HIGHWAY COMMISSION

PREQUALIFICATION QUESTIONNAIRE

**EXPERIENCE RECORD
FINANCIAL STATEMENT
EQUIPMENT SCHEDULE**

COF

**MAIL TO:
ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
ATTENTION: PROGRAMS AND CONTRACTS DIVISION
POST OFFICE BOX 2261
LITTLE ROCK, ARKANSAS 72203**

SUBMITTED BY: CANDO, INC.

MAILING ADDRESS: 305 WEST CENTER STREET
Street or P. O. Box

MORRILTON AR 72110
City State Zip Code

TELEPHONE: 501-354-0507 **FAX:** 501-354-0507
Area Code - Number Area Code - Number

EMPLOYER'S IDENTIFICATION NO. 71-0693956

CERTIFICATION OF CORPORATE OFFICIALS

A. 3
Cando, Inc
Page 14 of 20

Listed below are the Officers/Owners/Partners authorized to enter into agreement with the Arkansas State Highway and Transportation Department:

This authorization is conferred either through Ownership, Board of Directors' action or Partnership Agreement.

STEVEN EDDY

JOHN EDDY

Steve Eddy
John Eddy

CANDO, INC.

(Company)

STEVE EDDY

(Company Official)

SECRETARY / TREASURER

(Title)

FEBRUARY 21, 2006

(Date)

71-0693956

Federal Employer Identification Number

NOTE: If Partnership, all partners must sign.

Return to:

Arkansas State Highway and Transportation Department
Attention: Programs and Contracts Division
Post Office Box 2261
Little Rock, Arkansas 72203

CORPORATE SEAL

Cando, Inc.

305 West Center Street
Morrilton, Arkansas 72110

Phone: (501) 354-0507

Authorized Signature List

John N. Eddy _____ President

Steve Eddy _____ Secretary / Treasurer


Steve Eddy _____ Secretary / Treasurer



October 23, 2006

Mr. Steve Eddy
Cando, Inc.
305 West Center Street
RE: Salem Meadows Park Land Construction Bid # 06-52

Dear Mr. Eddy,

Thank you for your continuing cooperation regarding the Salem Meadows Park Land Construction bid. I am pleased that we were able to negotiate a price that will allow the project to move forward. I am enclosing the revised bid numbers that have been agreed upon. Please review the numbers and sign below to accept the revisions. The bid will be presented at the November 7th City Council meeting for approval. If approved, we will then be able to award the bid and move forward.

Thank you again for your cooperation. I look forward to working with you on this project.

Best Regards,

Alison Jumper

Alison Jumper
Park Planner
City of Fayetteville

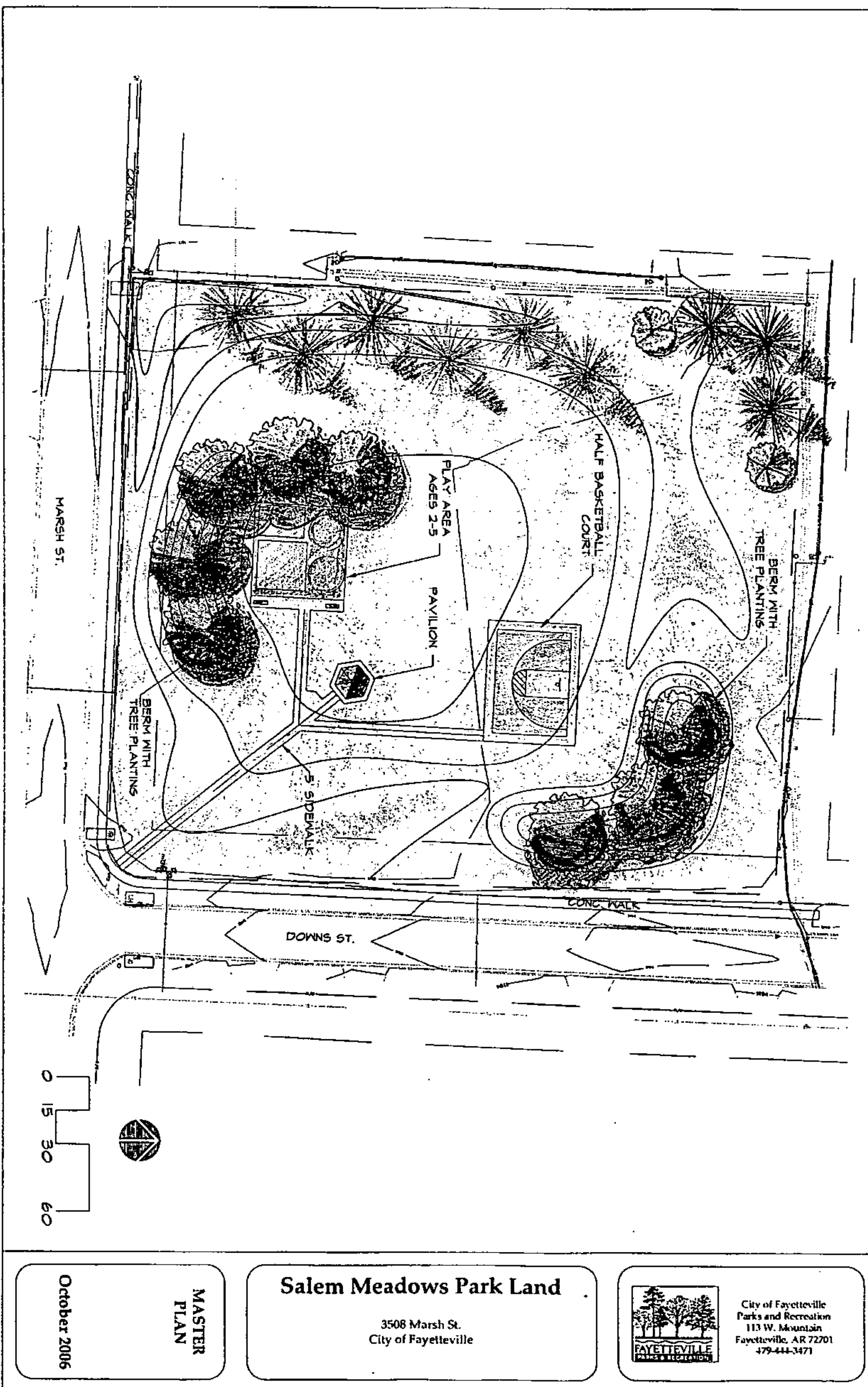
Please sign below in agreement with the negotiated bid prices. Fax back to 479-521-7714.

By: *Steve Eddy*
Cando Inc.
Steve Eddy, Secretary/Treasurer

Date: 10-24-06

Salem Meadows Park Land Construction Pay Items

ITEM NUMBER	DESCRIPTION	UNIT	EST. QTY.	Cando, Inc.	
				Unit Price	Cost
1	Mobilization (1)	L.S.	1.00		\$6,000.00
2	Construction Staking	L.S.	1.00	\$2,500.00	\$2,500.00
3	Temporary Silt Fence (3)(5)	L.F.	150.00	\$4.00	\$600.00
4	Topsoil-complete in place (8)	C.Y.	1371.00	\$15.00	\$20,565.00
5	Seed and Straw (4)	AC.	1.00	\$3,500.00	\$3,500.00
6	Nyloplast Area Inlet or equal - 12" - complete in place (6)(9)	E.A.	2.00	\$500.00	\$1,000.00
7	6" ADS drain pipe - complete in place (6)(9)	L.F.	33.00	\$25.00	\$825.00
8	Select Fill - complete in place (8)	C.Y.	1500.00	\$8.50	\$12,750.00
9	Unclassified Excavation	C.Y.	60.00	\$40.00	\$2,400.00
10	Shelter - 20' Hexagon - complete in place (6)(9)	L.S.	1.00	\$22,000.00	\$22,000.00
11	Concrete Flatwork - 4" thick (7)	S.Y.	354.00	\$35.18	\$12,453.72
12	Shelter Slab - 5" thick (7)	S.Y.	31.00	\$40.00	\$1,240.00
13	Basketball court, goal and striping complete in place (6)(9)	L.S.	1.00	\$20,000.00	\$20,000.00
14	Play equipment - orbiter or equal (6)(9)	L.S.	1.00	\$5,400.00	\$5,400.00
15	Play equipment - saddle spinner or equal (6)(9)	L.S.	2.00	\$1,232.50	\$2,465.00
16	Play equipment - mobius equal (6)(9)	L.S.	1.00	\$9,000.00	\$9,000.00
17	Rubber Safety Surfacing - Tiles-complete in place (6)(9)	S.F.	1849.00	\$14.00	\$25,886.00
18	Picnic Tables - 7' ADA Accessible - complete in place (6)(9)	E.A.	2.00	\$1,200.00	\$2,400.00
19	Bike Rack - complete in place (6)(9)	E.A.	1.00	\$500.00	\$500.00
20	6' Benches - complete in place (6)(9)	E.A.	2.00	\$1,700.00	\$3,400.00
21	Trees -Pinus strobus	E.A.	3.00	\$350.00	\$1,050.00
22	Trees - Magnolia stellata	E.A.	2.00	\$400.00	\$800.00
23	Seed Mix	S.F.	12455.00	\$0.10	\$1,245.50
Total Base Bid					\$157,980.22



City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:	
Vendor #: 14125										P.O. Number:	Expected Delivery Date:	
Address: 305 West Center St. City: Morrilton State: AR										Vendor Name: Cando, Inc.	No.:	
Requester: Alison Jumper										Division Head Approval: <i>Alison Jumper</i>	No.:	
Description: Construction of park land in Salem Meadows Subdivision per bid 06-52										Extension: 469	No.:	
Quantity: 1										Project/Subproject #: 02013.3	Inventory #	
Unit of Measure: l.s.										Account Numbers: 2250.9255.5314	Fixed Asset #	
Unit Cost: \$157,980.22										Extended Cost: \$157,980.22		
1												
2											\$0.00	
3											\$0.00	
4											\$0.00	
5											\$0.00	
6											\$0.00	
7											\$0.00	
8											\$0.00	
9											\$0.00	
10											\$0.00	
Shipping/Handling												
Special Instructions:												
Subtotal:										\$157,980.22		
Tax:										\$9,553.81		
Total:										\$167,534.03		

Approvals:

Mayor: _____

Department Director: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____

Subtotal: \$157,980.22

Tax: \$9,553.81

Total: \$167,534.03

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

A. 4
Peyton Properties, LLC
Page 1 of 8

11/7/2006

City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Action Required: Approve an Offer and Acceptance Contract with Peyton Properties LLC; Bill Locke, President; 664 W Ash St, Fayetteville, AR, 72703-2403; 479-442-4631; Fax: 479-443-4436; e-mail: b_locke@admiralmovingservices.com; to purchase from the City, Parcel 20W in the South Industrial Park.

REVENUE

\$ 169,800.00
Cost of this request

\$ 940,200.00

Contrib
Program Category / Project Name

1010.0001.4881.02
Account Number

\$ 966,494.00
Funds Used to Date

General Fund Revenue
Program / Project Category Name

Project Number

\$ (26,294.00)
Remaining Balance

General
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED
10/20/06

Received in Mayor's Office

ENTERED
10/20/06

Comments:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

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

DATE: October 19, 2006

SUBJECT: Approval of Sale of Industrial Property Parcel #20W in the South Industrial Park to Bill Locke of Admiral Moving and Services, Inc.

RECOMMENDATION: Approval of the attached Offer and Acceptance Contract to sell Parcel 2W in the Fayetteville South Industrial Park to Bill Locke, President of Admiral Moving and Services, Inc. thru their property management company, Peyton Properties LLC for \$200,000.00.

BACKGROUND: Mr. Locke has been working to purchase property to expand his business. His current location on West Ash is too small to allow for the major expansion planned for the new property in the Industrial Park. Plans are not finished but they plan to invest approximately \$1.3 million in new facilities including a warehouse, and an office complex. The company currently has 30 employees and anticipates doubling in size to more than 50 employees in the new facility. They provide good wage jobs for their employees with 100% medical and a 401K match. They are the franchise dealer for the new self move industry and contribute to the City sales tax revenue as the Go Mini boxes are taxable.

DISCUSSION: The parcel is located at the northeast corner of Pump Station Road and Morningside Drive and contains 10 acres approximately 7 of which are buildable. The northern most three acres are in a flood way.

BUDGET IMPACT: Proceeds from this sale will be used by the Administration to pay for the new police and public safety center.

Attachments: Staff Review Form
O & A contract from Peyton Properties LLC.
Budget Adjustment

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND PEYTON PROPERTIES, LLC FOR THE SALE OF PARCEL 20W IN THE SOUTH INDUSTRIAL PARK FOR \$169,800.00; APPROVING A BUDGET ADJUSTMENT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Offer and Acceptance contract between the City of Fayetteville and Peyton Properties, LLC for the sale of Parcel 20W in the South Industrial Park for \$169,800.00. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment recognizing the revenue.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said agreement with Peyton Properties, LLC.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

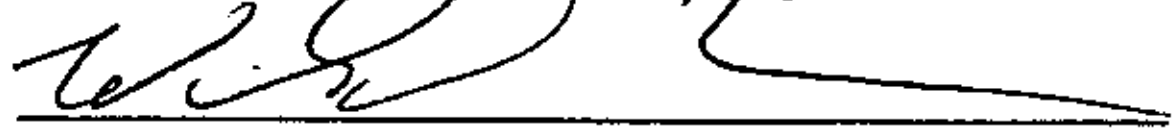
OFFER AND ACCEPTANCE CONTRACT

1. Peyton Properties, LLC, 2478 Willow Bend Circle, Springdale, AR 72762 offers to buy, subject to the terms and conditions set forth herein, the following described property:
SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION
2. **Purchase Price:** Subject to the following conditions, Peyton Properties, LLC. shall pay for the property at closing, the total and cash payment of \$ \$200,000.00.
3. **Contingent Earnest Money Deposit:** Peyton Properties, LLC. herewith tenders a check for \$ 1,000.00 to the City of Fayetteville, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to Peyton Properties, LLC. by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to Peyton Properties, LLC. If Peyton Properties, LLC. fails to fulfill their obligations under this contract or, after all conditions have been met, Peyton Properties, LLC. fails to close this transaction, the earnest money may, at the option of the City of Fayetteville, become liquidated damages to the City of Fayetteville.
4. Conveyance will be made to Peyton Properties, LLC. by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.
5. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. Peyton Properties, LLC. and the City of Fayetteville shall share equally in the cost of the title insurance.
6. The City of Fayetteville agrees to allow Peyton Properties, LLC. if Peyton Properties, LLC. so desires, at Peyton Properties, LLC.'s expense, to survey the property. The City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within ninety (90) days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to Peyton Properties, LLC. on the date of closing.
10. The City of Fayetteville hereby grant(s) permission for Peyton Properties, LLC. or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.
13. The City of Fayetteville shall disclose to Peyton Properties, LLC. any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Peyton Properties, LLC. and the City of Fayetteville shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, the City of Fayetteville shall cure such, at their expense; or, in the alternative, at Peyton Properties, LLC.'s discretion, Peyton Properties, LLC. may cure such environmental hazard, and the City of Fayetteville shall indemnify Peyton Properties, LLC. for all costs associated with said cure.

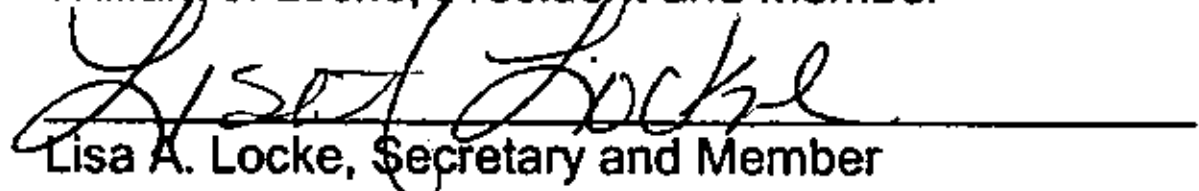
OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both Peyton Properties, LLC. and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by the City of Fayetteville on or before the 2nd day of November, 2005.
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within thirty (30) days of acceptance by the City of Fayetteville.
18. It is expressly understood by the parties that the price established by the City Council is a reduced price to benefit the creation of jobs in the Fayetteville Industrial Park and that the sale of the property is not intended to be for speculation. Should Peyton Properties, LLC. wish to sell the property before improvements are made, the City of Fayetteville shall have the right to purchase the property at the same price for which it was sold to Peyton Properties, LLC.
19. **NOTICE:** Peyton Properties, LLC. AND THE CITY OF FAYETTEVILLE HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO Peyton Properties, LLC. OF THE \$ 1000.00 EARNEST MONEY DEPOSIT.

FOR PEYTON PROPERTIES, LLC

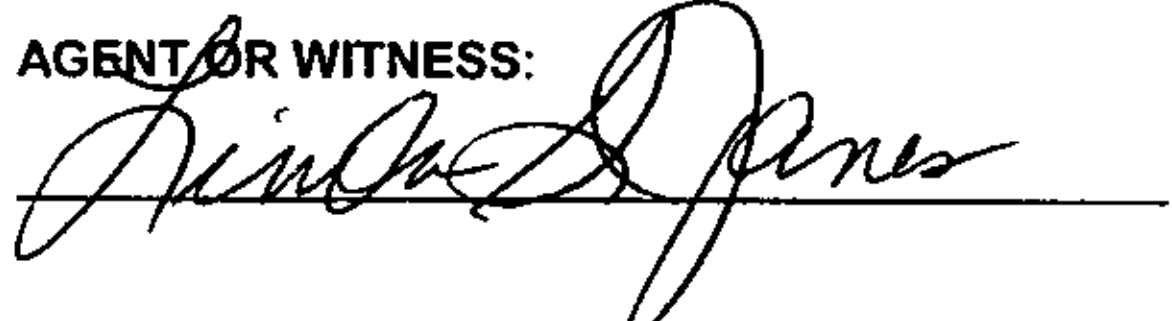


William J. Locke, President and Member



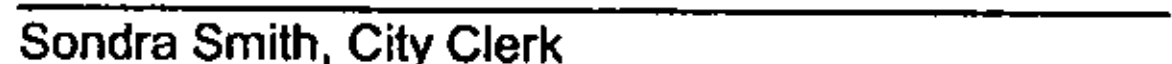
Lisa A. Locke, Secretary and Member

AGENT OR WITNESS:



FOR THE CITY OF FAYETTEVILL, ARKANSAS,
A municipal corporation


Dan Coody, Mayor


Sondra Smith, City Clerk

Date: 10/19/06

Date: 10/19/06

Date: 10-19-06

Date: _____

Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

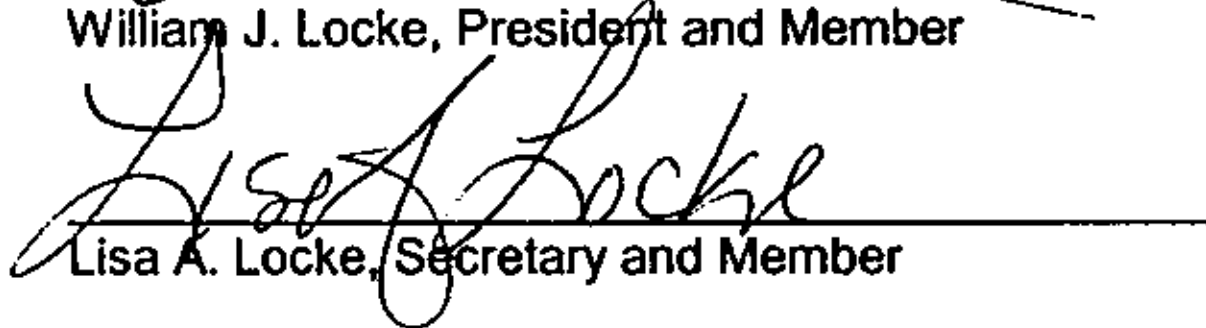
EXHIBIT "A"
PROPERTY DESCRIPTION

That property described as Lot 20W of the Fayetteville Industrial Park located in 27-16-30 Washington County, AR at the corner of Pump Station Rd. (north side) and Morningside Dr. (east side) containing 10 acres $\pm$.

SIGNED FOR IDENTIFICATION:


William J. Locke, President and Member

Date: 10/19/06


Lisa A. Locke, Secretary and Member

Date: 10/19/06

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

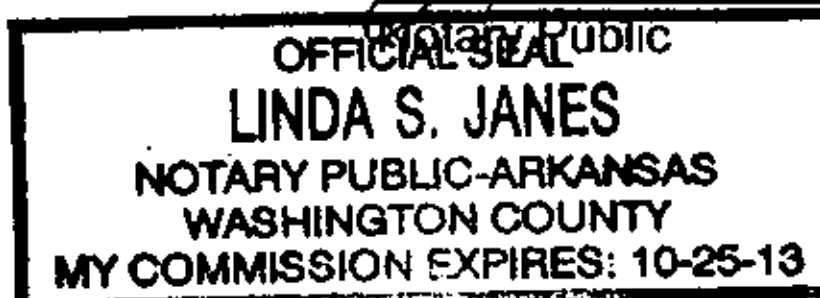
) ss.
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are Wm & Lisa Locke of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said PEYTON PROPERTIES LLC, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 19th day of October, 2006

MY COMMISSION EXPIRES:

10-25-13



ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

) ss.
)

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

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

Notary Public

MY COMMISSION EXPIRES:

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

A. 4
Peyton Properties, LLC
Page 8 of 8

Budget Year 2006	Department: General Fund Revenue Division: Program:	Date Requested 11/7/2006	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased: \$200,000 in the Gain/loss - sale of assets account	Project or Item Deleted/Reduced: None. Recognize land sale proceeds. Reduce Use of Fund Balance \$200,000.
---	---

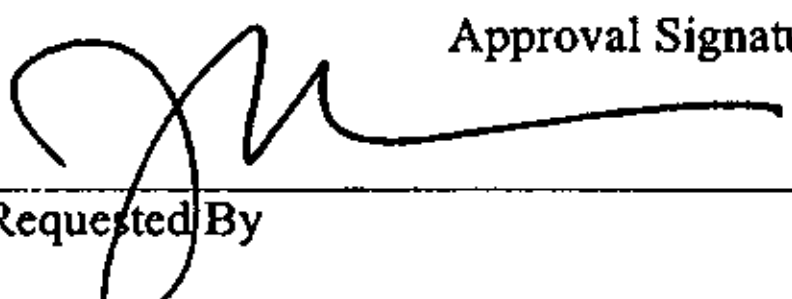
Justification of this Increase: Will provide for industrial development in the S Fayetteville Industrial Park. Will contribute to economic development expansion by adding twenty new jobs and increasing the City's tax base.	Justification of this Decrease: These funds will be designated to the Police Fund for the development of the new Police and Public Safety Center.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Gain/loss-sale of assets	1010	0001	4881	02	200,000	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	200,000	

Approval Signatures		Budget Office Use Only							
Requested By		Date	10/20/06	Type:	A	B	C	D	E
Budget Manager		Date	10/20/06	Posted to General Ledger	Initial	Date			
Department Director		Date		Posted to Project Accounting	Initial	Date			
Finance & Internal Services Director		Date		Entered in Category Log	Initial	Date			
Mayor		Date							

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

November 7, 2006
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

A resolution to award a contract to GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive and approve a project contingency of \$55,114.

\$ 330,685.00	\$ 534,999.86	Kings Drive-Lakeside to Columbus
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5809.00	\$ 95,767.56	Street Improvements
Account Number	Funds Used to Date	Program / Project Category Name
05030	\$ 439,232.30	Sales Tax-Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 10-20-06
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

 10/20/06
City Attorney Date

Received in City Clerk's Office

 10-23-06
Finance and Internal Service Director Date

Received in Mayor's Office

 10/23/06
Mayor Date

Comments:



Date: October 17, 2006

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Subject: **A resolution to award a contract to GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive and approve a project contingency of \$55,114.**

RECOMMENDATION:

Staff recommends approval of a construction Contract with GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive, and approval of a project contingency of \$55,114.

BACKGROUND:

In 2001, the City contracted with Grubbs, Hoskyn, Barton, and Wyatt to perform a geotechnical investigation of the Kings Drive area and provide recommendations. The study recommended a complex set of concrete piers and a hybrid retaining wall/pinning system. At the time, the preliminary cost of these improvements was estimated to be in excess of \$1,000,000, and the project was determined to be unfeasible.

In May, 2004, the City approved a contract with the geotechnical firm of Terracon, Inc. to study flood damages caused by April rainfall events. A portion of that contract was to again study Kings Drive that was damaged during the April flooding. The study prepared by Terracon recommended installing a drilled pier retaining wall system on the downhill side of the road. The cost for these recommended improvements was estimated to be \$325,000 plus the cost to rebuild the street.

In March, 2005, the City approved a contract with McClelland Consulting Engineers for additional study of the Kings Drive area and to provide recommendations and cost estimates for alternative solutions for the street. The study has been completed and was presented to the Street Committee on February 13th of this year. The Committee accepted the recommendations, and voted to proceed with final design and construction of the

recommended improvements.

In March of 2006, a contract amendment with McClelland was approved for final design and preparation of contract documents needed in order to solicit bids for construction of improvements to Kings Drive. The plans were completed according to the initial contract schedule, and bids were subsequently received on October 12th.

DISCUSSION:

Five bids were received on the project; however, one bid was determined to be non-responsive and was rejected due to lack of an adequate bid bond. The four responsive bids received are as follows:

GN Contractors, LLC	\$275,571.00
Tomlinson Asphalt Co., Inc.	\$371,087.90
Mobley Contractors, Inc.	\$503,062.25
Keith Austin Construction	\$527,160.00

Detailed bid tabulations, along with a recommendation letter from Wayne Jones with McClelland Consulting Engineers, are attached.

BUDGET IMPACT:

\$429,232.30 is the available balance remaining in budget for Kings Drive Improvements. This contract will be paid from those funds.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH GN CONTRACTORS, LLC IN THE AMOUNT OF \$275,571.00 FOR CONSTRUCTION OF IMPROVEMENTS TO KINGS DRIVE; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$55,114.00.

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 GN Contractors, LLC in the amount of \$275,571.00 for construction of improvements to Kings Drive. 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 \$55,114.00.

PASSED and APPROVED this 7th day of November, 2006.

ATTEST:

By: _____
SONDRA SMITH, City Clerk

APPROVED

By: _____
DAN COODY, Mayor

October 17, 2006

Mr. Chris Brown
Staff Engineer
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Re: Kings Drive Reconstruction

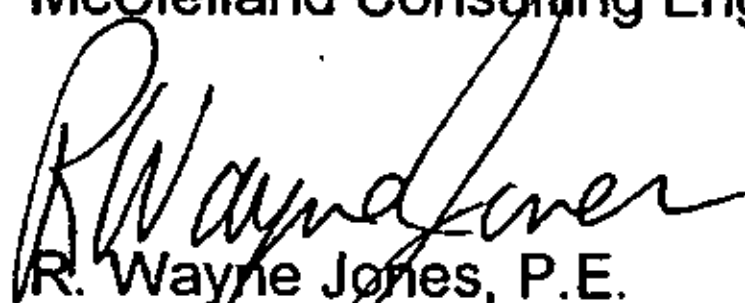
Dear Mr. Brown:

Bids were received on the above referenced project on Thursday, October 12, 2006, with five Contractors submitting a bid for this project. The apparent low bidder submitted a Cashier's Check as the Bid Bond which was less than the five (5) percent required and this bid was rejected. GN Constructors, LLC of Springdale submitted the lowest acceptable bid, in the amount of \$ 275,571.00 for the Total Bid amount. A copy of the certified Bid Tabulation is enclosed. The Engineer's estimate of the Construction Cost is also attached and was in the amount of \$ 408,540.00.

We have worked with GN Constructors, LLC, on several projects in Springdale and Lowell and have had very good results. We recommend the City accept the low bid submitted by GN Constructors, LLC of Springdale for the Total Base Bid in the amount of \$ 275,571.00.

If there are any questions regarding the bids or this recommendation, please contact us.

Sincerely,
McClelland Consulting Engineers, Inc.


R. Wayne Jones, P.E.
Vice President/Project Manager

Enclosure: Bid Tabulation
Cost Estimate

RECEIVED
OCT 17 2006
ENGINEERING DIV.

BID TABULATION
KINGS DRIVE RECONSTRUCTION
CITY OF FAYETTEVILLE

Bid No. 06-59
MCE Project FY062125
2:00 p.m., October 2, 2006

Item #	Description	Qty.	Unit	GN Contractors, LLC		Tomlinson Asphalt Co., Inc.		Mobley Contractors, Inc.		Keith Austin Construction Co.	
				Unit Price	Extended	Unit Price	Extended	Unit Price	Extended	Unit Price	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	\$7,500.00	\$7,500.00	\$6,000.00	\$6,000.00	\$5,033.81	\$5,033.81	\$25,000.00	\$25,000.00
2	Clearing and Grubbing	1	LS	\$3,300.00	\$3,300.00	\$5,000.00	\$5,000.00	\$29,624.91	\$29,624.91	\$35,000.00	\$35,000.00
3	1 1/2-inch Cold Milling	1700	SY	\$4.85	\$7,905.00	\$4.35	\$7,395.00	\$5.28	\$8,976.00	\$10.00	\$17,000.00
4	Removal of Existing Asphalt and Concrete Pavement and Curb and Gutter	1040	SY	\$6.00	\$6,240.00	\$14.00	\$14,560.00	\$15.78	\$16,411.20	\$10.00	\$10,400.00
5	Maintenance of Traffic	1	LS	\$1,000.00	\$1,000.00	\$3,400.00	\$3,400.00	\$19,347.19	\$19,347.19	\$25,000.00	\$25,000.00
6	Mobilization and Demobilization	1	LS	\$2,500.00	\$2,500.00	\$6,400.00	\$6,400.00	\$35,586.00	\$35,586.00	\$57,000.00	\$57,000.00
7	Shear Key Trench Excavation	483	LF	\$11.00	\$5,308.00	\$8.50	\$4,105.50	\$75.99	\$37,463.07	\$50.00	\$24,650.00
8	6-inch Prefabricated or Solid Drainage Pipe	660	LF	\$16.00	\$10,560.00	\$13.15	\$8,679.00	\$12.37	\$8,164.20	\$30.00	\$19,800.00
9	Class 57 Drainage Median	80	CY	\$24.00	\$1,920.00	\$50.00	\$4,000.00	\$58.84	\$4,707.20	\$30.00	\$2,400.00
10	Shear Key Stone Backfill with Drainage Fabric	900	CY	\$24.00	\$21,600.00	\$74.00	\$66,600.00	\$52.89	\$47,601.00	\$55.00	\$49,500.00
11	Street Subgrade Excavation (Plan Quantity)	1050	CY	\$10.50	\$11,025.00	\$12.40	\$13,020.00	\$19.54	\$20,517.00	\$8.50	\$8,925.00
12	18-inch Select Embankment (Plan Quantity)	850	CY	\$12.50	\$10,625.00	\$18.15	\$15,427.50	\$33.12	\$28,152.00	\$16.50	\$14,025.00
13	Embankment Backfill Behind Curb and Gutter (Plan Quantity)	250	CY	\$14.00	\$3,500.00	\$24.00	\$6,000.00	\$29.74	\$7,435.00	\$18.50	\$4,625.00
14	Undercut and Backfill (Field Measured)	200	CY	\$22.00	\$4,400.00	\$32.00	\$6,400.00	\$55.23	\$11,046.00	\$35.00	\$7,000.00
15	8-inch Crushed Stone base (Class 7)	670	TN	\$28.50	\$19,095.00	\$20.70	\$13,869.00	\$23.90	\$16,013.00	\$35.00	\$23,450.00
16	3-inch ACHM Surface Course	220	TN	\$94.00	\$20,680.00	\$89.25	\$19,635.00	\$97.35	\$21,417.00	\$110.00	\$24,200.00
17	2-inch Asphalt Overlay	200	TN	\$94.00	\$18,800.00	\$90.00	\$18,000.00	\$97.35	\$19,470.00	\$110.00	\$22,000.00
18	Concrete Curb and Gutter	1020	LF	\$12.00	\$12,240.00	\$11.00	\$11,220.00	\$11.00	\$11,220.00	\$12.00	\$12,240.00
19	Adjust Sewer Manhole to Grade	2	EA	\$1,000.00	\$2,000.00	\$450.00	\$900.00	\$555.36	\$1,110.72	\$1,500.00	\$3,000.00
20	Silt Fence	710	LF	\$4.00	\$2,840.00	\$4.00	\$2,840.00	\$2.58	\$1,831.80	\$7.50	\$5,325.00
21	Hay Bales	30	EA	\$10.00	\$300.00	\$20.00	\$600.00	\$28.17	\$845.10	\$30.00	\$900.00
22	Concrete Joint Cleaning and Sealing	1370	LF	\$3.00	\$4,110.00	\$3.50	\$4,795.00	\$5.45	\$7,466.50	\$10.00	\$13,700.00
23	Concrete Pavement Repair	105	SY	\$58.00	\$6,090.00	\$89.00	\$9,345.00	\$88.78	\$9,371.90	\$50.00	\$5,250.00
24	Concrete Joint Repair	110	LF	\$16.00	\$1,760.00	\$18.34	\$2,017.40	\$54.21	\$5,963.10	\$100.00	\$11,000.00
25	Petrolac Joint Reinforcement	1380	LF	\$2.00	\$2,760.00	\$2.00	\$2,760.00	\$2.04	\$2,815.20	\$5.00	\$6,900.00
26	Topsoil Replacement (Plan Quantity)	220	CY	\$33.00	\$7,260.00	\$40.00	\$8,800.00	\$29.78	\$6,551.60	\$40.00	\$8,800.00
27	Slope Stabilization Material	1300	SY	\$4.50	\$5,850.00	\$4.30	\$5,590.00	\$20.10	\$26,130.00	\$4.00	\$5,200.00
28	Seeding	0.4	AC	\$2,000.00	\$800.00	\$3,400.00	\$1,360.00	\$3,375.00	\$1,350.00	\$10,000.00	\$4,000.00
29	Sodding	480	SY	\$4.00	\$1,920.00	\$4.00	\$1,920.00	\$5.15	\$2,472.00	\$10.00	\$4,800.00
30	Street Construction Control	1	LS	\$5,000.00	\$5,000.00	\$3,000.00	\$3,000.00	\$16,314.75	\$16,314.75	\$10,000.00	\$10,000.00
31	Install 8-inch Cut-In Valves and 8-inch caps	2	EA	\$3,400.00	\$6,800.00	\$1,600.00	\$3,200.00	\$3,121.68	\$6,243.36	\$1,500.00	\$3,000.00
32	Install 2 1/2" Gate Valve and 2 1/2" Cap	1	EA	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$2,066.72	\$2,066.72	\$1,000.00	\$1,000.00
33	Remove Existing 8-inch Water Line	1	LS	\$7,000.00	\$7,000.00	\$4,500.00	\$4,500.00	\$5,973.75	\$5,973.75	\$11,000.00	\$11,000.00
34	8-inch C-900 PVC Water Pipe	520	LF	\$38.00	\$19,760.00	\$52.00	\$27,040.00	\$47.54	\$24,720.80	\$35.00	\$18,200.00
35	5-1/4" Fire Hydrant Assembly and 6" pipe	1	EA	\$4,500.00	\$4,500.00	\$4,000.00	\$4,000.00	\$4,869.00	\$4,869.00	\$4,500.00	\$4,500.00
36	8" Gate Valve	2	EA	\$1,700.00	\$3,400.00	\$1,060.00	\$2,120.00	\$3,319.54	\$6,639.08	\$1,500.00	\$3,000.00
37	Ductile Iron Fittings	1200	LBS	\$8.00	\$9,600.00	\$6.00	\$7,200.00	\$5.70	\$6,840.00	\$7.00	\$8,400.00
38	Class 7 Water Line Trench Backfill	350	TN	\$16.00	\$5,600.00	\$22.00	\$7,700.00	\$18.47	\$6,464.50	\$22.00	\$7,700.00
39	1" Service Line	200	LF	\$26.00	\$5,200.00	\$8.00	\$1,600.00	\$9.52	\$1,904.00	\$25.00	\$5,000.00
40	3/4" Service Line	36	LF	\$28.00	\$1,008.00	\$10.00	\$360.00	\$47.99	\$1,727.64	\$20.00	\$720.00
41	Reconnection to Existing Meter	1	EA	\$1,500.00	\$1,500.00	\$180.00	\$180.00	\$1,874.98	\$1,874.98	\$1,000.00	\$1,000.00
42	Adjust Water Valve to Grade	3	EA	\$400.00	\$1,200.00	\$250.00	\$750.00	\$660.39	\$1,981.17	\$850.00	\$2,550.00
	TOTAL				\$275,571.00		\$371,087.90		\$503,062.25		\$527,160.00

\$408,540.00

Engineer's Estimate

10-13-06

Date

Certified: *R. Wayne Jones*
R. Wayne Jones, P.E. #4562

CONSTRUCTION COST ESTIMATE
KINGS DRIVE RECONSTRUCTION
CITY OF FAYETTEVILLE

MCE Project FY062125

September 21, 2006

Item #	Schedule I Description	Qty.	Unit	Unit Price	Extended
1	Act 291, 1993 Trench and Excavation Safety System	1	LS	\$4,500.00	\$4,500.00
2	Clearing and Grubbing	1	LS	\$8,500.00	\$8,500.00
3	1 1/2-inch Cold Milling	1700	SY	\$20.00	\$34,000.00
4	Removal of Existing Asphalt and Concrete Pavement and Curb and Gutter	1040	SY	\$9.50	\$9,880.00
5	Maintenance of Traffic	1	LS	\$5,000.00	\$5,000.00
6	Mobilization and Demobilization	1	LS	\$10,000.00	\$10,000.00
7	Shear Key Trench Excavation	493	LF	\$20.00	\$9,860.00
8	6-inch Preforated & Solid Drainage Pipe	660	LF	\$4.50	\$2,970.00
9	Class 57 Drainage Median	80	CY	\$65.00	\$5,200.00
10	Shear Key Stone Backfill with Drainage Fabric	900	CY	\$35.00	\$31,500.00
11	Street Subgrade Excavation (Plan Quantity)	1050	CY	\$19.00	\$19,950.00
12	18-inch Select Embankment (Plan Quantity)	850	CY	\$20.00	\$17,000.00
13	Embankment Backfill Behind Curb and Gutter (Plan Quantity)	250	CY	\$17.00	\$4,250.00
14	Undercut and Backfill (Field Measured)	200	CY	\$18.00	\$3,600.00
15	8-inch Crushed Stone base (Class 7)	670	TN	\$22.00	\$14,740.00
16	3-inch ACHM Surface Course	220	TN	\$85.00	\$18,700.00
17	2-inch Asphalt Overlay	200	TN	\$85.00	\$17,000.00
18	Concrete Curb and Gutter	1020	LF	\$10.00	\$10,200.00
19	Adjust Sewer Manhole to Grade	2	EA	\$850.00	\$1,700.00
20	Silt Fence	710	LF	\$5.25	\$3,727.50
21	Hay Bales	30	EA	\$3.50	\$105.00
22	Concrete Joint Cleaning and Sealing	1370	LF	\$25.00	\$34,250.00
23	Concrete Pavement Repair	105	SY	\$52.00	\$5,460.00
24	Concrete Joint Repair	110	LF	\$50.00	\$5,500.00
25	Petrotac Joint Reinforcement	1380	LF	\$5.50	\$7,590.00
26	Topsoil Replacement (Plan Quantity)	220	CY	\$16.00	\$3,520.00
27	Slope Stabilization Material	1300	SY	\$10.00	\$13,000.00
28	Seeding	0.4	AC	\$3,850.00	\$1,540.00
29	Sodding	480	SY	\$10.00	\$4,800.00
30	Street Construction Control	1	LS	\$6,500.00	\$6,500.00
31	Install 8-inch Cut-In Valves and 8-inch caps	2	EA	\$1,800.00	\$3,600.00
32	Install 2 1/2" Gate Valve and 2 1/2" Cap	1	EA	\$1,700.00	\$1,700.00
33	Remove Existing 8-inch Water Line	1	LS	\$5,000.00	\$5,000.00
34	8-inch C-900 PVC Water Pipe	520	LF	\$35.00	\$18,200.00
35	5-1/4" Fire Hydrant Assembly and 6" pipe	1	EA	\$3,000.00	\$3,000.00
36	8" Gate Valve	2	EA	\$800.00	\$1,600.00
37	Ductile Iron Fittings	1200	LBS	\$7.00	\$8,400.00
38	Class 7 Water Line Trench Backfill	350	TN	\$25.00	\$8,750.00
39	1" Service Line	200	LF	\$18.00	\$3,600.00
40	3/4" Service Line	36	LF	\$28.00	\$1,008.00
41	Reconnection to Existing Meter	1	EA	\$500.00	\$500.00
42	Adjust Water Valve to Grade	3	EA	\$500.00	\$1,500.00
	SUBTOTAL				\$371,400.50
	Contingency 10 %				\$37,140.05
	TOTAL ESTIMATED CONSTRUCTION COST				\$408,540.55

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of _____, by and between _____ herein called the Contractor, and the City of Fayetteville, Arkansas, Owner:

WITNESSETH:

That the Contractor, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville as follows:

1. That the Contractor shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Kings Drive Reconstruction, dated August, 2006.

Advertisement for Bids	Maintenance Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplemental Conditions
Performance Bond	Specifications
Payment Bond	Drawings (13 Sheets)

2. That the City of Fayetteville hereby agrees to pay to the Contractor for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of:

_____ Dollars (_____).

3. The Work will be completed and ready for final payment in accordance with the General Conditions within **180** calendar days after the date when the Contract Time commences to run, as provided in the Notice to Proceed.
4. Liquidated Damages: The City of Fayetteville and Contractor recognize that time is of the essence of this Agreement and the City of Fayetteville will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City of Fayetteville **Five Hundred Dollars (\$500.00)** for each day that expires after the time specified in Paragraph 3 for completion and readiness for final payment.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville shall make partial payments to the Contractor on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by the Contractor, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville.
6. That upon submission by the Contractor of evidence satisfactory to the City of Fayetteville that all payrolls, material bills, and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by the Contractor of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at his expense, within 5 days after the receipt of notice from the City of Fayetteville, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville.
8. No additional work or extras shall be done unless the same shall be duly authorized by appropriate action by the City of Fayetteville in writing.
9. **Freedom of Information Act.** City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Arkansas Freedom of Information Act request is presented to the City of Fayetteville, (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 photocopying cost pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

CONTRACTOR

WITNESSES:

By: _____
Title

Secretary

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS
OWNER

City Clerk

By _____
Mayor

Document 00600-1 Construction Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

Kings Drive Reconstruction

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL
Company

(Corp. Seal)

SURETY
Company

(Corp Seal)

Signature: _____
Name and Title: Owner

Signature: _____
Name and Title:

CONTRACTOR AS PRINCIPAL
Company

(Corp. Seal)

SURETY
Company

(Corp Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:

EJCDC No. 1910-28A (1984 Edition)

Prepared through the joint efforts of the Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, American Institute of Architects, American Subcontractors Association, and the Associated Specialty Contractors

Document 00600-2 Construction Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

City of Fayetteville
113 West Mountain
Fayetteville, Arkansas 72701

CONSTRUCTION CONTRACT

Date:

Amount:

Description (Name and Location):

Kings Drive Reconstruction

BOND

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL
Company

(Corp. Seal)

SURETY
Company

(Corp Seal)

Signature: _____
Name and Title: Owner

Signature: _____
Name and Title:

CONTRACTOR AS PRINCIPAL
Company

(Corp. Seal)

SURETY
Company

(Corp Seal)

Signature: _____
Name and Title:

Signature: _____
Name and Title:

EJCDC No. 1910-28B (1984 Edition)

Prepared through the joint efforts of the Surety Association of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, American Institute of Architects, American Subcontractors Association, and the Associated Specialty Contractors

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

A. 6
T-G Excavating, Inc
Page 1 of 34

7-Nov-06
City Council Meeting Date

David Jurgens

Submitted By

Water/Wastewater

Division

Water/Wastewater

Department

Action Required:

Approval of a construction contract with T-G Excavating, Inc. in the amount of \$4,413,664.50, for construction of the Gregg Avenue Interceptor Sewer, WSIP subproject WL-2, and approve a 5% contingency of \$220,683.00.

\$4,634,347.50

Cost of this request

\$5,200,000.00

Category / Project Budget

Wastewater System Imp Project

Program Category / Project Name

4480.9480.5315.00

Account Number

\$

-

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0322

Project Number

\$5,200,000.00

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

xx

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED

Received in Mayor's Office

ENTERED

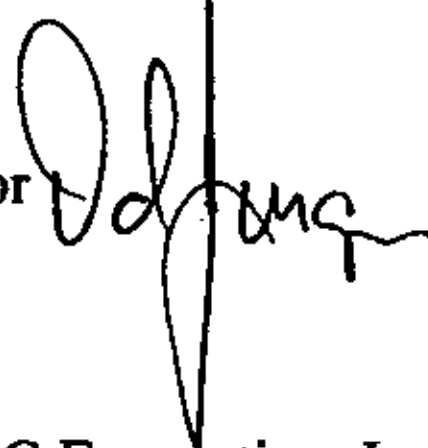
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: 20 October 2006

Subject: Approval of a construction contract with T-G Excavating, Inc. in the amount of \$4,413,664.50, for construction of the Gregg Avenue Interceptor Sewer, WSIP Subproject WL-2, and approve a 5% contingency of \$220,683.00.

RECOMMENDATION

City Administration recommend approval of a construction contract with T-G Excavating, Inc. in the amount of \$4,413,664.50, for construction of the Gregg Avenue Interceptor Sewer, WSIP Subproject WL-2, and approve a 5% contingency of \$220,683.00.

BACKGROUND

The City received four bids on 24 October, 2006 for this project, as follows:

T-G Excavating, Inc.	\$ 4,413,664.50 (low bid)
Oscar Renda	\$ 4,575,522.00
S.J. Louis	\$ 5,374,000.00
S&J Construction	\$ 5,830,866.91
Engineer's Estimate	\$ 4,595,269.00

The project involves constructing approximately 13,860 feet of 8" – 33" diameter gravity sewer main, approximately 65 manholes, one bored highway crossing, creek crossings, and related work along Skull Creek in north central Fayetteville. This line runs north from the existing North Street sewer lift station to the existing Poplar Street sewer lift station and ends in the field just northwest of the intersection of I540 Spurr and Gregg Avenue.

DISCUSSION

The bid has been reviewed by McClelland Consulting Engineers and the RJN Group, the Engineers; their letter recommending award is attached. The Arkansas Natural Resources Commission will complete their review prior to contract award. There was one error on the bid in which T-G Excavating left the line item for mobilization item blank on the bid. They have confirmed, in writing (letter attached), that they stand by the bid as submitted, with a zero dollar value for that bid item.

T-G Excavating has completed a number of very difficult sanitary sewer rehabilitation projects in Fayetteville. They are an excellent contractor and have completed all jobs to the City's satisfaction.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT TO T-G EXCAVATING, INC. IN THE AMOUNT OF \$4,413,664.50 FOR CONSTRUCTION OF THE GREGG AVENUE INTERCEPTOR SEWER WSIP SUBPROJECT WL-2; AND APPROVING A 5% PROJECT CONTINGENCY IN THE AMOUNT OF \$220,683.00.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby awards a construction contract to T-G Excavating, Inc. in the amount of \$4,413,664.50 for the construction of the Gregg Avenue interceptor sewer WSIP Subproject WL-2.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby approves a 5% project contingency in the amount of \$220,683.00.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT



P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

October 20, 2006

Mr. David Jurgens, P.E.
Water and Wastewater Director
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Re: Gregg Avenue Interceptor, WI-2
Bid Opening

Dear Mr. Jurgens:

Bids were opened on the referenced project at 1:30 p.m. on Tuesday, October 17, 2006. Four bids were received. They have been tabulated and checked and are correct as listed on the attached Bid Tabulation. The low bidder, T-G Excavating, Inc., of Catoosa OK, had a bid total of \$4,413,664.50. This bidder failed to fill out Bid Item No. 1, Mobilization, so a value of zero dollars is listed for this item on the Bid Tabulation.

I discussed this with Mr. Larry Haney, the Vice President of T-G Excavating. He considered it for about half an hour and called me back indicating that they would accept the contract for the amount listed in the Bid Tabulation. The attached letter further documents this commitment.

There were some minor math errors in some of the bids, but otherwise the four bids appears to be in order, with all of the bidders being properly licensed, submitting proper bid bonds, and associated documentation. I have checked multiple references on T-G Excavating and have received good responses. It is also my understanding that this firm has preformed well on the many sewer rehabilitation projects they have previously completed for Fayetteville.

Their MBE/WBE Compliance Evaluation Form indicates a MBE/WBE boring subcontract of \$380,000, or 8.6% of the bid total, will be used, so perhaps this will not become an issue.

Our firm's Engineer's Estimate based on the quantities bid was \$4,595,269, which is comparable to the two low bids. Consequently, we recommend award of the Contract to T-G Excavating, Inc. in the amount of \$4,413,664.50.

Very truly yours,
McClelland Consulting Engineers, Inc.

Robert W. White, P.E.
Vice-President

Encl: T-G Letter

Cc: Mrs. Peggy Vice, w/Encl.
Mr. Hugh Kelso, RJN Group w/Encl.

BID TABULATION
FAYETTEVILLE WASTEWATER SYSTEM IMPROVEMENT PROJECT
WL-2 GREGG AVENUE INTERCEPTOR
MCE Project NO. FY012133
Bid Date October 17, 2006

Item #	Description	Qty.	Units	T-G Excavating, Inc.	Oscar Randa Contracting, Inc.	S. J. Louis Construction, Inc.	S & J Construction Co., Inc.
				Unit Cost	Extended	Unit Cost	Extended
1	Mobilization (Not to Exceed 5% of All Other Contract Items)	1	LS	0.00	0.00	160,000.00	244,207.00
2	Site Preparation, Clearing and Grubbing	13,860	LF	1.00	13,860.00	10.00	138,600.00
3	Construction Staking	13,860	LF	1.00	13,860.00	5.00	69,300.00
4	4 Ft. Dia. Sid. Manhole, 0-6 Ft. Deep	21	EA	4,000.00	84,000.00	1,500.00	31,500.00
5	4 Ft. Dia. Drop Manhole, 0-6 Ft. Deep	3	EA	5,000.00	15,000.00	2,200.00	6,600.00
6	4 Ft. Dia. Manhole Extra Depth, Over 6 Ft. Deep	80	VF	400.00	32,000.00	100.00	8,000.00
7	5 Ft. Dia. Sid. Manhole, 0-6 Ft. Deep	36	EA	6,000.00	216,000.00	4,000.00	144,000.00
8	5 Ft. Dia. Drop Manhole, 0-6 Ft. Deep	5	EA	7,500.00	37,500.00	5,000.00	25,000.00
9	5 Ft. Dia. Manhole Extra Depth, Over 6 Ft. Deep	150	VF	600.00	90,000.00	150.00	22,500.00
10	7 Ft. Dia. Sid. Manhole, 0-6 Ft. Deep	1	EA	11,000.00	11,000.00	7,000.00	7,000.00
11	7 Ft. Dia. Manhole Extra Depth, Over 6 Ft. Deep	5	VF	1,000.00	5,000.00	500.00	500.00
12	Abandon Existing Manhole	1	EA	1,200.00	1,200.00	1,000.00	1,000.00
13	Remove Existing Manhole	2	EA	1,500.00	3,000.00	1,000.00	2,000.00
14	33-Inch Gravity Sewer and Embedment	4,812	LF	260.00	1,153,000.00	205.00	945,480.00
15	27-Inch Gravity Sewer and Embedment	5,799	LF	180.00	1,101,810.00	175.00	1,014,825.00
16	24-Inch Gravity Sewer and Embedment	3,186	LF	189.00	600,846.00	150.00	479,400.00
17	18-Inch Gravity Sewer and Embedment	148	LF	140.00	20,720.00	100.00	14,800.00
18	12-Inch Gravity Sewer and Embedment	10	LF	130.00	1,300.00	100.00	1,000.00
19	10-Inch Gravity Sewer and Embedment	38	LF	130.00	4,940.00	100.00	3,800.00
20	8-Inch Gravity Sewer and Embedment	57	LF	140.00	7,980.00	90.00	5,130.00
21	48-Inch Gravity Sewer Manhole Stubout With Cap	1	EA	10,000.00	10,000.00	2,500.00	2,500.00
22	38-Inch Gravity Sewer Manhole Stubout With Cap	1	EA	6,000.00	6,000.00	2,000.00	2,000.00
23	Trench Excavation and Backfill, 0-10 Ft. Depth	9,882	LF	1.00	9,882.00	15.00	148,230.00
24	Trench Excavation and Backfill, 10-14 Ft. Depth	2,630	LF	2.00	5,260.00	20.00	52,600.00
25	Trench Excavation and Backfill, 14-18 Ft. Depth	240	LF	15.00	3,600.00	30.00	7,200.00
26	Trench Excavation and Backfill, 18-22 Ft. Depth	280	LF	30.00	8,400.00	40.00	11,200.00
27	Trench Excavation and Backfill, 22-26 Ft. Depth	215	LF	50.00	10,750.00	50.00	10,750.00
28	Connect Service Laterals	8	EA	3,000.00	18,000.00	1,000.00	6,000.00
29	Extension of Service Laterals	80	LF	90.00	7,200.00	10.00	800.00
30	Installation of Service Lateral Cleanout	6	EA	1,000.00	6,000.00	100.00	600.00
31	48-Inch Bored Steel Casing	433	LF	900.00	389,700.00	1,200.00	519,600.00
32	36-Inch Bored Steel Casing	170	LF	750.00	127,500.00	1,000.00	170,000.00
33	36-Inch Direct Bury Steel Casing	160	LF	300.00	48,000.00	200.00	32,000.00

BID TABULATION
FAYETTEVILLE WASTEWATER SYSTEM IMPROVEMENT PROJECT
WL-2 GREGG AVENUE INTERCEPTOR
MCE Project NO. FY012133
Bid Date October 17, 2006

Item #	Description	Qty.	Units	T-G Excavating, Inc.	Oscar Renda Contracting, Inc.	S. J. Louis Construction, Inc.	S. & J Construction Co., Inc.
34	Asphalt Surface Restoration	1,000	SY	70.00	70,000.00	5.00	25,000.00
35	Concrete Surface Restoration	660	SY	60.00	39,600.00	35.00	23,100.00
36	Sidewalk Replacement	60	SY	55.00	3,300.00	30.00	1,800.00
37	Trench Foundation Material	80	CY	50.00	4,000.00	7.00	560.00
38	Granular Backfill (Class 7 Base)	5,000	TN	10.00	50,000.00	10.00	50,000.00
39	Rock Excavation	11,000	CY	1.00	11,000.00	30.00	330,000.00
40	Riprap	280	TN	35.00	9,800.00	60.00	14,000.00
41	Clay Dam	2	EA	500.00	1,000.00	500.00	1,000.00
42	Permanent Plug In Exst. Sewer at Manhole	1	EA	2,500.00	2,500.00	1,500.00	1,000.00
43	Temporary Plug In New Sewer	3	EA	1,500.00	4,500.00	300.00	900.00
44	Concrete Anchors on Casings	4	EA	4,000.00	16,000.00	1,800.00	7,200.00
45	Surface Video Documentation	13,885	LF	0.50	6,942.50	1.00	13,885.00
46	Trench Compaction Tests	1	LS	10,000.00	10,000.00	10,000.00	10,000.00
47	Tree Protection	20	EA	500.00	10,000.00	500.00	10,000.00
48	Hydromulch Seeding	8,610	SY	4.00	34,440.00	1.00	8,610.00
49	Sod Replacement	80	SY	25.00	2,000.00	10.00	800.00
50	Relocate or Steel Encase Existing Water Main	4	EA	3,000.00	12,000.00	1,500.00	6,000.00
51	Erosion Control, SWPP and Wetland Restoration	1	LS	25,000.00	25,000.00	10,000.00	175,000.00
52	Trench Excavation and Safety System	13,272	LF	1.00	13,272.00	1.00	13,272.00
53	Traffic Control	1	LS	15,000.00	15,000.00	70,000.00	70,000.00
54	Relocate Then Replace Security Fence on Easement	1	LS	10,000.00	10,000.00	7,000.00	7,000.00
Total Base Bid Fayetteville WL-2 Gregg Avenue Interceptor				\$4,413,664.50	\$4,575,522.00	\$5,313,900.00	\$5,826,458.83

Name: Robert W. White
Robert W. White, P.E. No. 4695
Date: 10/18/06

Oct-20-06 11:41am From

T-663 P.01/01 F-652



UTILITIES
HEAVY
INDUSTRIAL

T-G EXCAVATING, INC.
26016 E. ADMIRAL PL.
CATOOSA, OKLAHOMA 74015
918-266-4736
FAX 918-266-4734

OCT 20 2006

FYE 012135

McClelland Consulting Engineers, Inc
Attn: Robert White, P.E.
P.O. Box 1229
Fayetteville, AR 72702

Re: Gregg Ave. Interceptor Phase WL-2
Gravity Sewer Lines Bid 06-58

Dear Mr. White,

This letter is to confirm that T-G Excavating, Inc. will perform the referenced project for the unit prices that total \$4,413,665.50. T-G is looking forward to working with you and the City of Fayetteville again as we have in the past.

Normally there is about 60 days delay from bid date to Pre-Work. Obviously that would put us about Christmas. If it is agreeable with the City of Fayetteville we think it would be best to start construction right after the first of the year, and that will give us time to get to get everything in order?

If you should have any questions please give me a call.

Sincerely,

T-G Excavating, Inc.


Larry H. Haney
Vice President

DOCUMENT 00400 - BID FORM

Project Name: Wastewater System Improvements Project

Contract Name: Gregg Avenue Interceptor

Contract No.: WL-2

RLF Project No.: CS-050803-03

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: T-G EXCAVATING, INC.
26016 E. ADMIRAL PL.
CATDOSSA, OK 74015

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

DOCUMENT 00400 –BID FORM (continued)

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
<u># 1</u>	<u>9/25/2006</u>
<u># 2</u>	<u>10/9/2008</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a hazardous environmental condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.

DOCUMENT 00400 – BID FORM (continued)

- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by the Engineer is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any

DOCUMENT 00400 - BID FORM (continued)

other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.

- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 - Subpart P - Excavations.

ARTICLE 4 - BID PRICE

- 4.01 Bidder will complete the Work in accordance with the Contract Documents for the following prices:

Unit Price Schedule:

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
1.	1	LS	Mobilization (Not to Exceed 5% of All Other Contract Items)	(\$ _____)	(\$ _____)
			_____ Dollars/LS Words		
2.	13,860	LF	Site Preparation, Clearing and Grubbing	(\$ <u>1⁰⁰</u>)	(\$ <u>13,860⁰⁰</u>)
			<u>ONE</u> Dollars/LF Words		
3.	13,860	LF	Construction Staking	(\$ <u>1⁰⁰</u>)	(\$ <u>13,860⁰⁰</u>)
			<u>ONE</u> Dollars/LF Words		
4.	21	EA	4 Ft. Dia. Std. Manhole, 0-6 Ft. Deep	(\$ <u>4000⁰⁰</u>)	(\$ <u>84,000⁰⁰</u>)
			<u>FOUR THOUSAND</u> Dollars/EA Words		

DOCUMENT 00400 -BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
5.	3	EA	4 Ft. Dia. Drop Manhole, 0-6 Ft. Deep	(\$ <u>5000⁰⁰</u>)	(\$ <u>15,000⁰⁰</u>)
			<u>FIVE THOUSAND</u> Dollars/EA Words		
6.	80	VF	4 Ft. Dia. Manhole Extra Depth, Over 6 Ft. Deep	(\$ <u>400⁰⁰</u>)	(\$ <u>32,000⁰⁰</u>)
			<u>FOUR HUNDRED</u> Dollars/VF Words		
7.	36	EA	5 Ft. Dia. Std. Manhole, 0-6 Ft. Deep	(\$ <u>6000⁰⁰</u>)	(\$ <u>216,000⁰⁰</u>)
			<u>SIX THOUSAND</u> Dollars/EA Words		
8.	5	EA	5 Ft. Dia. Drop Manhole, 0-6 Ft. Deep	(\$ <u>7500⁰⁰</u>)	(\$ <u>37,500⁰⁰</u>)
			<u>SEVEN THOUSAND FIVE HUNDRED</u> Dollars/EA Words		
9.	150	VF	5 Ft. Dia. Manhole Extra Depth, Over 6 Ft. Deep	(\$ <u>600⁰⁰</u>)	(\$ <u>90,000⁰⁰</u>)
			<u>SIX HUNDRED</u> Dollars/VF Words		
10.	1	EA	7 Ft. Dia. Std. Manhole, 0-6 Ft. Deep	(\$ <u>11,000⁰⁰</u>)	(\$ <u>11,000⁰⁰</u>)
			<u>ELEVEN THOUSAND</u> Dollars/EA Words		
11.	5	VF	7 Ft. Dia. Manhole Extra Depth, Over 6 Ft. Deep	(\$ <u>1000⁰⁰</u>)	(\$ <u>5,000⁰⁰</u>)
			<u>ONE THOUSAND</u> Dollars/VF Words		

DOCUMENT 00400 - BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
12.	1	EA	Abandon Existing Manhole <i>OWN THOWAND TWO HUNDRED</i> Words	(\$ <u>1200⁰⁰</u>)	(\$ <u>1200⁰⁰</u>)
13.	2	EA	Remove Existing Manhole <i>OWN THOWAND FIVE HUNDRED</i> Words	(\$ <u>1500⁰⁰</u>)	(\$ <u>1500⁰⁰</u>)
14.	4,612	LF	33-Inch Gravity Sewer and Embedment <i>TWO HUNDRED FIFTY</i> Words	(\$ <u>250⁰⁰</u>)	(\$ <u>1,153,000⁰⁰</u>)
15.	5,799	LF	27-Inch Gravity Sewer and Embedment <i>OWN HUNDRED NINETY</i> Words	(\$ <u>190⁰⁰</u>)	(\$ <u>1,101,810⁰⁰</u>)
16.	3,196	LF	24-Inch Gravity Sewer and Embedment <i>OWN HUNDRED EIGHTEEN</i> Words	(\$ <u>188⁰⁰</u>)	(\$ <u>600,848⁰⁰</u>)
17.	148	LF	18-Inch Gravity Sewer and Embedment <i>OWN HUNDRED FORTY</i> Words	(\$ <u>140⁰⁰</u>)	(\$ <u>20,720⁰⁰</u>)
18.	10	LF	12-Inch Gravity Sewer and Embedment <i>OWN HUNDRED THIRTY</i> Words	(\$ <u>130⁰⁰</u>)	(\$ <u>1,300⁰⁰</u>)
19.	38	LF	10-Inch Gravity Sewer and Embedment <i>OWN HUNDRED THIRTY</i> Words	(\$ <u>130⁰⁰</u>)	(\$ <u>4,940⁰⁰</u>)

DOCUMENT 00400 - BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
20.	57	LF	8-Inch Gravity Sewer and Embedment	(\$ <u>140⁰⁰</u>)	(\$ <u>7980⁰⁰</u>)
			<u>ONE HUNDRED FORTY</u> Dollars/LF Words		
21.	1	EA	48-Inch Gravity Sewer Manhole Stubout With Cap	(\$ <u>10,000⁰⁰</u>)	(\$ <u>10,000⁰⁰</u>)
			<u>TEN THOUSAND</u> Dollars/EA Words		
22.	1	EA	36-Inch Gravity Sewer Manhole Stubout With Cap	(\$ <u>6,000⁰⁰</u>)	(\$ <u>6,000⁰⁰</u>)
			<u>SIX THOUSAND</u> Dollars/EA Words		
23.	9,882	LF	Trench Excavation and Backfill, 0-10 Ft. Depth	(\$ <u>1⁰⁰</u>)	(\$ <u>9882⁰⁰</u>)
			<u>ONE</u> Dollars/LF Words		
24.	2,630	LF	Trench Excavation and Backfill, 10-14 Ft. Depth	(\$ <u>2⁰⁰</u>)	(\$ <u>5260⁰⁰</u>)
			<u>TWO</u> Dollars/LF Words		
25.	240	LF	Trench Excavation and Backfill, 14-18 Ft. Deep	(\$ <u>15⁰⁰</u>)	(\$ <u>3600⁰⁰</u>)
			<u>FIFTEEN</u> Dollars/LF Words		
26.	280	LF	Trench Excavation and Backfill, 18-22 Ft. Depth	(\$ <u>30⁰⁰</u>)	(\$ <u>8400⁰⁰</u>)
			<u>THIRTY</u> Dollars/LF Words		

DOCUMENT 00400 -BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
27.	215	LF	Trench Excavation and Backfill, 22-26 Ft. Depth	(\$ <u>50⁰⁰</u>)	(\$ <u>10,750⁰⁰</u>)
			<u>FIFTY</u> Dollars/LF Words		
28.	6	EA	Connect Service Laterals	(\$ <u>3000⁰⁰</u>)	(\$ <u>18,000⁰⁰</u>)
			<u>THREE THOUSAND</u> Dollars/EA Words		
29.	80	LF	Extension of Service Laterals	(\$ <u>90⁰⁰</u>)	(\$ <u>7200⁰⁰</u>)
			<u>SEVENTY</u> Dollars/LF Words		
30.	6	EA	Installation of Service Lateral Cleanout	(\$ <u>1000⁰⁰</u>)	(\$ <u>6000⁰⁰</u>)
			<u>ONE THOUSAND</u> Dollars/EA Words		
31.	433	LF	48-Inch Bored Steel Casing	(\$ <u>900⁰⁰</u>)	(\$ <u>389,700⁰⁰</u>)
			<u>FOUR HUNDRED</u> Dollars/LF Words		
32.	170	LF	36-Inch Bored Steel Casing	(\$ <u>750⁰⁰</u>)	(\$ <u>127,500⁰⁰</u>)
			<u>SEVEN HUNDRED FIFTY</u> Dollars/LF Words		
33.	160	LF	36-Inch Direct Bury Steel Casing	(\$ <u>300⁰⁰</u>)	(\$ <u>48,000⁰⁰</u>)
			<u>THREE HUNDRED</u> Dollars/LF Words		
34.	1000	SY	Asphalt Surface Restoration	(\$ <u>70⁰⁰</u>)	(\$ <u>70,000⁰⁰</u>)
			<u>SEVENTY</u> Dollars/SY Words		

DOCUMENT 00400 - BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
35.	660	SY	Concrete Surface Restoration	(\$ <u>60⁰⁰</u>)	(\$ <u>39,600⁰⁰</u>)
			<u>SIXTY</u> Dollars/SY Words		
36.	60	SY	Sidewalk Replacement	(\$ <u>55⁰⁰</u>)	(\$ <u>3300⁰⁰</u>)
			<u>FIFTY-FIVE</u> Dollars/SY Words		
37.	80	CY	Trench Foundation Material	(\$ <u>50⁰⁰</u>)	(\$ <u>4000⁰⁰</u>)
			<u>FIFTY</u> Dollars/CY Words		
38.	5000	TN	Granular Backfill, (Class 7 Base)	(\$ <u>10⁰⁰</u>)	(\$ <u>50,000⁰⁰</u>)
			<u>TEN</u> Dollars/TN Words		
39.	11,000	CY	Rock Excavation	(\$ <u>1⁰⁰</u>)	(\$ <u>11,000⁰⁰</u>)
			<u>ONE</u> Dollars/CY Words		
40.	280	TN	Riprap	(\$ <u>35⁰⁰</u>)	(\$ <u>9,800⁰⁰</u>)
			<u>THIRTY-FIVE</u> Dollars/TN Words		
41.	2	EA	Clay Dam	(\$ <u>500⁰⁰</u>)	(\$ <u>1,000⁰⁰</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
42.	1	EA	Permanent Plug in Exist. Sewer at Manhole	(\$ <u>2500⁰⁰</u>)	(\$ <u>2500⁰⁰</u>)
			<u>TWO THOUSAND FIVE HUNDRED</u> Dollars/EA Words		

DOCUMENT 00400 - BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
43.	3	EA	Temporary Plug in New Sewer	(\$ <u>1500⁰⁰</u>)	(\$ <u>4500⁰⁰</u>)
			<u>ONE THOUSAND FIVE HUNDRED</u> Dollars/EA Words		
44.	4	EA	Concrete Anchors on Casings	(\$ <u>4000⁰⁰</u>)	(\$ <u>16,000⁰⁰</u>)
			<u>FOUR THOUSAND</u> Dollars/EA Words		
45.	13,885	LF	Surface Video Documentation	(\$ <u>0⁵⁰</u>)	(\$ <u>6942⁵⁰</u>)
			<u>FIFTY-CENTS</u> Dollars/LF Words		
46.	1	LS	Trench Compaction Tests	(\$ <u>10,000⁰⁰</u>)	(\$ <u>10,000⁰⁰</u>)
			<u>ONE THOUSAND</u> Dollars/LS Words		
47.	20	EA	Tree Protection	(\$ <u>500⁰⁰</u>)	(\$ <u>10,000⁰⁰</u>)
			<u>FIVE HUNDRED</u> Dollars/EA Words		
48.	8,610	SY	Hydromulch Seeding	(\$ <u>4⁰⁰</u>)	(\$ <u>34,440⁰⁰</u>)
			<u>FOUR</u> Dollars/SY Words		
49.	80	SY	Sod Replacement	(\$ <u>25⁰⁰</u>)	(\$ <u>2,000⁰⁰</u>)
			<u>TWENTY-FIVE</u> Dollars/SY Words		
50.	4	EA	Relocate or Steel Encase Existing Water Main	(\$ <u>3000⁰⁰</u>)	(\$ <u>12,000⁰⁰</u>)
			<u>THREE THOUSAND</u> Dollars/EA Words		

DOCUMENT 00400 - BID FORM (continued)

GREGG AVENUE INTERCEPTOR BID SCHEDULE					
ITEM NUMBER	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
51.	1	LS	Erosion Control, SWPP and Wetland Restoration Measures	(\$ <u>25,000⁰⁰</u>)	(\$ <u>25,000⁰⁰</u>)
			<u>TWENTY-FIVE THOUSAND</u> Dollars/LS Words		
52.	13,272	LF	Trench Excavation and Safety System	(\$ <u>1⁰⁰</u>)	(\$ <u>13,272⁰⁰</u>)
			<u>ONE</u> Dollars/LF Words		
53.	1	LS	Traffic Control	(\$ <u>15,000⁰⁰</u>)	(\$ <u>15,000⁰⁰</u>)
			<u>FIFTEEN THOUSAND</u> Dollars/LS Words		
54.	1	LS	Relocate Then Replace Security Fence on Easement Tract 13 per Easement Side Letters	(\$ <u>10,000</u>)	(\$ <u>10,000⁰⁰</u>)
			<u>TEN THOUSAND</u> Dollars/LS Words		

TOTAL PRICE \$ FOUR MILLION, FOUR HUNDRED SEVENTY-FOUR THOUSAND, FOUR HUNDRED FORTY-FOUR Dollars (\$ 4,474,444⁰⁰)

- Bidder acknowledges that quantities are not guaranteed and final payment will be based on actual quantities determined as provided in the Contract Documents.
- Bidder must indicate, by checking a box below, the type of pipe material to be used for this project. Pipe material must be the same for all pipe, unless specifically indicated in the contract documents.

- ☒ Polyvinylchloride 8"-15" ☒ Polyvinylchloride 18"-36"
- ☐ Fiberglass Reinforced Polymer 18"-36"

DOCUMENT 00400 - BID FORM (continued)

ARTICLE 5 - CONTRACT TIMES

- 5.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment within the number of calendar days indicated in the Agreement.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

ARTICLE 6 - BID CONTENT

- 6.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security, not less than 5% of the Bid total, in the form of a certified or bank cashier's check or a Bid Bond and in the amount of FIVE PERCENT Dollars (\$ 5%).
 - B. Required Bidder's Qualification Statement with supporting data (DOCUMENT 00140).
 - C. List of Subcontractors (DOCUMENT 00430)
 - D. Contractor's Act of Assurance Form, RLF-52.
 - E. MBE / WBE Compliance Evaluation Form, RLF-96.

ARTICLE 7 - COMMUNICATIONS

- 7.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

T-G EXCAVATING, Inc.
26016 E. ADMIRAL PLACE
CATOOSA, OK. 74015
Phone No. (918) 266-4736
FAX No. (918) 266-4734

DOCUMENT 00400 -BID FORM (continued)

ARTICLE 8 - TERMINOLOGY

8.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

SUBMITTED on October 17, 2006.

Arkansas State Contractor License No. 003810907

If Bidder is:

An Individual

Name (type or printed): _____

By: _____ (SEAL)

(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____

(Signature of general partner -- attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

DOCUMENT 00400 – BID FORM (continued)

A Corporation

Corporation Name: T-G EXCAVATING, Inc. (SEAL)

State of Incorporation: OKlahoma

Type (General Business, Professional, Service, Limited Liability): _____

Construction

By: Sandra K. Herring

(Signature – attach evidence of authority to sign)

Name (type or printed): SANDRA K. HERRING

Title: PRESIDENT

Attest: [Signature] (CORPORATE SEAL)

(Signature of Corporate Secretary)

Business address: 26016 E. ADMIRAL PL.

Catoosa, OK. 74015

Phone No.: (918) 266-4736 FAX No.: (918) 266-4734

END OF DOCUMENT 00400

DOCUMENT 00500 – AGREEMENT

BETWEEN THE CITY OF FAYETTEVILLE AND T-G EXCAVATING, INC.

Project Name: Wastewater System Improvement Project
Contract Name: Gregg Avenue Interceptor
Contract No.: WL-2
RLF Project No.: CS-0500803-03

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2006 by and between the CITY OF FAYETTEVILLE (hereinafter called the CITY OF FAYETTEVILLE) and T-G EXCAVATING, INC. (hereinafter called T-G EXCAVATING, INC.).

ARTICLE 1 - WORK

1.01 T-G EXCAVATING, INC. shall complete all Work as specified or indicated in the Contract Documents. The Work under this Contract is generally described as follows:

Construction of the Gregg Avenue Interceptor, consisting of approximately 4,612 ft of 33-inch gravity sewer main, 5,799 ft of 27-inch gravity sewer main, 3,196 ft of 24-inch gravity sewer main, 253 ft of 8-inch to 18-inch gravity sewer main, approximately 62 new manholes, removal or abandonment of approximately 3 existing manholes, a bored highway crossing, creek crossings and related work.

1.02 The Contract for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

The CITY OF FAYETTEVILLE, Arkansas is undertaking a project to redirect sewer flows from portions of the City in the Illinois River drainage basin to a new wastewater treatment plant on the west side of the City and upgrade sewers in the City which are in the White River drainage basin and upgrade the existing wastewater treatment plant on the east side of the City. The project is known as the Wastewater System Improvement Project and includes, but may not be limited to, four areas of improvements as follows:

1. Westside Wastewater Treatment Plant.

DOCUMENT 00500 – AGREEMENT (continued)

2. Westside Collection System Improvements.
3. Paul R. Noland Wastewater Treatment Plant Improvements.
4. Eastside Collection System Improvements.

ARTICLE 2 - ENGINEER

- 2.01 The Contract has been designed by RJN GROUP, INC. RJN GROUP, INC. assumes all duties and responsibilities, and has the rights and authority assigned to RJN GROUP, INC. in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 **TIME OF THE ESSENCE:**

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 **DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:**

- A. The Work will be Substantially Completed within Three Hundred (300) consecutive calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS. Substantial completion shall mean all line work and manholes installed and tested according to the specifications outlined in Division 02, all surface restoration completed including but not limited to disturbed wetlands, fences, pavement, etc. The project shall be completed and ready for final payment in accordance with the GENERAL CONDITIONS within Three Hundred Thirty (330) consecutive calendar days after the date when the Contract Times commence to run.

Comment: garver

3.03 **LIQUIDATED DAMAGES:**

- A. The CITY OF FAYETTEVILLE and T-G EXCAVATING, INC. recognize that time is of the essence of this Agreement and that the CITY OF

DOCUMENT 00500 – AGREEMENT (continued)

FAYETTEVILLE will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the CITY OF FAYETTEVILLE if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, the CITY OF FAYETTEVILLE and T-G EXCAVATING, INC. agree that as liquidated damages for delay (but not as a penalty) T-G EXCAVATING, INC. shall pay the CITY OF FAYETTEVILLE One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if T-G EXCAVATING, INC. shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by the CITY OF FAYETTEVILLE, T-G EXCAVATING, INC. shall pay the CITY OF FAYETTEVILLE One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

4.01 The CITY OF FAYETTEVILLE agrees to pay, and T-G EXCAVATING, INC. agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.

Comment: garver has for 4.01.

4.02 As provided in the General Conditions estimated quantities are not guaranteed, and measurements and determinations of actual quantities and classifications are to be made by RJN GROUP, INC. as provided in the General Conditions.

Comment: garver has 4.02. you do not

4.03 The CITY OF FAYETTEVILLE shall pay T-G EXCAVATING, INC. for completion of the Work in accordance with the Contract Documents an amount in

DOCUMENT 00500 – AGREEMENT (continued)

current funds equal to the sum of the amounts determined pursuant to paragraphs below:

- A. For all Work, at the prices stated in T-G EXCAVATING, INC.'s Bid, attached hereto as an Exhibit.

- 4.04 Changes, modifications or amendments in scope, price or fees to this contract shall not be allowed without a formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, costs, fees, or delivery schedule.

Comment: what you had for 4.01

ARTICLE 5 - PAYMENT PROCEDURES

5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:

- A. T-G EXCAVATING, INC. shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by the CITY OF FAYETTEVILLE as provided in the GENERAL CONDITIONS.

5.02 PROGRESS PAYMENTS, RETAINAGE:

- A. The CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of T-G EXCAVATING, INC.'s Applications for Payment as recommended by RJN GROUP, INC. on or about the 20th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as RJN GROUP, INC. shall determine, or the CITY OF

DOCUMENT 00500 – AGREEMENT (continued)

FAYETTEVILLE may withhold, in accordance with the GENERAL CONDITIONS.

- a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by RJN GROUP, INC. and if the character and progress of the Work have been satisfactory to the CITY OF FAYETTEVILLE and RJN GROUP, INC., the CITY OF FAYETTEVILLE on recommendation of RJN GROUP, INC. may determine that as long as the character and progress of the Work subsequently remain satisfactory to them a 5 percent retainage will be withheld on the remaining progress payments prior to Substantial Completion; and
 - b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to the CITY OF FAYETTEVILLE as provided in the GENERAL CONDITIONS.
2. Upon Substantial Completion, the CITY OF FAYETTEVILLE shall pay an amount sufficient to increase total payments to T-G EXCAVATING, INC. to 95% of the Contract Price (with the balance being retainage), less such amounts as RJN GROUP, INC. shall determine, or the CITY OF FAYETTEVILLE may withhold, in accordance with the GENERAL CONDITIONS.

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, the CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by RJN GROUP, INC. and as provided in the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 6 - T-G EXCAVATING, INC.'S REPRESENTATIONS

6.01 In order to induce the CITY OF FAYETTEVILLE to enter into this Agreement, T-G EXCAVATING, INC. makes the following representations:

- A. T-G EXCAVATING, INC. has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. T-G EXCAVATING, INC. has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. T-G EXCAVATING, INC. is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. T-G EXCAVATING, INC. has carefully studied all:
 - (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. T-G EXCAVATING, INC. acknowledges that the CITY OF FAYETTEVILLE and RJN GROUP, INC. do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- E. T-G EXCAVATING, INC. has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and

DOCUMENT 00500 – AGREEMENT (continued)

furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by T-G EXCAVATING, INC. and safety precautions and programs incident thereto.

- F. T-G EXCAVATING, INC. does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. T-G EXCAVATING, INC. is aware of the general nature of work to be performed by the CITY OF FAYETTEVILLE and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. T-G EXCAVATING, INC. has correlated the information known to T-G EXCAVATING, INC., information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. T-G EXCAVATING, INC. has given RJN GROUP, INC. written notice of all conflicts, errors, ambiguities, or discrepancies that T-G EXCAVATING, INC. has discovered in the Contract Documents and the written resolution thereof by RJN GROUP, INC. is acceptable to T-G EXCAVATING, INC.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work:

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between the CITY OF FAYETTEVILLE and T-G EXCAVATING, INC. concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:
1. This Agreement.
 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. T-G EXCAVATING, INC.'s Bid.
 - c. Documentation submitted by T-G EXCAVATING, INC. prior to Notice of Award.
 - d. T-G EXCAVATING, INC.'s Act of Assurance Form.
 3. Performance, Payment, and other Bonds.
 4. General Conditions.
 5. MBE / WBE Compliance Evaluation Form.
 6. Supplementary Conditions.
 7. Labor-Related Regulations.
 8. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.

DOCUMENT 00500 – AGREEMENT (continued)

9. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title:

Gregg Avenue Interceptor, Contract WL-2

10. Addenda numbers one to four, inclusive.
11. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

8.03 SUCCESSORS AND ASSIGNS:

- A. The CITY OF FAYETTEVILLE and T-G EXCAVATING, INC. each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the CITY OF FAYETTEVILLE and T-G EXCAVATING, INC., who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 OTHER PROVISIONS: Not Applicable.

8.06 CONTROLLING LAW

- A. This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

8.07 ARKANSAS FREEDOM OF INFORMATION ACT

- A. City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, T-G EXCAVATING, INC. will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

DOCUMENT 00500 – AGREEMENT (continued)

IN WITNESS WHEREOF, the CITY OF FAYETTEVILLE and T-G EXCAVATING, INC. have signed this Agreement in quadruplicate. One counterpart each has been delivered to the CITY OF FAYETTEVILLE, T-G EXCAVATING, INC., and RJN GROUP, INC. All portions of the Contract Documents have been signed, initialed, or identified by the CITY OF FAYETTEVILLE and T-G EXCAVATING, INC.

This Agreement will be effective on _____, 2006, which is the Effective Date of the Agreement.

T-G EXCAVATING, INC.

City of Fayetteville

Fayetteville, Arkansas

By: _____

By: _____

Title: _____

Title: Mayor

(SEAL)

(SEAL)

Attest _____

Attest _____

Address for giving notices

Address for giving notices

License No. _____

(If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement)

Agent for Service of process

T-G EXCAVATING, INC.

Approved As to Form:

is a corporation, attach evidence of authority to sign.)

By: _____

Attorney For: City of Fayetteville

END OF DOCUMENT 00500

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

7-Nov-06
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of change order 2 to the construction contract with Insituform Technologies, Inc., approving an authorization totalling \$323,650.00, for sanitary sewer lining services.

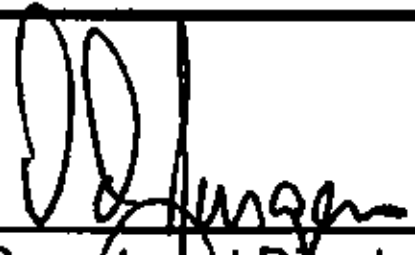
\$323,650.00
Cost of this request
5400.5700.5815.00
Account Number
02017.0201
Project Number

\$ 7,498,907.00
Category/Project Budget
\$ 3,022,700.13
Funds Used to Date
\$ 4,476,206.87
Remaining Balance

Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director 19 Oct 06
Date

Previous Ordinance or Resolution # 15-05
184-02
Original Contract Date: 18 JAN 05
4-Dec-02
Original Contract Number: 883


City Attorney 10/19/06
Date


Finance and Internal Service Director 10-19-06
Date


Mayor 10/25/06
Date

Received in City Clerk's Office
ENTERED
10/19/06

Received in Mayor's Office
ENTERED
10/19/06 BRP

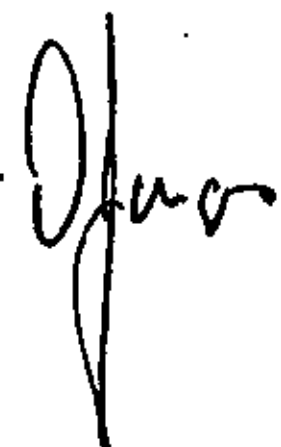
Comments:

Fayetteville

City Council Meeting of November 7, 2006

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: David Jurgens, Water and Wastewater Director 

From: Shannon Jones, Engineering 

Date: October 9, 2006

Subject: Resolution approving a contract extension with Insituform Technologies, Inc. for cured-in-place sanitary sewer linings.

RECOMMENDATION

Fayetteville City Administration recommends approval of change order 2 to the construction contract with Insituform Technologies, Inc., approving an authorization totalling \$323,650.00, for sanitary sewer lining services. This contract amendment provides services for 2006 and is included in the Sanitary Sewer Rehabilitation project within the proposed Fiscal Year 2006 Budget.

BACKGROUND

On October 30, 2002 the City of Fayetteville accepted sealed competitive bids for sanitary sewer main line and service lateral lining services with Insituform Technologies submitting the successful bid proposal (see attached materials). The bid schedule includes specific unit prices for various items of work; with the sanitary sewer rehabilitation program then using the pricing to complete the annual rehabilitation program. The exact needs of each rehabilitation activity cannot be explicitly defined until the final design is completed, hence the unit price bid schedule to correlate costs to project scopes.

The original contract allows for a 5% increase per year in the unit prices in the contract; this increase has not been applied until this term. Thus, we are executing this work at only 5% above 2002 prices.

DISCUSSION

The direct contracting with Insituform Technologies allows the City of Fayetteville to execute its sanitary sewer rehabilitation program effectively and efficiently. It is effective as the administrative delays and costs are minimized due to the annual contract and pre-established pricing. Pipes being lined under this contract are either identified by City forces through normal maintenance operations or by consultants executing Sanitary Sewer Evaluation Studies. Either way, engineering and administrative costs are held to a bare minimum as formal plans and specifications are not required. This work is an integral part of the City's ongoing program to maintain its sewer system in the most long-term yet cost effective fashion, with cured-in-place linings being by far the lowest cost strategy for applications where it is appropriate.

BUDGET IMPACT

Funds are available in the 2006 Sanitary Sewer Rehabilitation Project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER #2 TO THE
CONSTRUCTION CONTRACT WITH INSITUFORM
TECHNOLOGIES, INC. IN THE AMOUNT OF \$323,650.00 FOR
SANITARY SEWER LINING SERVICES.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby
approves Change Order #2 to the contract with Insituform Technologies, Inc. in the
amount of \$323,650.00 for Sanitary Sewer Lining Services. A copy of the Change Order,
marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

CHANGE ORDER NO. 2
TO THE
AGREEMENT FOR SEWER MAINLINE REHABILITATION

THIS CHANGE ORDER, entered into this _____ day of _____, 2006, by and between the City of Fayetteville, Arkansas, whose address for any formal notice is 113 W. Mountain St, Fayetteville, Arkansas 72701 and Insituform Technologies, Inc., (hereinafter "INSITUFORM") with offices at 702 Spirit 40 Park Drive, Chesterfield, Missouri, 63005 is made and entered into for purposes of amending certain provisions of the "Agreement for Sewer Mainline Rehabilitation," dated December 4, 2002 (the "Agreement").

This is Change Order No. 2 to the Agreement dated the 4th day of December, 2002, between the City of Fayetteville and INSITUFORM. This change order includes amended unit pricing schedule, changing the bid quantities within the provisions of and in accordance with the contract documents, as shown at Appendix A to Change Order 2, and adds language pertaining to changes in scope of work and the Arkansas Freedom of Information Act.

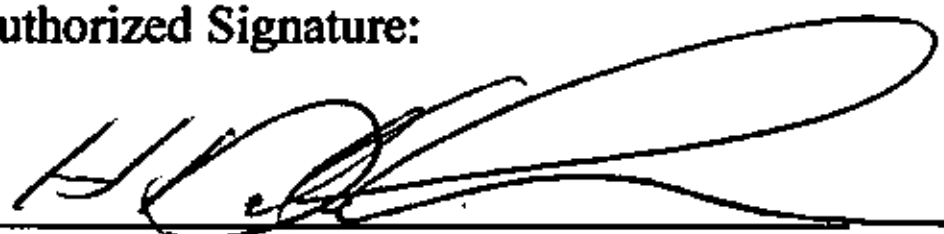
NOW THEREFORE, The City of Fayetteville and INSITUFORM agree:

- (1) To change the Agreement to reflect the approval of the fifth annual term of the five annual terms agreed upon within the contract, and changing the unit pricing schedule as shown in Appendix A.
- (2) Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and City Council in advance of the change in scope, cost of fees.
- (3) **Freedom of Information Act.** City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, INSITUFORM 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. Sdeq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

All other terms and conditions remain in effect in accordance with the Agreement referenced in this Change Order.

Both parties indicate their approval of this Change Order to the Agreement by their signatures below as of the date shown above.

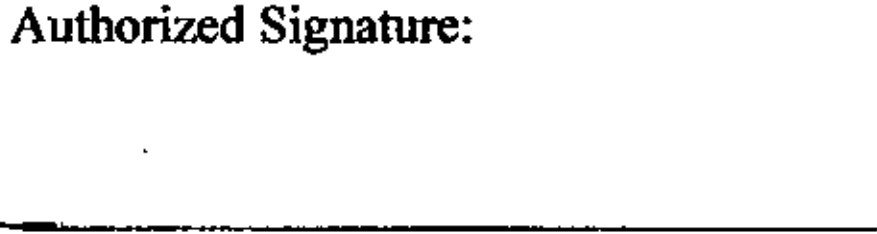
Authorized Signature:


H. Douglas Thomas
V.P.Rehabilitation-Project Support

INSITUFORM TECHNOLOGIES, INC.

(SEAL)

Authorized Signature:


Dan Coody
Mayor

CITY OF FAYETTEVILLE

(SEAL)


Attest Joann Smith
Contracting & Attesting Officer

INSITUFORM TECHNOLOGIES, INC.

Attest
City Clerk

CITY OF FAYETTEVILLE

				Fayetteville, AR			
Trenchless Rehab (CIPP) Unit Price Proposal Tabulation							
				INSITUFORM			
				Unit Price	Total	2006 Unit Price	Total
Description	Unit	Qty					% Change
1 6" x 4.5mm CIPP	LF	3500		\$34.00	\$119,000.00	\$36.90	\$129,150.00 8.53%
2 8" x 6.0mm CIPP	LF	1500		\$36.00	\$54,000.00	\$39.50	\$59,250.00 9.72%
3 10" x 6.0mm CIPP	LF	500		\$40.00	\$20,000.00	\$40.00	\$20,000.00 0.00%
4 12" x 6.0mm CIPP	LF	500		\$42.50	\$21,250.00	\$42.50	\$21,250.00 0.00%
5 15" x 7.5mm CIPP	LF	100		\$55.00	\$5,500.00	\$55.00	\$5,500.00 0.00%
6 18" x 9.0mm CIPP	LF	100		\$70.00	\$7,000.00	\$70.00	\$7,000.00 0.00%
7 Internal Reconnects	EA	60		\$100.00	\$6,000.00	\$100.00	\$6,000.00 0.00%
8 4" CIPP Laterals	EA	30		\$2,000.00	\$60,000.00	\$2,000.00	\$60,000.00 0.00%
9 Standard Mobilization	EA	2		\$1,500.00	\$3,000.00	\$1,500.00	\$3,000.00 0.00%
10 Emergency Mobilization	EA	1		\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00 0.00%
11 CIPP Point Repair 6"-12" 10 LF	EA	5		\$2,000.00	\$10,000.00	\$2,000.00	\$10,000.00 0.00%
					\$308,250.00		\$323,650.00 5.00%

5.0 CONTRACT AND BOND DOCUMENTS

5.1 AGREEMENT

TERM MAINTENANCE CONTRACT FOR SEWER MAINLINE REHABILITATION

THIS AGREEMENT, made this 4th day of December, 2002, by and between the City of Fayetteville, Arkansas, and

Insituform Technologies, Inc.

doing business as a Corporation, hereinafter called "Contractor",

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will commence and complete the projects selected for rehabilitation under this Term Maintenance Contract at the City of Fayetteville, Arkansas and all incidental and ancillary work in accordance with the conditions and at the prices stated in the Bid Proposal which are a part of these Contract Documents attached hereto and made a part hereof.
2. The Contractor will furnish all materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the projects selected for rehabilitation.
3. The Contractor will commence the work required under this term maintenance contract for the rehabilitation of sanitary sewer mainlines throughout Fayetteville, Arkansas in a timely manner as projects are selected. The Contractor shall furnish City of Fayetteville a timeline for each project as preparation for the work begins.
4. The timeline for this contract shall end December 31, 2003. Upon approval of the City of Fayetteville, the contract may be extended on a yearly basis for up to four years.
5. The Contractor shall be entitled to receive up to Two Hundred Thousand Dollars (\$200,000). City of Fayetteville is under no obligation to purchase a minimum amount of any item awarded and City of Fayetteville may choose to purchase more, less, or none of the rehabilitation, depending upon its needs. This contract is generally for miscellaneous and unidentified rehabilitation of sanitary sewer mains and service connections using the cured-in-place pipe method. The City of Fayetteville will pay the Contractor in the manner and at such times as set forth in the General Conditions such amounts, as required by the Contract Documents.
6. The Contractor agrees to perform the work described in the Contract Documents and comply with the terms therein for the amounts shown in the Bid Proposal.
7. The term "Contract Documents" means and includes the Advertisement for Bids, Information for Bidders, Technical Specifications, Bid Proposal, Agreement, General Conditions, Performance Bond, Payment Bond, Notice of Award, Notice to Proceed, Change Orders and Addenda prepared or issued by the City of Fayetteville.
8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
9. It is mutually agreed that should it appear to the City of Fayetteville or to the Authorized Agent in charge, at any time during the existence of this Contract, that the sureties on the Contractor's bond have become insolvent, bankrupt, or otherwise financially unable to protect the City of Fayetteville under the terms of the Contract, the City of Fayetteville may demand the Contractor furnish additional security in some approved surety company satisfactory to the City of Fayetteville. The acts of the City of Fayetteville or the Agent with reference to demanding new or additional security shall never be construed to relieve the original sureties of their obligations under the contract, or to relieve the Contractor. The City of Fayetteville may stop performance under the Contract until additional security has been furnished by the Contractor.

and the City of Fayetteville shall in no case be liable to the Contractor on account thereof. In the event of the refusal or failure of the Contractor to comply with the demands of the City of Fayetteville with reference to furnishing additional security, the City of Fayetteville may exercise its right as provided herein to stop all payments under the Contract and to arrange for completion of the Contract requirements obligating the Contractor for any and all additional expenses incurred.

10. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City council in advance of the change in scope, cost or fees.
11. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, 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 photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in five (5) counterparts, each of which shall be deemed an original on the date first above written.

THE CITY OF FAYETTEVILLE

By: *Dan Cordy*
Title: Mayor
113 West Mountain Street
Fayetteville, AR 72701

Attest: _____
Title: _____

CONTRACTOR:

By: *Gerald Addington*
Title: Vice President-Project Management
Company Insituform Technologies, Inc.
Address 702 Spirit 40 Park Drive
Chesterfield, MO 63005

*Attest: *Joann Smith*
Title: Contracting & Attesting Officer
(Corporate Seal)

*If a corporation, the Secretary of the Corporation should Attest.

5.2 PERFORMANCE BOND

Bond No. 103960089
SS8313

TERM MAINTENANCE CONTRACT FOR 2002 SANITARY SEWER MAINLINE REHABILITATION

We, Insituform Technologies, Inc.

Travelers Casualty & Surety Company of America /
hereinafter called "PRINCIPAL", and St. Paul Fire & Marine Insurance Company, as Surety, hereinafter
called "Surety", are held and firmly bound unto the City of Fayetteville, Arkansas as obligee, in the amount of
\$Three hundred eight thousand two hundred fifty dollars and no/100 Dollars (\$ 308,250.00), for
payment whereof the PRINCIPAL and Surety bind themselves, their heirs, personal representatives, successors and
assigns, jointly and severally, firmly by these presents.

The PRINCIPAL has by written Agreement dated December 4, 2002, entered into a contract with the City
of Fayetteville to make rehabilitation improvements to sanitary sewer mainlines to be selected by the City of
Fayetteville, which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

WHEREAS, this bond is given pursuant to the Arkansas Government Code;

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties; all of the undertakings,
covenants, terms, conditions and agreements of the Contract; shall satisfy all claims and demands incurred
under the Contract; shall fully indemnify and hold the City of Fayetteville harmless; shall reimburse and repay City
of Fayetteville for any outlay or expense which City of Fayetteville may incur in making good any default, and shall
promptly make payment to all persons, firms, subcontractors and Cities who may furnish materials or labor under
the Contract, then this obligation shall be void; otherwise to remain in full force and effect. The obligations of
CONTRACTOR and SURETY under this bond apply both to the original Contract and to any extension or
modification of the Contract and SURETY agrees that no change, extension of time, addition, expansion or other
modification of the Contract, the work to be done under the Contract, or the plans and specifications which are a
part of the Contract shall in any manner affect the obligations of SURETY under this bond, and SURETY waives
notice of any such change, extension of time, addition, expansion or other modification. The obligations of
CONTRACTOR and SURETY under this bond are performable and payable in Washington County, Arkansas such
that exclusive venue for any legal action pertaining to this bond shall lie in Washington County, Arkansas. By their
signatures below, the persons signing this bond warrant and represent that they are, respectively, duly authorized
to sign on behalf of CONTRACTOR and SURETY.

PROVIDED, FURTHER, that no final settlement between the City of Fayetteville and the Contractor shall abridge the
right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each of which shall be deemed and
original.

EXECUTED this the 4 day of December, 2002

CONTRACTOR:

PRINCIPAL

Insituform Technologies, Inc.

By Gerald Addington

Gerald Addington
Vice President-Project Management
Name/Title

Address 702 Spirit 40 Park Drive

Chesterfield, MO 63005

SURETY:

Travelers Casualty & Surety Company of America /
SURETY St. Paul Fire & Marine Insurance Company

By Kathleen A. Petchulat

Kathleen A. Petchulat, Attorney-in-fact
Name/Attorney-in-Fact:

Address 955 Executive Parkway, Suite 100

Creve Coeur, MO 63141

Countersigned By: Janice A. Butler
Janice A. Butler, For Smith, AR

Note: This Bond Form is mandatory; no other form will be acceptable. The date of the Bond must not be prior to the date of the Contract.
If Contractor is a Partnership, all Partners must execute this Bond. This Bond must be issued in triplicate with the issuing agent's Power of
Attorney attached to each copy. SURETY companies executing Bonds must appear on the U.S. Treasury Department's most current list (circular
570 as amended) and be authorized to transact business in the State of Arkansas.

Bond No. 103960089
SS8313

5.3 PAYMENT BOND

TERM MAINTENANCE CONTRACT FOR 2002 SANITARY SEWER MAINLINE REHABILITATION

We, Insituform Technologies, Inc.

hereinafter called "PRINCIPAL"; and Travelers Casualty & Surety Company of America /
St. Paul Fire & Marine Insurance Company, as SURETY, in the
amount of \$ Three hundred eight thousand two hundred fifty dollars and no/100 Dollars
(\$ 308,250.00), for payment where of the PRINCIPAL and SURETY bind themselves, their heirs, personal
representatives, successors and assigns, jointly and severally, firmly by these presents.

The PRINCIPAL has by written Agreement dated December 4, 2002, entered into a contract with the City
of Fayetteville to make rehabilitation improvements to sanitary sewer mainlines to be selected by the City of
Fayetteville, which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

WHEREAS, this bond is given pursuant to the Arkansas Government Code:

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, Subcontractors and
corporations furnishing materials for or performing labor in the prosecution of the Work provided for in such
contract, and any authorized extension or modification thereof, including all amounts due for materials, fuels,
repairs on machinery, equipment and tools consumed or used in connection with the construction of such Work,
and all insurance premiums on said Work and for all labor, performed in such Work whether by Subcontractor or
otherwise, this obligation shall be void; otherwise, to remain in full force and effect. The obligations of PRINCIPAL
and SURETY under this bond are performable and payable in Washington County, Arkansas such that exclusive
venue for any legal action pertaining to this bond shall lie in Washington County, Arkansas. By their signatures
below, the persons signing this bond warrant and represent that they are, respectively, duly authorized to sign on
behalf of PRINCIPAL and SURETY.

PROVIDED, FURTHER, that no final settlement between the City of Fayetteville and the Contractor shall abridge the
right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each of which shall be deemed and
original.

EXECUTED this the 4 day of December, 2002

CONTRACTOR:

PRINCIPAL
Insituform Technologies, Inc.

By: Gerald Addington
Gerald Addington
Vice President-Project Management
Name/Title

Address 702 Spirit 40 Park Drive

Chesterfield, MO 63005

SURETY:

Travelers Casualty & Surety Company of America /
SURETY St. Paul Fire & Marine Insurance Company

By: Kathleen A. Petchulat
Kathleen A. Petchulat, Attorney-in-fact
Name/Attorney-in-Fact:

Address 955 Executive Parkway, Suite 100

Creve Coeur, MO 63141

Countersigned By: Janice A. Butler
Janice A. Butler, Fort Smith, AR

Note: This Bond Form is mandatory; no other form will be acceptable. The date of the Bond
must not be prior to the date of the Contract. If Contractor is a Partnership, all Partners must
execute this Bond. This Bond must be issued in quintuplicate with the issuing agent's Power of
Attorney attached to each copy. SURETY companies executing Bonds must appear on the U.S.
Treasury Department's most current list (circular 570 as amended) and be authorized to
transact business in the State of Arkansas

Bond No. 103960089
SS8313

5.4 MAINTENANCE BOND

TERM MAINTENANCE CONTRACT FOR 2002 SANITARY SEWER MAINLINE REHABILITATION

We, Insituform Technologies, Inc.

Travelers Casualty & Surety Company of America /
hereinafter called "PRINCIPAL", and St. Paul Fire & Marine Insurance Company, as SURETY, hereinafter
called "SURETY", are held and firmly bound unto the City of Fayetteville, Arkansas as obligee, hereinafter called
"City of Fayetteville", in the amount of
\$ Three hundred eight thousand two hundred fifty dollars and no/100 Dollars (\$ 308,250.00), for
payment whereof the PRINCIPAL and SURETY bind themselves, their heirs, personal representatives, successors and
assigns, jointly and severally, firmly by these presents.

The PRINCIPAL has by written Agreement dated December 4, 2002, entered into a contract with the City
of Fayetteville to make rehabilitation improvements to sanitary sewer mainlines to be selected by the City of
Fayetteville, which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

WHEREAS, this bond is given pursuant to the Arkansas Government Code;

WHEREAS, under the Contract it is provided that the PRINCIPAL will maintain and keep in good repair all work to be
performed and done under the Contract for a period of two (2) years from the date of acceptance of the
completed work by CITY OF FAYETTEVILLE, and to do and perform all necessary work and repair any defective
condition, it being understood that the purpose of this maintenance bond is to insure all warranties, express or
implied, made or given by the PRINCIPAL to CITY OF FAYETTEVILLE and to cover all defective, inadequate or non-
conforming conditions arising by reason of any materials or labor installed, provided, constructed or performed by
the PRINCIPAL and in case the PRINCIPAL shall fail to correct any such conditions it is agreed that CITY OF
FAYETTEVILLE may make such corrections and charge the cost of making those corrections against the PRINCIPAL
and the SURETY on this obligation, and the PRINCIPAL and SURETY shall be subject to the liquidated damages
provided in the contract, the plans and the specifications for each day's failure on its part to comply with the
terms and provisions of the Contract;

NOW, THEREFORE, if the PRINCIPAL shall keep and perform its obligation to maintain the work and keep the work in
repair for the full maintenance period of two (2) years as herein provided, then these presents shall be null and
void and have no further effect, but if default shall be made by PRINCIPAL in the performance of its obligations,
then these presents shall have full force and effect, and CITY OF FAYETTEVILLE shall have and recover from the
PRINCIPAL and its SURETY damages in the premises as provided and it is further understood and agreed that this
obligation shall be a continuing one against the PRINCIPAL and the SURETY and that successive recoveries may be
had hereon for successive breaches until the full amount of this bond shall have been exhausted; and it is further
understood that the obligation under this bond to maintain the work shall continue throughout the maintenance
period and shall not be changed, diminished, or in any other manner affected during the term of this bond. The
obligations of PRINCIPAL and SURETY under this bond apply both to the original Contract and to any extension or
modification of the Contract and SURETY agrees that no change, extension of time, addition, expansion or other
modification of the Contract, the work to be done under the Contract, or the plans and specifications which are a
part of the Contract shall in any manner affect the obligations of SURETY under this bond, and SURETY waives
notice of any such change, extension of time, addition, expansion or other modification. The obligations of
PRINCIPAL and SURETY under this bond are performable and payable in Washington County, Arkansas such that
exclusive venue for any legal action pertaining to this bond shall lie in Washington County, Arkansas. By their
signatures below, the persons signing this bond warrant and represent that they are, respectively, duly authorized
to sign on behalf of PRINCIPAL and SURETY.

PROVIDED, FURTHER, that no final settlement between the City of Fayetteville and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each of which shall be deemed and original.

EXECUTED this the 4 day of December, 2002

CONTRACTOR:

PRINCIPAL Insituform Technologies, Inc.

By: *Gerald Addington*
Gerald Addington
Vice President-Project Management
Name/Title

Address 702 Spirit 40 Park Drive

Chesterfield, MO 63005

SURETY:

Travelers Casualty & Surety Company of America /
SURETYSL Paul Fire & Marine Insurance Company

By: *Kathleen A. Petchulat*
Kathleen A. Petchulat, Attorney-in-fact
Name/Attorney-in-Fact:

Address 955 Executive Parkway, Suite 100

Creve Coeur, MO 63141

Countersigned By: *Janice A. Butler* Janice A. Butler, Fort Smith, AR

Note: This Bond Form is mandatory; no other form will be acceptable. The date of the Bond must not be prior to the date of the Contract. If Contractor is a Partnership, all Partners must execute this Bond. This Bond must be issued in quintuplicate with the issuing agent's Power of Attorney attached to each copy. SURETY companies executing Bonds must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Arkansas.

30-Oct-02

City of Fayetteville Contract for 2002 Sanitary Sewer Main Line and Service Lateral Lining
Cured In Place Pipe Method
Bid Tab

Item No.	Description	Unit	Quantity	Bladder		BRH Garver		Insituform		Suncoast		Engineer's Estimate	
				Unit	Line Item	Unit	Line Item	Unit	Line Item	Unit	Line Item	Unit	Line Item
1	6" CIPP lining	LF	3500	42.00	\$147,000.00	34.00	\$119,000.00	33.00	\$115,500.00	44.00	\$154,000.00		
2	8" CIPP lining	LF	1500	48.00	\$60,000.00	36.00	\$54,000.00	35.00	\$45,000.00	40.00	\$60,000.00		
3	10" CIPP lining	LF	500	48.00	\$24,000.00	40.00	\$20,000.00	30.00	\$15,000.00	50.00	\$25,000.00		
4	12" CIPP lining	LF	500	61.00	\$60,500.00	42.50	\$21,250.00	32.00	\$16,000.00	55.00	\$27,500.00		
5	15" CIPP lining	LF	100	70.00	\$7,000.00	55.00	\$5,500.00	44.00	\$4,400.00	60.00	\$6,000.00		
6	18" CIPP lining	LF	100	82.00	\$8,200.00	70.00	\$7,000.00	55.00	\$5,500.00	70.00	\$7,000.00		
7	Internal Lateral Reinstatement	EA	60	325.00	\$19,500.00	100.00	\$6,000.00	150.00	\$9,000.00	300.00	\$18,000.00		
8	4" CIPP Svc Lateral Lining	EA	30	2,437.50	\$73,125.00	2,000.00	\$60,000.00	1,800.00	\$54,000.00	3,000.00	\$90,000.00		
9	Standard Mobilization	EA	2	17,182.50	\$34,365.00	1,500.00	\$3,000.00	500.00	\$1,000.00	1,500.00	\$3,000.00		
10	Emergency Mobilization	EA	1	17,182.50	\$17,182.50	2,500.00	\$2,500.00	3,500.00	\$3,500.00	5,000.00	\$5,000.00		
11	CIPP Point Repair	EA	5	2,274.27	\$11,371.35	2,000.00	\$10,000.00	3,200.00	\$16,000.00	4,000.00	\$20,000.00		
Total Bid					\$432,243.85		\$308,250.00		\$284,900.00		\$415,500.00		

Q:\1123Data\CIPP 2002 Bid Tab

Specification Experience Requirements by Contractor
2002 Sanitary Sewer Main Line and Service Lateral Lining, Cured in Place Pipe Method

Specification Item	Specification Requirement	Suncoast Experience	Insituform Experience	BRH Garver/ Experience
4" Service Pipes Lined by Contractor	250	0	Yes	Yes *
Internal Taps on 6" main by Contractor	250	177	Yes	Yes *
Ft of 6" Pipe Lined by Contractor	25,000	13,777	Yes	Yes
Ft of Pipe Lined for Product in USA	1,000,000	536,371	Yes	Yes
Ft of Pipe Lined for Product in Arkansas	50,000	16,178	Yes	Yes
ISO 9000 Certification	Yes	No	Yes	Yes
Office In Arkansas	Yes	No	Yes	Yes

* Based on a very quick check, BRH Garver appears to meet these experience requirements. I did not research their qualifications in more detail as there was a lower qualified bidder.

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

November 7, 2006
City Council Meeting Date

Peggy Vice.
Submitted By

Purchasing
Division

Finance & Internal Services
Department

Action Required:

Council approval of contract with NWA Democrat Gazette for retail and classified advertising to decrease cost of legal advertising.

N/A	\$ 133,305.00	Public Notification
Cost of this request	Category / Project Budget	Program Category / Project Name
Various Departments- 5301.00	\$ 105,988.00	
Account Number	Funds Used to Date	Program / Project Category Name
	\$ 27,317.00	Various Funds
Project Number	Remaining Balance	Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

10-19-2006
Date

City Attorney

10/20/06
Date

Finance and Internal Service Director

10-19-2006
Date

Mayor

Date

Received in Clerk's Office

Received in Mayor's Office

Comments:

Fayetteville

ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

To: Mayor and City Council

Thru: Paul Becker, Finance & Internal Services Director

From: Peggy Vice, Purchasing Manger *P Vice*

Date: Oct. 19, 2006

Subj: Newspaper Legal & Display Advertisements

Recommendation: Staff recommends City Council approve contracts for legal and display ads with Arkansas Democrat Gazette for the following public notifications:

Legal Notices in Classified Section – Monday-Sunday

- Public Meetings
- Bid Ads
- Agendas
- Ordinances
- Bond Issues

Display Advertising – Monday-Sunday

- Planning Commission Agenda Items
- Holiday Schedules for Solid Waste
- Human Resource Ads

Discussion:

The City's website has given the City the ability to provide quality public notification to citizens, but ordinances, bond issues, bid advertisements, job openings, etc. are required by code to be published in the newspaper.

The City currently budgets over \$100,000 for public notification. The contract price for display advertising is \$10.55/column inch. Without the contract it is \$15.79/ column inch. It results in a savings of \$5.24/column inch. The contract price for classified or legal ads has a tiered rate. The Monday through Thursday tier is \$9.76/column inch with the contract and \$14.57/column without a contract. The City Clerk's office has spent \$39,822.12 to date for advertising. Their savings with the new contract pricing would be approximately 32 percent or \$12,743.08. I've attached some examples of ads that have recently run to further demonstrate the significant savings.

Successful implementation of these contracts offers the city the best opportunity to insure cost containment of advertising expenditures while reaching the majority of citizens and potential bidders in a cost effective manner.

RESOLUTION NO. _____

A RESOLUTION APPROVING ONE-YEAR AGREEMENTS WITH
THE ARKANSAS DEMOCRAT-GAZETTE - NORTHWEST
EDITION FOR DISPLAY AND LEGAL ADVERTISING.

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 one-year Agreements with the Arkansas Democrat-Gazette -
Northwest Edition for display and legal advertising. Copies of the Agreements,
marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST.

By: _____

SONDRA SMITH, City Clerk

Price comparison for the NWA Times display ads.

Effective November 1st, the open display rate for the NWA Times will be \$15.79.

The contract rate for the Times would be \$10.55. This is also effective November 1st.

An example of the saving is listed below.

Ordinance 4930- Runs October 20th, is 344"

$344 \times \$15.33$ (this is the current NWA Times rate) = \$5273.52

$344 \times \$10.55 = 3629.20$.

savings would be \$1647.32.

Ordinance 4931 ran October 13. This ad was 35.5"

$35.5 \times \$15.33 = \544.22

$35.5 \times \$10.55 = \374.53

savings of \$169.69

Financial Statement

This is normally a 4x10 that is ran two times per year.

$40 \times \$15.33 = \613.20

$40 \times \$10.55 = 422.00$

savings of 191.20

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, Karen Caler, 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:

Ordinance 4931

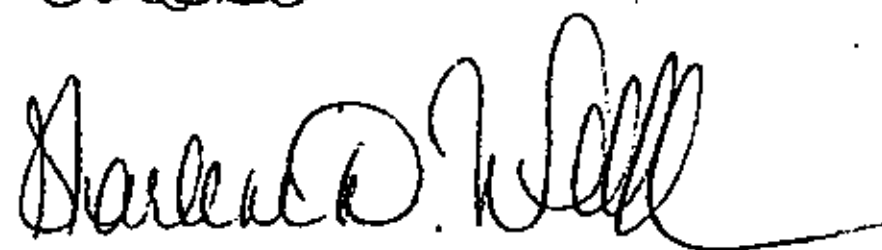
Was inserted in the Regular Editions:

October 13, 2006

Publication Charge: \$544.22

Subscribed and sworn to before me
This 13 day of October, 2006.

Notary Public



My Commission Expires:

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

RECEIVED

OCT 16 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

NORTHWEST ARKANSAS EDITION

Published Monday Through Sunday • P.O. Box 1607, Fayetteville, AR 72701 • 479-442-1700

Retail Display Advertising Agreement

Arkansas Democrat-Gazette, Inc./Northwest Arkansas Edition, Fayetteville, Arkansas Sept. 27 2006

In consideration of your agreeing to furnish us local display advertising space in the Northwest Arkansas Democrat-Gazette at the rate of:

\$ _____ per column inch Monday-Thursday \$ _____ per column inch Friday-Saturday \$ _____ per column inch Sunday.

Net per inch for each insertion, we hereby agree to use minimum space in that paper during the period of

One year from the 1st day of November, 2006

As follows.

NWA Times 4500 week contract

\$ 10.55 per col. inch

We, in addition to the terms and conditions as hereinafter set forth, agree to pay monthly, as used, for such advertising on or before the 10th of the month following advertising, without discount. In the event scheduled payments are not received, advertisements may be withheld until past due balances are brought current.

If for any reason the minimum space contracted for should not be used by us within the contract period, we agree to pay the difference between the rate stated herein and the rate actually earned as per rates printed in the published rate cards.

We agree that the Arkansas Democrat-Gazette, Inc./Northwest Arkansas Edition, shall have the right to revise the rates mentioned herein upon thirty days notice of us, but if such revision of the rate is not agreed to by us, either party shall have the right to terminate the contract without penalty at the end of thirty days notice.

This contract covers only advertising classified as local display advertising, and its privileges cannot be transferred, in whole or in part, to another party. It is further agreed that there are no terms or agreements not set forth herein and that the rates and regulations or conditions contained in the published rate card are a part of this contract as fully as if they appeared on its face.

This contract shall become effective on its acceptance by the publisher, general manager, or director of marketing of the Arkansas Democrat-Gazette/Northwest Arkansas Edition and shall run for a period of 12 months as set out above and shall automatically renew itself for like periods of 12 months, unless one of the parties hereto shall furnish the other written notice 30 days in advance of the expiration of any such 12 month period of intention to cancel the agreement.

**Arkansas Democrat-Gazette, Inc./
Northwest Arkansas Edition**

By

William Williams
Advertising Representative

Accepted for the Arkansas Democrat-Gazette,
Inc./Northwest Arkansas Edition

By

Director of Sales & Marketing

City of Fayetteville
Name of Company/Advertiser

By

Address

113 W. Mountain

Billing Address

Fayetteville, AR

Appt. #

1512599, 1510957

Acct. #

1559194 - Union all
related accounts

NORTHWEST ARKANSAS EDITION

Published Monday Through Sunday • P.O. Box 1607, Fayetteville, AR 72701 • 479-442-1700

Classified Display Advertising AgreementArkansas Democrat-Gazette, Inc./Northwest Arkansas Edition, Fayetteville, Arkansas September 27 20 06

In consideration of your agreeing to furnish us local display advertising space in the Northwest Arkansas Democrat-Gazette at the rate of:

\$9.16 per column inch Monday-Thursday \$10.13 per column inch Friday-Saturday \$13.34 per column inch Sunday.

Net per inch for each insertion, we hereby agree to use minimum space in that paper during the period of

One Year from the 1st day of November, 20 06

As follows.

76-375" Monthly Contract

We, in addition to the terms and conditions as hereinafter set forth, agree to pay monthly, as used, for such advertising on or before the 10th of the month following advertising, without discount. In the event scheduled payments are not received, advertisements may be withheld until past due balances are brought current.

If for any reason the minimum space contracted for should not be used by us within the contract period, we agree to pay the difference between the rate stated herein and the rate actually earned as per rates printed in the published rate cards.

We agree that the Arkansas Democrat-Gazette, Inc./Northwest Arkansas Edition, shall have the right to revise the rates mentioned herein upon thirty days notice of us, but if such revision of the rate is not agreed to by us, either party shall have the right to terminate the contract without penalty at the end of thirty days notice.

This contract covers only advertising classified as local display advertising, and its privileges cannot be transferred, in whole or in part, to another party. It is further agreed that there are no terms or agreements not set forth herein and that the rates and regulations or conditions contained in the published rate card are a part of this contract as fully as if they appeared on its face.

This contract shall become effective on its acceptance by the publisher, general manager, or director of marketing of the Arkansas Democrat-Gazette/Northwest Arkansas Edition and shall run for a period of 12 months as set out above and shall automatically renew itself for like periods of 12 months, unless one of the parties hereto shall furnish the other written notice 30 days in advance of the expiration of any such 12 month period of intention to cancel the agreement.

**Arkansas Democrat-Gazette, Inc./
Northwest Arkansas Edition**By Diane Williams
Advertising RepresentativeAccepted for the Arkansas Democrat-Gazette,
Inc./Northwest Arkansas EditionBy _____
Director of Sales & MarketingCity of Fayetteville -
Name of Company/Advertiser

By _____

Address 113 W. Mountain

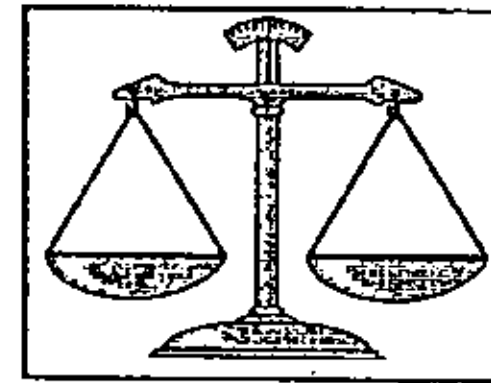
Billing Address _____

Fayetteville, AR 72701Acct.# 5338652

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Dan Coody, Mayor
City Council

FROM: Kit Williams, City Attorney

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

DATE: September 2, 2004

RE: Publishing requirement for ordinances

A.C.A. §14-55-206 Publishing or posting requirements.

“(a)(1)(A) All bylaws or ordinances of a general or permanent nature ... shall be published in some newspaper **published in the municipality.**”

According to the Masthead of the *Northwest Arkansas Times*: “The *Northwest Arkansas Times* (USP 396-980) is **published** seven days a week, daily and Sunday, by the *Northwest Arkansas Times*, 212 N. East Avenue, Fayetteville, Arkansas 72701.” (emphasis added)

According to the Masthead of *The Morning News* (Fayetteville edition): “**Published** daily and Sunday by *The Morning News*, 2560 North Lowell Road, Springdale, AR 72764 and 313 S. Second Street, Rogers, AR 72756.”

I looked up the ordinary definition of “publish” in my office dictionary. According to the American Heritage Dictionary (Second College Edition) “publish” means: “1. To prepare and issue (printed material) for public distribution or sale.”

Taking both newspapers at their word (which appear to coincide with the above definition of "publish"), only the *Northwest Arkansas Times* meets the statutory requirement of being "published in the municipality." (*The Morning News* may have the exclusive ordinance publication rights in Springdale and Rogers).

Voluntary display ads (agendas, etc.) are not bound by this statute. Required publication of Planning Commission meetings and public hearing notices for rezoning ordinances (prior to passage) must "be published in a newspaper of general circulation in the city." A.C.A. §14-56-416 (b)(3)(B) and §14-56-422 (1)(B). The "general circulation in the city" language had been used for publishing ordinances in §14-56-206 until 1993 when the legislature adopted the more restrictive "published in the municipality" language.

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

B. 1
R-PZD 06-2169, 6th & Wood
Page 1 of 50

17-Oct-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 06-2169: Planned Zoning District (6TH & WOOD, 524): Submitted by N. Arthur Scott for property located at 6th & Wood. The property is zoned C-2, Thoroughfare Commercial and contains approximately 1.80 acres. The request is for re-zoning and development approval for a Residential Planned Zoning District with 20 multi-family units.

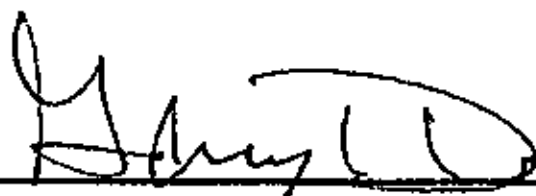
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item

☐

Budget Adjustment Attached

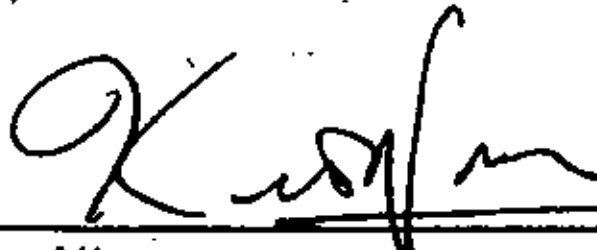
☐


Department Director

9-28-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

9-29-06

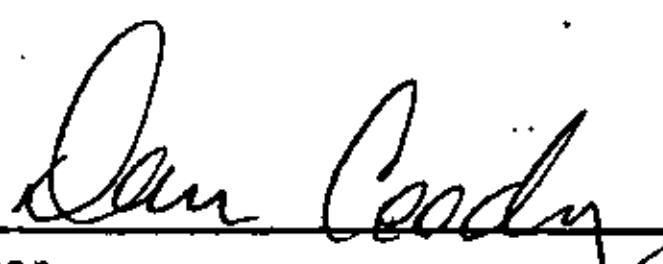
Original Contract Number: n/a


Finance and Internal Service Director

9-29-06
Date

Received in City Clerk's Office

ENTERED
9/29/06


Mayor

10/3/06
Date

Received in Mayor's Office

ENTERED
9/29/06

Comments:

Left on the first reading 10/17/06

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: September 28, 2006

Subject: Residential Planned Zoning District for 6th and Wood (R-PZD 06-2169)

RECOMMENDATION

The Planning Commission voted to forward the subject request for an ordinance creating a Residential Planned Zoning District (R-PZD) for 6th and Wood. This action would establish a unique zoning district for a residential development on a 1.80-acre tract located on the south side of 6th Street, approximately 300' east of Wood Avenue.

BACKGROUND

The site is zoned C-2, and is generally flat with the exception of a significant slope directly adjacent to the street, which is above the overall property, and undeveloped property with 65% tree canopy coverage. The existing right-of-way for 6th Street varies from approximately 72' to 82' from centerline, far exceeding the more typical 25' from centerline that would be required in this location. This large amount of right-of-way was required for the slope to construct the 6th Street improvements adjacent to the site.

The applicant requests a rezoning and large scale development approval for 20 multi-family units in five buildings accessed off of a looped driveway onto 6th Street. The property would not be subdivided into separate lots, and would be maintained by a Property Owner's Association. Zoning criteria identifying permitted and conditional uses, building setbacks, bulk and area requirements and architectural guidelines are included within the project booklet provided by the applicant.

DISCUSSION

On September 25, 2006, the Planning Commission voted 5-3-0 in favor of forwarding this request to the City Council with commissioners Ostner, Anthes, and Myres voting 'No'.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2169, 6TH & WOOD, LOCATED SOUTH OF 6TH STREET NEAR WOOD AVENUE, CONTAINING APPROXIMATELY 1.80 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From C-2, Thoroughfare Commercial, to R-PZD 06-2169 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council indicated in Exhibit "C" attached hereto and made a part hereof.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this 17th day of October, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 06-2169

PART OF LOTS 6,7,8 AND 9 IN AUMICK ADDITION, AS SHOWN IN PLAT BOOK 4 AT PAGE 124, AND PLAT BOOK 5 AT PAGE 41, BEING PART OF THE SE1/4 OF THE SW1/4 OF SECTION 15, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT THE INTERSECTION OF THE WEST LINE OF SAID LOT 6 AND THE SOUTH RIGHT-OF-WAY LINE OF 6TH STREET AS DESCRIBED IN A WARRANTY DEED RECORDED AS DOCUMENT NUMBER 99 68660; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID 6TH STREET THE FOLLOWING FOUR COURSES: S82°37'13"E 140.48 FEET TO A FOUND IRON PIN; THENCE S82°07'23"E 40.17 FEET TO A ROUND IRON PIN; THENCE S82°18'16"E 85.51 FEET TO A FOUND IRON PIN; THENCE S73°05'49"E 144.36 FEET TO A FOUND IRON PIN ON THE EAST LINE OF SAID LOT 9; THENCE DEPARTING SAID SOUTH LINE AND ALONG SAID EAST LINE S02°25'36"W 155.68 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE ALONG THE SOUTH LINE OF SAID AUMICK ADDITION N87°29'37"W 405.03 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE N02°28'18"E 215.00 FEET TO THE POINT OF BEGINNING, CONTAINING 78,230 SQUARE FEET OR 1.80 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

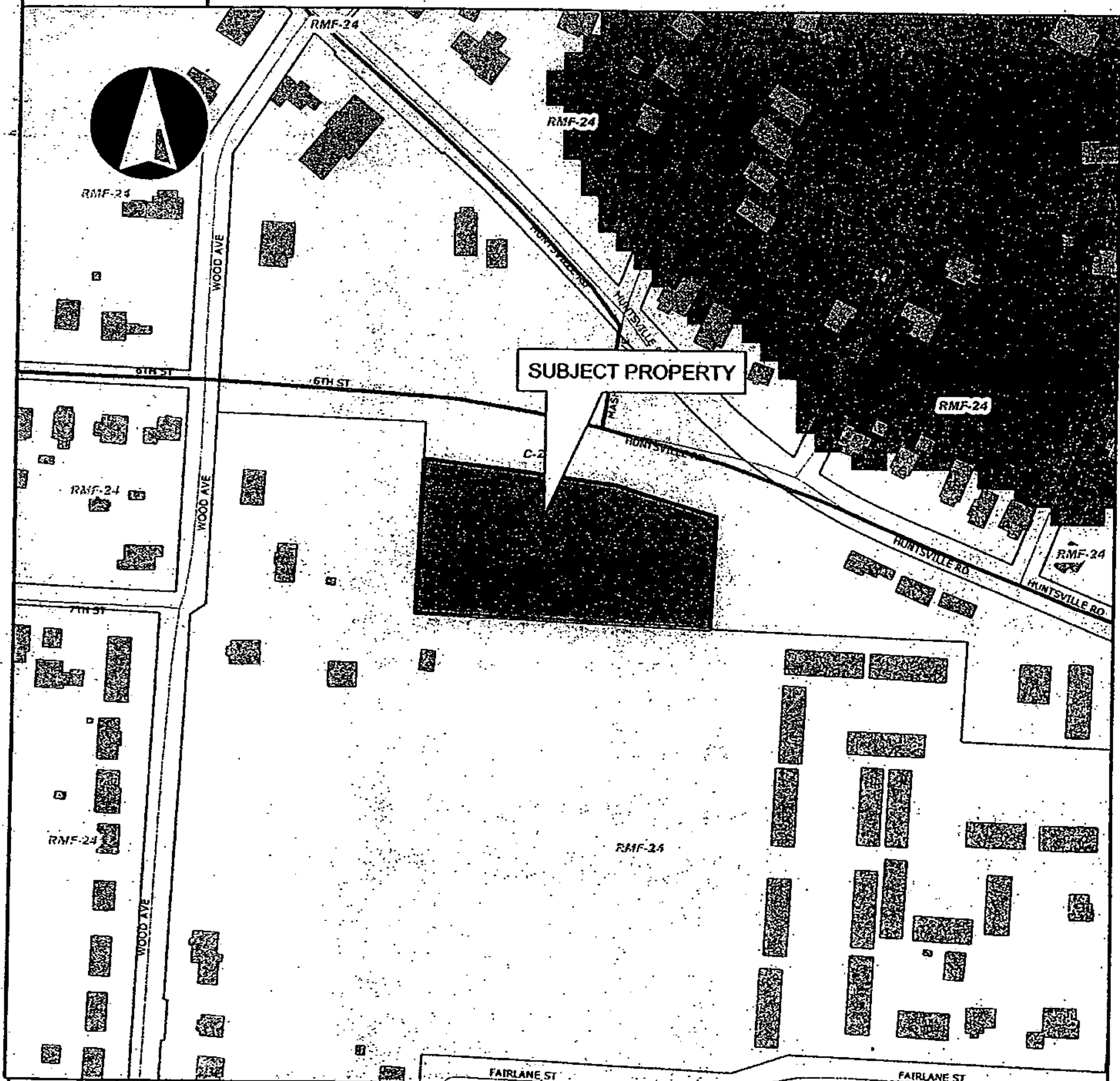
EXHIBIT "B"
R-PZD 06-2169
 (Page 1 of 1)

B. 1
 R-PZD 06-2169, 6th & Wood
 Page 5 of 50

RPZD06-2169

6TH & WOOD

Close Up View



Overview

Legend

- ooooo Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2169
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

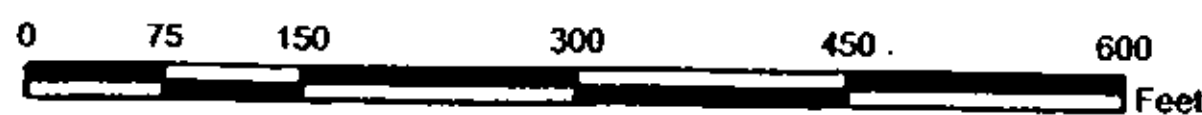


EXHIBIT "C"
R-PZD 06-2169
Page 1 of 3

Conditions of Approval

1. Planning Commission determination of street improvements. Staff does not recommend street improvements be required with this project find the surrounding street system is adequate to support the proposed 20 residential units, which will generate approximately 117 vehicle trips per day onto the improved adjacent streets.
2. Cross Access: The entire looped driveway shall be included in an access easement. Surrounding property to the east and west is not feasible for a cross-access vehicular or pedestrian connection, however, the property to the south is undeveloped and has potential for a connection. Staff recommends the dumpster locations be re-evaluated and at least one of the drive aisles be stubbed out to the southern property line and included in the access easement to allow for future cross access at the time the property to the south develops.
3. Project Phasing: This development shall be built in one phase, with all permits for construction required to be issued within one year of City Council approval, subject to the extension opportunities available in Chapter 166 of the UDC for Large Scale Development.
4. Revisions to be completed:
 - a. Sheet 3.0, Vicinity Map: City Zoning should be modified to show the RSF-8 zoning north of 6th Street.
 - b. Per City Fire Code requirements the access driveways are required to be less than a 10% slope; if any portions of the access driveways are steeper than 10% they shall be required to be approved by the City Fire Chief prior to issuance of any permits for construction.
 - c. The building and retaining wall are both within the new 20' utility easement for the proposed sanitary sewer line at the southeast corner of the site. This is in conflict with the City criteria, and the structures should be removed from the easement
5. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
6. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted photos.
7. Parks fees for 20 Multi-Family Units in the amount of \$13,600, are due prior to issuance of building permit.
8. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development.
9. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
10. Should the property ever be subdivided, it shall comply with the zoning criteria as established and approved herein.

EXHIBIT "C"
R-PZD 06-2169
Page 2 of 3

11. 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.
12. Streets lights shall be installed along 6th Street at a minimum spacing every 300' as needed.

Tree Preservation Conditions:

13. Mitigation will be required on this site to bring the canopy back up to the required 15%. The applicant has requested and been approved to utilize the Residential On-Site Mitigation Option.
14. Two (2) inch caliper large species trees shall be planted on-site before the final certificate of occupancy. These trees should be bonded for \$500 for a 3-year time period to ensure health and longevity.

Engineering Comments:

15. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
16. A revised detention design has been submitted with this application. The proposed low water crossing submitted that acts as a weir for the proposed detention pond will be accepted provided the design storms below 25 yrs will not top the weir; the 100 yr depth over the weir is held below 8 inches; and a guard rail is installed on the downstream side of the roadway to prevent a pedestrian or a vehicle from being washed downstream.

Standard Conditions of Approval:

17. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
18. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.
19. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
21. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-

EXHIBIT "C"
R-PZD 06-2169
Page 3 of 3

sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.

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.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



Planning Commission Meeting
September 25, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Andrew Garner, Senior Planner
Glenn Newman, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~September 20, 2006~~ Updated September 28, 2006

- **R-PZD 06-2169: Planned Zoning District (6TH & WOOD, 524):** Submitted by N. ARTHUR SCOTT for property located at 6TH & WOOD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.80 acres. The request is for re-zoning and development approval for a Residential Planned Zoning District with 20 multi-family units.

Property Owner: Crazy 8, LLC
Planner: Andrew Garner

Findings:

Background: At the September 14, 2006 Subdivision Committee the Engineering Division discussed concerns regarding drainage and grading for this project. The applicant has revised the plans and adequately addressed these concerns.

Property Description: The subject property consists of approximately 1.80 acres located on the south side of 6th Street approximately 300' east of Wood Avenue. The site is zoned C-2, and is generally flat with the exception of a significant slope directly adjacent to the street, which is above the overall property, and undeveloped property with 65% tree canopy coverage. The existing right-of-way for 6th Street varies from approximately 72' to 82' from centerline, far exceeding the more typical 25' from centerline that would be required in this location. This large amount of right-of-way was required for the slope to construct the 6th Street improvements adjacent to the site.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Residential	C-2, Thoroughfare Commercial; RSF-8, Residential Single-Family 8 Units/Acre
South	Rural residential	RMF-24, Residential Multi-Family 24 Units/Acre
East	Mixed commercial (thrift store; storage)	C-2, Thoroughfare Commercial; Multi-Family 24 Units/Acre
West	Single-family residential	C-2, Thoroughfare Commercial;

Proposal: The applicant requests rezoning and large scale development approval for a residential development in an R-PZD. The proposed use of the site is for 20 multi-family units in five buildings in Planning Area 1 (1.37 acres) and green space in Planning Area 2 (0.33 acres). The green space is located within a 40' drainage easement through the central portion of the site, a 40' swath adjacent to the western property line, and a 20' swath adjacent to the eastern property line.

Access and Parking: Access is provided off of two driveways onto 6th Street that provide a loop through the property. These two driveways provide direct access into the structures. Each of the five structures is a four-plex with each unit having one garage parking space and one driveway parking space. Traffic generated by twenty multi-family units is minimal, with approximately 117 vehicle trips per day generated. Improvements were made to 6th Street recently, widening and improving the 6th/HuntsvilleMashburn Road intersection near the site. Additionally, through the City's adopted Capital Improvement Program, improvements are being finalized for a realignment of Huntsville/Happy Hollow to direct traffic to the State Highway and 15th Street. Voters also recently approved a sales tax bond issue to direct funds to match those offered by the state for additional capacity improvements to 15th Street. This development has a negligible effect on traffic in the area, and represents a decrease from a typical C-2 development pattern

The proposed zoning criteria and site plan allows for a density of 11.11 units per acre over the entire site and a 10' building setback off of 6th Street right-of-way. The zoning criteria are provided in duplicate in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Staff has expressed reservations about this project, in meeting the intent of the Planned Zoning District ordinance, for it is a single-use, rather typical multi-family development that is not providing for many of the provisions within the PZD ordinance. The primary reason the applicant processed this project as a PZD is required setbacks from the excessive right-of-way along 6th Street, and providing the plans and elevations of structures to be built on the property so neighbors and appointed and elected officials can see what is proposed. Staff is not opposed to the proposed residential use on this property, finding the down-zoning is appropriate in this area.

Phasing: The applicant proposes to construct this development in one phase.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: 6th Street (Historic Collector)

Street Improvements/Right-of-Way Dedication: Staff does not recommend street improvements finding the adjacent street system adequate to support the proposed 20 units. 6th Street adjacent to this site has been improved with a large right-of-way varying from approximately 72' – 82' right-of-way from centerline. Right-of-way dedication is not necessary.

Parks: On June 10, 2006 the Park and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the park land dedication ordinance.

Tree Preservation:	Existing Canopy:	65.0%
	Preserved Canopy:	13.33%
	Required Canopy:	15.0%
	Mitigation:	Required; 3 two-inch caliper trees

Public Comment: Staff has received written comments from three adjacent property owners objecting to the project citing such issues as increased traffic, reduced tree cover, increased noise, loss of neighborhood character, increased crime, and decrease in property value.

Recommendation: Staff recommends forwarding R-PZD 06-2169 to the City Council for approval with the following issues/conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff does not recommend street improvements be required with this project find the surrounding street system is adequate to support the proposed 20 residential units, which will generate approximately 117 vehicle trips per day onto the improved adjacent streets.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (09/26/06).

2. Cross Access: The entire looped driveway shall be included in an access easement. Surrounding property to the east and west is not feasible for a cross-access vehicular or pedestrian connection, however, the property to the south is undeveloped and has potential for a connection. *Staff recommends the dumpster locations be re-evaluated and at least one of the drive aisles be stubbed out to the southern property line and included in the access easement to allow for future cross access at the time the property to the south develops.*
3. Project Phasing: This development shall be built in one phase, with all permits for construction required to be issued within one year of City Council approval, subject to the extension opportunities available in Chapter 166 of the UDC for Large Scale Development.

4. Revisions to be completed:
- a. Sheet 3.0, Vicinity Map: City Zoning should be modified to show the RSF-8 zoning north of 6th Street.
 - ~~b. Provide a cross section showing how the buildings lie in relation to 6th Street.~~
 - ~~c. Sheet 6.0 is provided two times in the packet, one of the sheets should be removed.~~
 - d. Per City Fire Code requirements the access driveways are required to be less than a 10% slope; if any portions of the access driveways are steeper than 10% they shall be required to be approved by the City Fire Chief prior to issuance of any permits for construction.
 - ~~e. The sidewalk from 6th Street into the development shall be a concrete 4' sidewalk constructed in conformance with City Code. The mulch trail adjacent to 6th Street shall be changed to concrete.~~
 - f. The building and retaining wall are both within the new 20' utility easement for the proposed sanitary sewer line at the southeast corner of the site. This is in conflict with the City criteria, and the structures should be removed from the easement

THE ITEMS STRIKEN ABOVE HAVE BEEN ADRESSED IN THE REVISIONS SUBMITTED FOR CITY COUNCIL

- 5. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
- 6. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted photos.
- 7. Parks fees for 20 Multi-Family Units in the amount of \$13,600, are due prior to issuance of building permit.
- 8. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development.
- 9. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
- 10. Should the property ever be subdivided, it shall comply with the zoning criteria as established and approved herein.
- 11. 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

ORDINANCE NO. 4931

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2190, WOODBURY, LOCATED SOUTH OF ZION ROAD AND EAST OF TALIESIN LANE, CONTAINING APPROXIMATELY 11.66 ACRES, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE, AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

Fayetteville
ARKANSAS

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 R-PZD 06-2190 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate, and approved by the City Council indicated in Exhibit "C" attached hereto and made a part hereof.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

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

APPROVED:

By **DAN GOODY, Mayor**

ATTEST:

By **SONDRA SMITH, City Clerk**

EXHIBIT "A"

R-PZD 06-2190

A PART OF THE NE 1/4 OF THE SE 1/4 OF SECTION 24, IN TOWNSHIP 17 NORTH AND RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT A FOUND STONE AT THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT AND RUNNING THENCE S86°56'03"E 663.39 FEET TO A FOUND RAILROAD SPIKE SET IN CONCRETE AT THE SOUTHEAST CORNER OF USONIA TERRACE ADDITION TO THE CITY OF FAYETTEVILLE, THENCE ALONG SAID SUBDIVISION LINE N00°31'16"W 225.51 FEET TO THE POINT OF BEGINNING, AND RUNNING THENCE N 00° 31' 16" W OF 566.61 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 17° 34' 51.6", HAVING A RADIUS OF 724.78 FEET, AND WHOSE LONG CHORD BEARS N 81° 08' 54" E FOR A DISTANCE OF 221.52 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE, THENCE N 89° 52' 32"E OF 477.01 FEET TO A FOUND 5/8 INCH REBAR, THENCE LEAVING SAID RIGHT OF WAY S 01° 14' 05" W 866.33 FEET TO A FOUND 5/8 INCH REBAR, THENCE N 86° 39' 49" W 370.36 FEET TO A FOUND IRON PIN, THENCE N 01° 14' 11" W 225.60 FEET TO A FOUND 5/8 INCH REBAR, THENCE N 86° 40' 14" W 297.97 FEET TO THE POINT OF BEGINNING CONTAINING 11.66 ACRES MORE OR LESS, SUBJECT TO RIGHT OF WAY ALONG ZION ROAD AND ANY OTHER RIGHT OR EASEMENTS OF RECORD.

EXHIBIT "C"

R-PZD 06-2190

Conditions of Approval

1. Planning Commission determination of street improvements. Staff recommends the developer construct curb, gutter, sidewalk, and storm drainage along the south side of Zion Road along the property frontage, and extend these improvements approximately 220' to the west to tie in to the existing improvements at Taliesin Lane, utilizing a 36' wide street section (striped for a turn lane).
2. Planning Commission determination of offsite drainage improvements in lieu of onsite detention. Staff recommends that at minimum, an assessment of \$33,537.50 shall be contributed to the City of Fayetteville by the developer in lieu of typical on-site detention requirements. These funds will be utilized in an on-going storm water drainage improvement project in the immediate vicinity.
3. Planning Commission determination of adequate connectivity. The applicant indicates street stub-outs to the south and east, and a connection to Zion Road to the north. There is a developed single-family subdivision to the west and connectivity is not feasible. Staff recommends the following:
 - a) The developer shall secure and submit a signed, recorded access easement from the adjacent property owner to the east to allow for emergency access, prior to issuance of a building permit. The private street shall be extended into the parking area of the property to the east as indicated on the plat, reconstructing parking spaces/landscaping as necessary.
 - b) An additional stub out shall be provided to the south between units 43 & 44, as indicated in the submitted drawings. There is an existing large parcel of land in this area with one single family residence with a long driveway connecting to Taliesin Lane to the west, and a driveway connecting to the north to the subject property. A stub-out of the private street to this property would permit future cross-access when the property to the south redevelops. Access easements and signs indicating the future connection shall be provided prior to building permit. The applicant shall pay an assessment to the City in the amount of \$1,675 for future construction of this stub-out prior to issuance of a building permit.
 - c) A public street shall be extended to the south property line in the manner indicated (Woodbury Drive). Signs shall be provided indicating a future street connection.
4. The applicant shall dedicate right-of-way a minimum of 35' from centerline of Zion Road. Right-of-way dedication for Woodbury Drive is variable as depicted on the site plan. The access easements adjacent to Woodbury Drive shall allow the City the rights of full access to repair or replace public infrastructure. Appropriate language shall be included on the easement plat prior to building permit, and approved by the Transportation and Engineering Divisions.
5. Sidewalks along Zion Road shall be constructed to city standards and dedicated to the City. All sidewalks and green space adjacent to private streets and Woodbury Drive, a public street, shall not be owned by the City, but shall be within a public pedestrian access easement. Sidewalks adjacent to Woodbury Drive (both sides) shall be constructed to City standards and maintained by the City as if they are within the public right-of-way. All other sidewalks on the property shall be constructed by the property owner to City standards and shall be maintained to acceptable City standards by the property owner or property owner's association. The pedestrian access easement shall grant the City full inspection, access, and maintenance rights for public benefit. Private streets, sidewalks and

detention ponds shall be the responsibility of the property owner or property owner's association to maintain according to city standards. Covenants shall provide that in the event the private streets are not maintained as required, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. Said covenants regarding maintenance of private streets shall not be amended and shall not terminate without approval of the City Council (§166.06 (K, 10, b, vii)).

6. Project Phasing: Streets and infrastructure shall be installed within 1 year of approval, and building permits for all structures shall be required to be issued within 3 years of approval, or the development approval is voided.

7. All trash enclosure locations and dimensions shall be fully reviewed and approved by the Solid Waste Division prior to issuance of a building permit. Single family residential units may utilize residential cart service; location for placement of carts on trash pick-up day shall be coordinated with Solid Waste prior to building permit. Multi-family units must utilize dumpster service, and trash enclosures shall be fully screened with materials that are compatible with and complimentary to the architecture of the surrounding buildings.

8. Bicycle racks meeting city specifications shall be installed adjacent to the multi-family structures.

9. The Planning Commission, by conditional use permit, shall determine the appropriate size and magnitude of any non-residential uses within Planning Area 2.

10. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.

11. Building separation shall meet all applicable building codes as mandated by the Building Safety Division.

12. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building permits will be based upon the submitted drawings.

13. All buildings shall be designed and constructed to be articulated without large blank wall surfaces as they are visible from public rights-of-way and private streets. Multi-family buildings shall be designed with a front facade facing Zion Road, Woodbury Drive, and the private street along the south side of the building. The single-family structures shall be designed with articulated facades facing both the public and private streets. For those structures without street frontage, the front shall face the pedestrian access.

14. Parks fees for 67 Single Family Units in the amount of \$64,320, and park fees for 45 Multi-Family Units in the amount of \$30,600 are due prior to issuance of building permit.

Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. Should mixed use be proposed as part of a conditional use request, signage would be addressed for the commercial/residential use at the time of that request, and may be allowed in accordance with neighborhood commercial development.

15. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan - Planned Zoning District by the City Council shall also be binding.

16. Should the property ever be subdivided, it shall comply with the zoning criteria as established and approved herein.

Landscape Plan Comments:

17. Existing trees shall be retained in good health, or new trees shall be planted, one per every 30' linear feet along Zion Road, prior to Certificate of Occupancy.

18. Pedestrian walkways and landscaping as shown on the site/landscape plans along all public and private streets with a maximum separation of one tree per 30' linear feet of street, and between the buildings (typical), shall be a requirement of the PZD, and shall be installed as buildings are constructed, prior to occupancy.

Tree Preservation Plan Comments:

19. The removal of 49,775 square feet of canopy is equivalent to 228 (2) inch caliper large species trees. Most if not all these trees should be located on-site outside of utility easements. A variety of tree species shall be utilized in this area; all must be large shade tree variety and 2-inch caliper at the time of planting.

20. Mitigation trees must be planted before the issuance of a Final Certificate of Occupancy. A 3-year maintenance and monitoring bond, letter of credit or check shall be deposited with the City in the amount of \$57,000. After 3 years the Urban Forester will visit the site and release the amount finding 90% of the trees healthy.

Standard Conditions of Approval:

21. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: All Western Gas, SWBT, Ozarks, SWECO, Cox Communications).

22. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.

23. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water sewer, fire protection, streets (public and private), sidewalks, parking lots and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

24. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

25. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.

26. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.

27. 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.

d. Project Disk with all final revisions

e. 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.

Exhibit "B" is a map and may be viewed in the City Clerk/Treasurer's office during normal business hours.

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. Streets lights shall be installed along 6th Street at a minimum spacing every 300' as needed.

Tree Preservation Conditions:

13. Mitigation will be required on this site to bring the canopy back up to the required 15%. The applicant has requested and been approved to utilize the Residential On-Site Mitigation Option.
14. Two (2) inch caliper large species trees shall be planted on-site before the final certificate of occupancy. These trees should be bonded for \$500 for a 3-year time period to ensure health and longevity.

Engineering Comments:

15. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
16. A revised detention design has been submitted with this application. The proposed low water crossing submitted that acts as a weir for the proposed detention pond will be accepted provided the design storms below 25 yrs will not top the weir; the 100 yr depth over the weir is held below 8 inches; and a guard rail is installed on the downstream side of the roadway to prevent a pedestrian or a vehicle from being washed downstream.

Standard Conditions of Approval:

17. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
18. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.
19. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
21. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
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.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action:	Denied	Tabled	<u>X</u> Forwarded to City Council
Motion:	<u>Lack</u>		
Second:	<u>Graves</u>		
Vote:	<u>5-3-0</u> (Commissioners Ostner, Myres, and Anthes voting 'No')		
Meeting Date:	<u>September 25, 2006</u>		
Comments:			

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with MDP R-PZD 06-2169 (6th and Wood)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Interim Future Land Use Plan Map adopted as part of City Plan 2025 designates this site Community Commercial. The Sector Map also adopted as part of City Plan 2025 designate this area as an Infill Growth Sector. Rezoning this property to R-PZD 06-2190 with multi-family dwelling units is not consistent with the land use plan for commercial uses, but is compatible with surrounding residential land uses and density within surrounding residential property to the north, south, and west, and undeveloped commercial lot to the east. Further, the density of the residential development proposed is consistent with this property's location within the Infill Growth Sector.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow multi-family residential uses. The proposed zoning criteria and multi-family development provides an appropriate transition between the commercial zoning and development to the east, the immediate surrounding single-family residential development to the north, south, and west, and the existing and developing multi-family residences in the vicinity along 6th Street and in this neighborhood. The overall density on the property

would be 11.11 units per acre and would be compatible with the existing RMF-24 zoning to the south and west, and the existing single and multi-family development in the vicinity. The site layout incorporates a looped private drive accessing 6th Street at two points and providing access to the 5 multi-family structures, and a 4' sidewalk connecting the units to 6th Street. Green space on the site is provided in 0.4 acres in an existing drainage easement through the central portion of the site, and along the west and east property lines. The site layout is compatible with the existing surrounding land uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is undeveloped with a large drainage easement and a large right-of-way for 6th Street adjacent to the front property line. There is a relatively steep slope off of 6th Street. This project has not made considerable effort to incorporate the existing tree canopy into the development, although the large width of the 6th Street right-of-way and drainage easement on the property are the major constraints to the project design.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended residential land use will negligibly impact the existing traffic conditions. Currently this site has two access points to 6th Street. 6th Street is currently improved to its Master Street Plan designation. The intersection of 6th Street and Happy Hollow is in the process of being reconstructed. The intent of the Happy Hollow intersection improvements is to improve and encourage traffic flow south to 15th Street and ultimately to I-540, rather than continuing west along 6th Street and through downtown Fayetteville. This improvement is anticipated to reduce the amount of cut-through traffic that currently traverses along 6th Street in front of this property. It is not anticipated that traffic from the 20 proposed residential units (117 vehicle trips per day) would create traffic congestion or burden the existing road network. Staff does recommend that cross-access vehicular connection be provided to the undeveloped property to the south if feasible.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed 6th and Wood PZD provides for an adequate transition and infill between the existing single-family residences in the neighborhood, the small strip of commercial property along 6th Street to the east, and the existing and developing multi-family residences in this vicinity. The architectural standards for the proposed multi-family buildings are a higher standard than that typically seen in a multi-family development in Fayetteville. A PZD in this situation allows staff and decision-makers the opportunity to see and modify these standards ensuring the quality of development and aesthetic impact to the community will be positive. Additionally, the large right-of-way for 6th Street adjacent to this property and the existing drainage easement bisecting the site limit the development potential of the property under a standard zoning. The proposed zoning and associated residential development is more appropriate than the existing C-2 zoning on the property. The existing C-2 zoning allows such uses as a car lot, restaurant, etc., which would could potentially be incompatible with the surrounding, mainly single-family development. The proposed zoning and residential uses enhance this growing and redeveloping neighborhood. The site plan has been amended from the first submittal to incorporate as internal driveway connection between the units and to provide pedestrian connection to the street. These modifications will benefit the development and the greater community. Adequate parking has been provided, and the inclusion of mitigation trees will create a healthy urban canopy.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is required by ordinance, as no large surface parking areas or commercial uses are indicated. A landscape plan has been supplied, and trees along the

frontages of 6th Street are required. In addition, the landscape plan includes trees planted along the eastern property line and are indicated as a buffer between this property and the commercially-zoned property to the east.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a private loop driveway through the five attached buildings with two curb cuts onto 6th Street. The dwellings face interior to the development with the side of the buildings facing 6th Street. The driveway alignment provides adequate ingress and egress.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: No large off-street parking areas are proposed. Parking is provided within garages or on the driveways. All parking ratios are to be met with this proposal.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

(6) *Sidewalks.* As required by §166.03.

FINDING: A public 10-foot trail is located adjacent to 6th Street along the property frontage. As conditioned, a 4' concrete sidewalk would provide connection from 6th Street into the driveway for the development.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public and private streets at a separation of no greater than 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Public water lines are being extended in accordance with city codes.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a

"private street."

- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street"

which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant shall comply with the above criteria. This development proposes no public or private streets, only a private driveway through the site.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to alter the previous site plans, bringing forward an amended plan that accomplishes more of the goals for tree preservation. The percentage of canopy preserved has increased and preserves a large percentage of canopy along the west property line. Mitigation trees will serve to provide an increased overall canopy on the site, providing for an urban canopy.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Non-residential structures are not proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed is not uncommon for the area.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or

occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-

owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of the City Plan 2025, as well as some of the above ten criteria. Residential infill in this urban area is accomplished at a moderate density of 11.11 units per acre, transition and compatibility of land uses is improved by changing the existing zoning from C-2 into a customized residential zoning. Reduced building setbacks off of 6th Street allowed by this customized PZD zoning help offset the unusually large right-of-way for 6th Street on this site. The following guiding policies within Residential Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Areas:

12.1.4.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods. (Goal 3)

12.1.4.c Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness. (Goal 4)

12.1.4.d Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances.

12.1.4.e Utilize more intense development patterns within the infill sector and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity. (Goal 1)

12.1.4.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services. (Goals 1g and 3)

12.1.4.g Encourage residential dwellings in appropriate specified Mixed Use Areas. (Goals 1 and 3)

12.1.4.h Encourage a development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas. (Goal 3a)

12.1.4.i Utilize the Master Street Plan and incorporate bike lanes, parkways and landscaped medians to preserve the character of the City and enhance the utilization of alternative modes of transportation. (Goal 4)

12.1.4.j Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc. (Goal 3a)

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council, an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: All uses are proposed as residential.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;

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

FINDING: Surrounding development is mixed in use and density, from a small strip of commercial to the east, single-family to the west, and a number of multi-family developments in the immediate vicinity. Density and intensity under the current zoning (C-1) could lead to potentially incompatible land uses in this established residential area. Infrastructure in the area is adequate to support the proposed development.

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

FINDING: Lot area minimums and setbacks are different than a standard residential zoning to allow the buildings to be closer to 6th Street. The side and rear setbacks are similar to other residential zonings. The project is being developed without subdivision of land, thus a horizontal property regime will likely be filed.

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

FINDING: Building heights proposed for this project are typical of single and multi-family development in the surrounding area.

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

FINDING: The lot coverage on this project is minimal, though the density is higher, due to the provision of Tree Preservation areas and common greenspace.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: The Interim Future Land Use Plan Map adopted as part of City Plan 2025 designates this site Community Commercial. The Sector Map also adopted as part of City Plan 2025 designate this area as an Infill Growth Sector. Rezoning this property to R-PZD 06-2190 with multi-family dwelling units is not consistent with the land use plan for commercial uses, but is compatible with surrounding residential land uses and density within surrounding residential property to the north, south, and west, and undeveloped commercial lot to the east. Further, the density of the residential development proposed is consistent with this property's location within in Infill Growth Sector.

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

Finding: At this time the property is zoned C-2, which allows for commercial use and accessory residential use. This site is more suited for residential development than for commercial use as evidenced by the largely undeveloped nature of this node of commercial zoning. The property is identified as an Infill Growth Sector and is near downtown Fayetteville. Improved streets and public infrastructure make rezoning of this property to an entirely residential development advisable.

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

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion.

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

Finding: Staff finds that in evaluating this proposal, the population density would be slightly increased from that which currently exists. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact, with the improvements as recommended by staff for this project.

Engineering: Public water is located near the site. There is a 6" waterline along Huntsville. Water service will need to be extended to the property and through the development at the time of development.

Sanitary sewer is available near the site. There is an 8" sewer main along on

the adjacent property to the east. Sewer service will need to be extended to the property and through the development at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development.

The site has access to Sixth Street. Sixth Street is an improved two-lane paved roadway at this property. No street improvements are recommended with this development.

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

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services.

Fire: The subject property is located approximately 1.2 miles from the Engine #1 and Ladder #1 at the fire station at 303 West Center, with an expected response time of approximately 4.5 minutes. No adverse impacts on call volume or response time are anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Andrew Garner, Planner

September 19, 2006

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (September 25, 2006 Planning Commission)

Development: 6th Street & Wood Ave

Engineer: Project Design Consultants, Inc.

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. A revised detention design has been submitted with this application. The proposed **low water crossing** submitted that acts as a weir for the proposed detention pond will be accepted provided the design storms below 25 yrs will not top the weir; the 100 yr depth over the weir is held below 8 inches; and a guard rail is installed on the downstream side of the roadway to prevent a pedestrian or a vehicle from being washed downstream.

6th and Wood PZD
Summary of Average Vehicle Trip Generation
For 20 Dwelling Units of Residential Condominium / Townhouse
September 20, 2006

	24 Hour Two-Way Volume	7-9 AM Pk Hour		4-6 PM Pk Hour	
		Enter	Exit	Enter	Exit
Average Weekday	117	1	.7	7	4

	24 hour Two-Way Volume	Peak Hour	
		Enter	Exit
Saturday	113	5	4
Sunday	97	4	5

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

B. 1
R-PZD 06-2169, 6th & Wood
Page 32 of 50

POLICE DEPARTMENT

September 4, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville AR. 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Planned Zoning District R-PZD 06-2196: (WEST FORK PLACE, 565 / 566): Submitted by PROJECT DESIGN CONSULTANTS, INC. for property located at the end of Ray Avenue, south of Huntsville Road 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 contains approximately 13.92 acres and is zoned RSF-4.

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

In reference to R-PZD 06-2169: (6TH & WOOD, 524): Submitted by N. ARTHUR SCOTT for property located at 6th and Wood. The property is zoned C-2 and contains approximately 1.80 acres. The request is for re-zoning the development for a Residential Planned Zoning District.

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

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher

Thru: Chief Tony Johnson
Asst Chief Bud Thompson

From: Captain Dale Riggins

Date: September 19, 2006

Re: September 6, 2006 Zoning Review – Fire Department Comments

PZD06-2196 (West Fork Place)

These 13.92 acres are covered by Engine 5 located at 833 N Crossover.

It is 1.7 miles from the station with an expected response time of 4 minutes. After the new Station 3 opens at Ray and Huntsville, the distance will be reduced to .5 miles with an expected response time of 2 minutes.

The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1539 gallons/minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

PZD06-2169 (6th and Wood)

These 1.80 acres are covered by Engine 1 and Ladder 1 at 303 W Center.

It is 1.2 miles from the station with an expected response time of 4.5 minutes.

The Fire Department anticipates 5 (3 EMS – 2 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

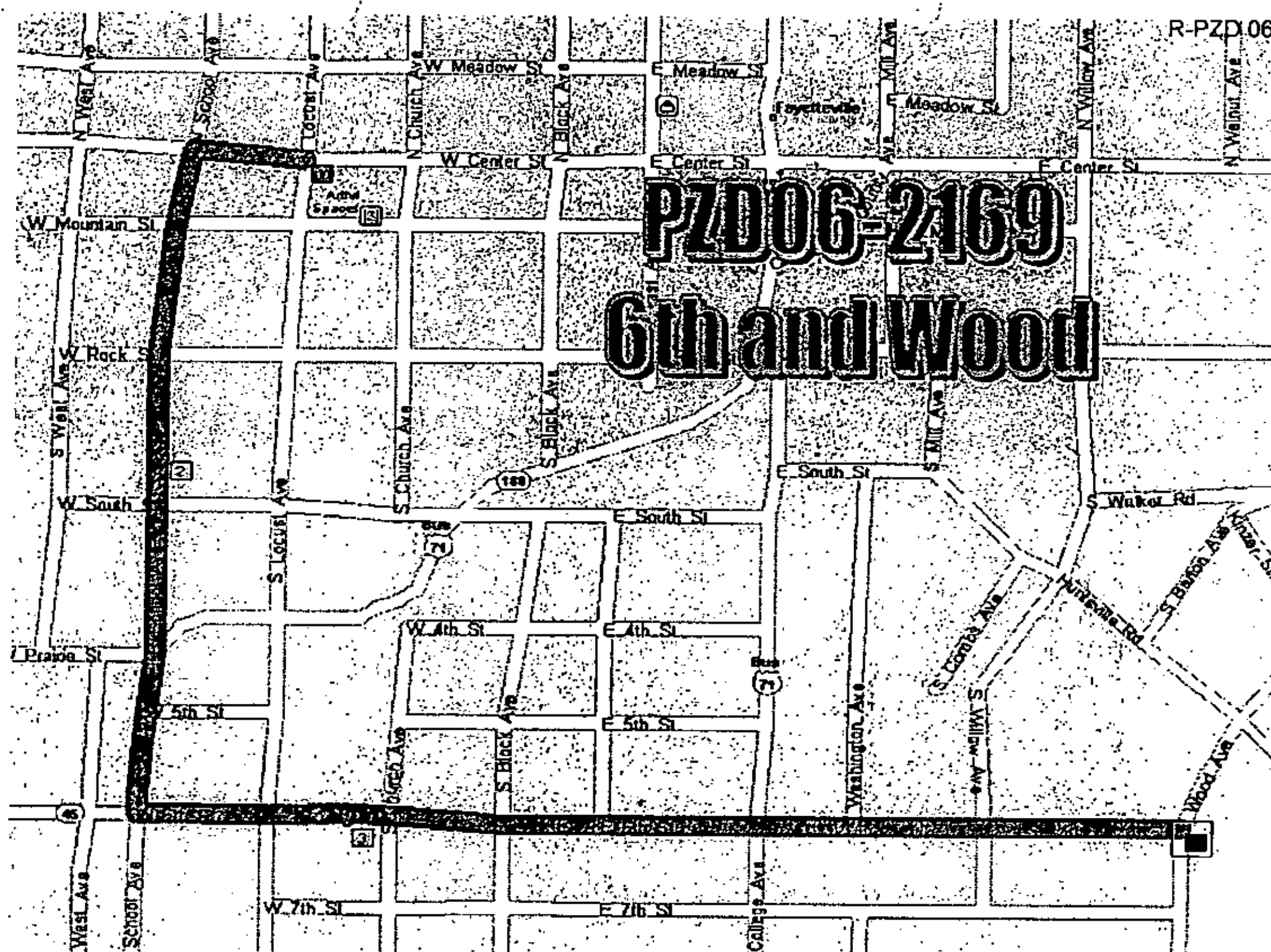
There is no recorded measured hydrant flow for this area.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

Please feel free to contact me if you have any questions concerning the comments

★

Captain Dale Riggins
Fayetteville Fire Department





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: September 20, 2006

ITEM #: R-PZD 06-2169 (6th Street)

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
Y		wheel stops / curbs
Y		irrigation
Y		edged landscape beds indicated
Y		species of plant material identified
Y		size of plant material at time of installation indicated
Y		interior landscaping
		narrow tree lawn (8' min. width, 17' min. length / 1 tree per 15 spaces)
		tree island (10' min. width / 1 tree per 12 spaces)
Y		perimeter landscaping
		side and rear property lines (5' landscaped)
		adjacent to street R.O.W (15' greenspace exclusive for landscaping / 1 street tree every 30 L.F., a continuous planting of shrubs and ground cover - 50% evergreen)
Y		soil amendments notes include that soil is amended and sod removed

Y		mulching notes indicate mulching around trees and within landscape beds.
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
Y		landscaped area (12' min.)
N		fence required
NA		outdoor storage screened with landscaping
NA		non-residential landscape screen when adjacent to residential zones
NA		landscape requirement for setback reduction
		Overlay 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 06-2169 with the following conditions.

Conditions of Approval:

1. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

TO: Andrew Garner, Associate Planner
FROM: Kay Curry, Park Planner
DATE: September 12, 2006
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: September 14
Item: R-PZD 06-2169 (6th & Wood, 524)
Park District: SE
Zoned: RSF-4
Billing Name & Address: Bob Schmidt, 1747 N. College, Fayetteville, AR 72702

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$960 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	20 @ \$680 per unit = \$13,600
Lot Split		_____ @ \$960 per unit = \$ _____

COMMENTS:

- The Parks and Recreation Advisory Board recommended accepting money in lieu of a land dedication on July 10, 2006. This decision was based on the 6th and Wood location being within one half mile of Walker Park.
- Fees are assessed in the amount of \$13,600 for multi-family homes.
- Fees are due before building permits will be issued.



PC Meeting of September 25, 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: September 20, 2006

ITEM # RPZD 06-2169: Residential Planned Zoning District (6th & Wood)

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	1.80
square feet	78,408
Existing Tree Canopy	
acres	1.25
square feet	54,518
percent of site area	69.44 %
Existing Tree Canopy Preserved	
acres	0.25
square feet	11,120
percent of total site area	13.88 %
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 is a wet and wooded site. Most species on the site are elm, maple,**

boxelder, and ash. A large percentage of canopy will be saved along the west property line as a buffer.

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

- **Environmental degradation should be very minimal on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Canopy removed will affect the adjacent property owners to south but a buffer is planned along the west line.**

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. A large drainage easement and right of way with topography does make the design difficult.**

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 the trees is anywhere from poor to good.**

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

- **There are a few trees that are marked for preservation near two story structures. The large buffer to the west is free of utilities and should stay that way indefinitely.**

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

- **Trees will be removed for the installation of the utilities. There are no trees to remain that could be threatened in the future by repairs or replacement.**

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

- **A lot of discussion went into the location of the utilities in order to preserve as much tree canopy as possible.**

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 this site to bring the canopy back up to**

the required 15%.

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 with the following conditions of approval.**

Conditions of Approval:

- 1. Mitigation will be required on this site to bring the canopy back up to the required 15%. The applicant has requested and been approved to utilize the Residential On-Site Mitigation Option.**
- 2. 2 (2) inch caliper large species trees shall be planted on-site before the final certificate of occupancy. These trees should be bonded for \$500 for a 3-year time period to ensure health and longevity.**

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date August 16, 2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Drive, Suite 104
Fayetteville, AR 72703

Subdivision Meeting

Thursday, August 31, 2006 9:00am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219
(479) 575-8267

Planning Commission Meeting

Monday, September 11, 2006 5:30pm
Fayetteville City Administration Building
113 West Mountain Street, Room 219
(479) 575-8267

PROJECT DESCRIPTION:

PROPERTY LOCATED AT 6TH & WOOD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.80 acres. The request is for Master Development Plan for a Residential Planned Zoning District with 20 multi-family units.

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

☒ I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

☒ I do object to the project described above because:

ECOLOGY DAMAGE, THE TRAFFIC TURNS MORE DANGEROUS,

YOLANDA SERRANO
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

6TH and Wood - 2006016

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

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ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

- ☒ I have been notified of the above meetings for the described project.
☐ I do not object to the project described above.
☒ I do object to the project described above because:

RENA WILLIAMS
Name of Property Owner (Printed)

Rena Williams
Signature of Property Owner

1. Increased Traffic
Streets already high
Traffic area.
2. Loss of Tree Cover
3. Want neighborhood
to remain single
family housing.
4. Increased noise level.

RECEIVED

AUG 24 2006

CITY OF FAYETTEVILLE
PLANNING DIVISION

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 16, 2006

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PROJECT DESCRIPTION:

PROPERTY LOCATED AT 6TH & WOOD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.80 acres. The request is for Master Development Plan for a Residential Planned Zoning District with 20 multi-family units.

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Envelope)

- ☐ I have been notified of the above meetings for the described project.
☐ I do not object to the project described above.
☒ I do object to the project described above because:

CHARLES T. Combs
Name of Property Owner (Printed)

Charles T. Combs
Signature of Property Owner

YOU ARE INCREASING FROM 7 houses
TO 20 UNITS OF APARTMENTS. THIS
WILL IMPACT TRAFFIC, POSSIBLE
CRIME AND DEVALUE HOME OWNERS
IN THIS AREA. NOT A GOOD IDEA
TO GO WITH APARTMENTS.

THANK YOU

Charles T. Combs
602-312-4048

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 16, 2006

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PROJECT DESCRIPTION:

PROPERTY LOCATED AT 6TH & WOOD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.80 acres. The request is for Master Development Plan for a Residential Planned Zoning District with 20 multi-family units.

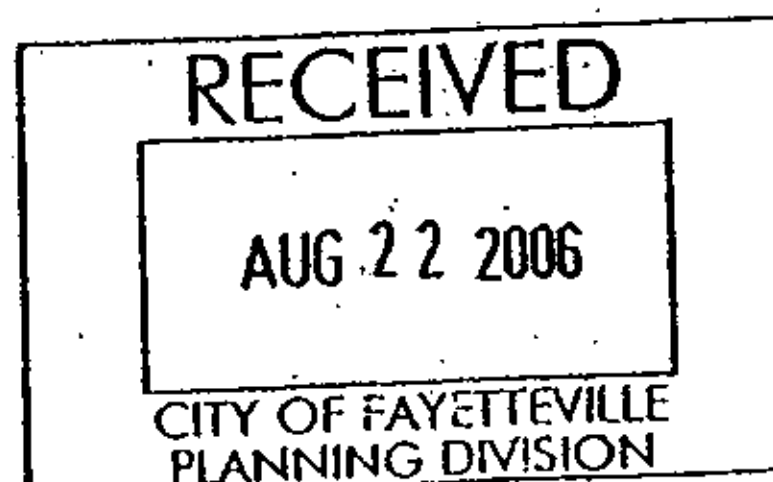
ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

- ☒ I have been notified of the above meetings for the described project.
☐ I do not object to the project described above.
☒ I do object to the project described above because:

William A. Hammond
Name of Property Owner (Printed)

William A. Hammond
Signature of Property Owner



**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 16, 2006

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(479) 575-8267

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PROPERTY LOCATED AT 6TH & WOOD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.80 acres. The request is for Master Development Plan for a Residential Planned Zoning District with 20 multi-family units.

ADJOINING PROPERTY OWNERS COMMENTS

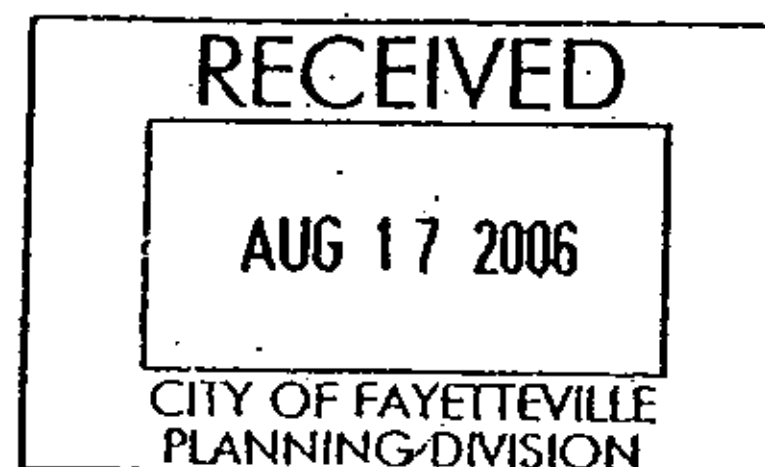
(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

☒ I have been notified of the above meetings for the described project.
☒ I do not object to the project described above.
☐ I do object to the project described above because:

LA Anna Cossey
Name of Property Owner (Printed)

LA Anna Cossey
Signature of Property Owner

6TH and Wood - 2006016



HOMETOWN DEVELOPMENT, LLC.

B. 1
R-PZD 06-2169, 6th & Wood
Page 46 of 50

June 28, 2006

**CITY OF FAYETTEVILLE
ATTN: PARK PLANNING STAFF
1455 HAPPY HOLLOW ROAD
FAYETTEVILLE, AR 72701**

Dear Sir or Madam:

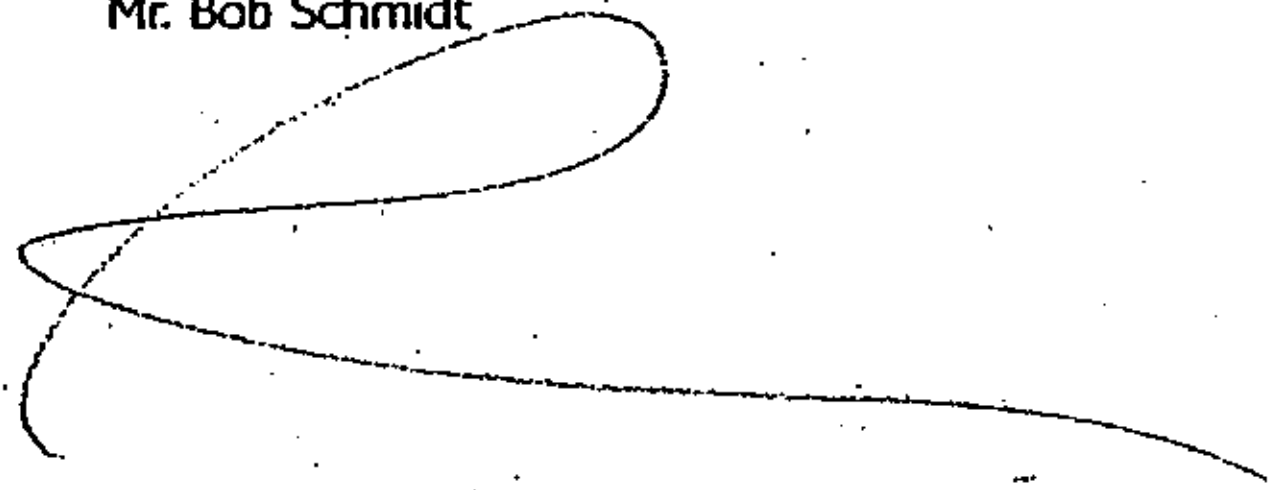
We are developing approximately 1.79 acres near the Wood Avenue and 6th Street intersection in Fayetteville, AR as shown on the attached site plan. We have decided to use the option of money in lieu for land of our required Parks contribution. Our required amount of money in lieu of land is \$13,600.00 based on 20 multi-family units.

The actual number of units may change based on the conditions of approval of a PZD for this property.

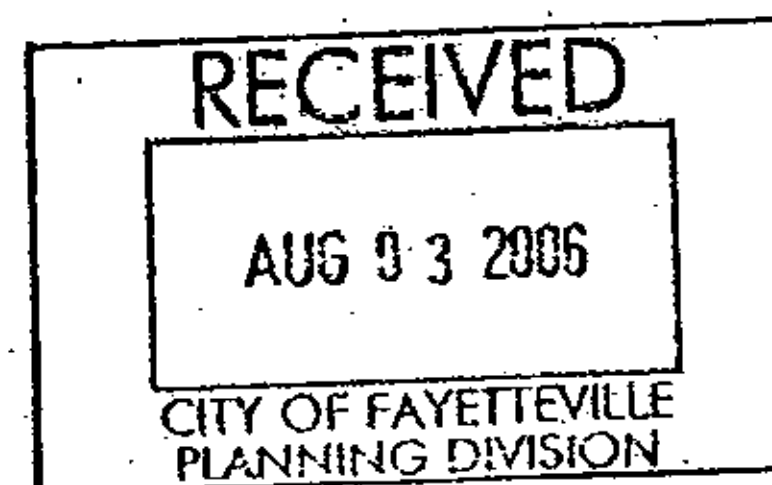
We would like to be on the agenda for the Parks and Recreation Board Meeting scheduled for July 10th, 2006.

Sincerely,

Mr. Bob Schmidt



1747 N. College Avenue • Fayetteville, AR • 72703
Phone: 479-521-1950 • Fax: 479-443-2252



PROJECT DESIGN CONSULTANTS, INC.

September 14, 2005

Mr. Jeremy Pate
City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72701

**RE: Approximately 1.8 Acres
Intersection of 6th and Wood
Fayetteville, AR**

Dear Jeremy:

This property is being developed by Hometown Properties as proposed below. This property is zoned C-2 currently and adjacent property are zoned RSF-24 and RMF-24. The developer is applying for a PZD to construct 5 buildings of quad-plexes.

The proposed PZD contains 20 multifamily units with garage and driveway parking. The project will be accessed off of 6th Street. The quad-plexes will have front access. The proposed quad-plexes will have brick veneer (see the attached picture).

A minimum of 6.14% of the parcel will be maintained as Tree Preservation Area.

From information gathered on the FAYGIS site. There is a 6" day sewer line running along Huntsville Road connected to an 8" day sewer located along the south side with a line running through the property from north to south. There are two existing manholes located in the southeast side of the site. There is an overhead electricity line in the southeast part of the site. There is an existing gas line along Huntsville Road. There are existing water meters and valves along 6th Street. There is also a 6" waterline located along the north side of Huntsville Road.

Please call if you have any questions.

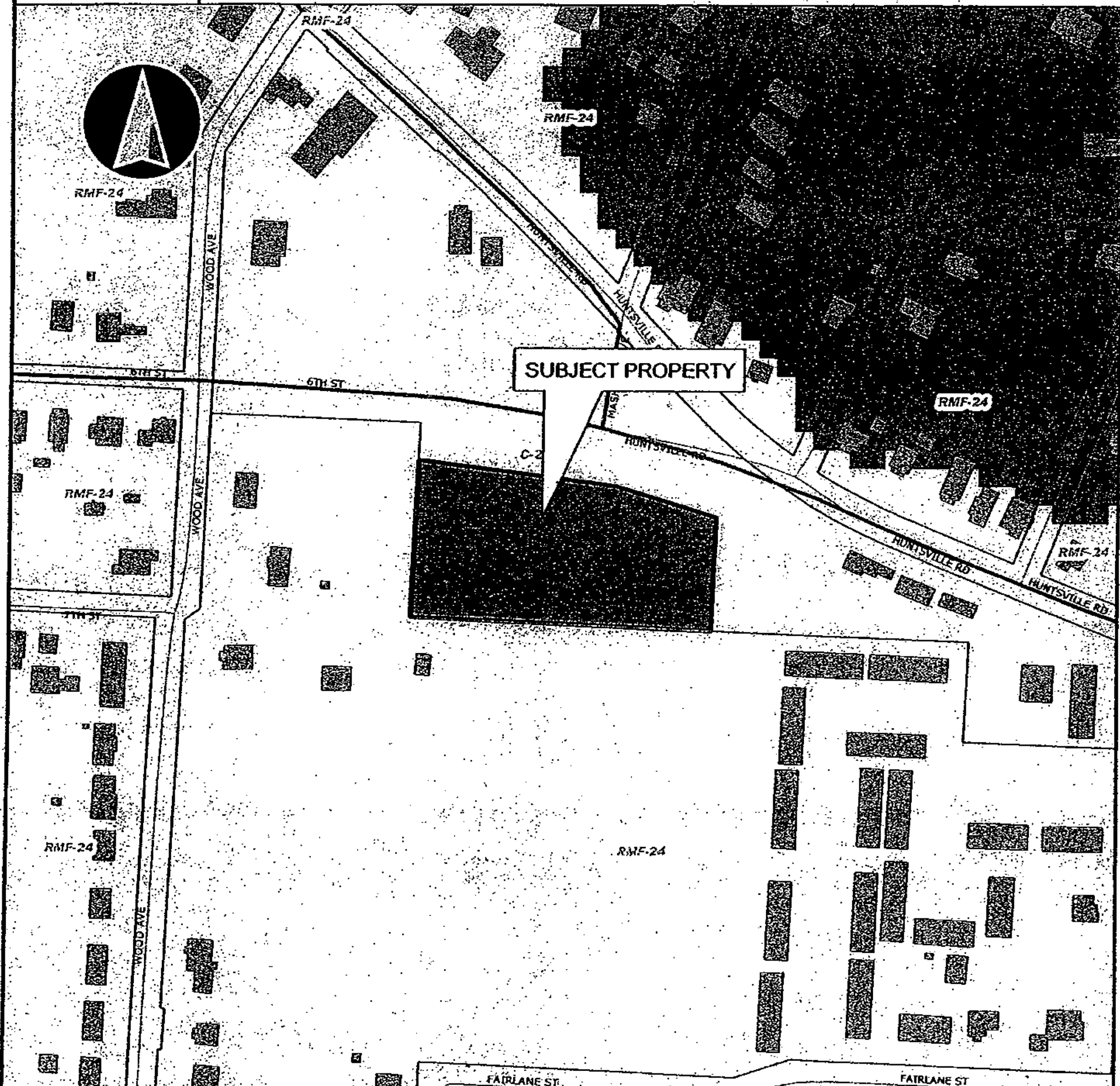
Sincerely,


Amy C. Scott, ASLA
Vice President

RPZD06-2169

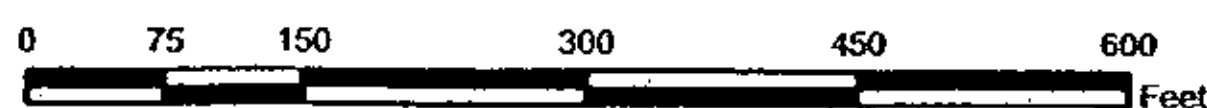
6TH & WOOD

Close Up View



Overview

- Legend**
- Overlay District
 - FLOODWAY
 - 100 YEAR
 - 500 YEAR
 - LIMIT OF STUDY
 - BaseLine Profile
 - Fayetteville
 - Outside City
 - RPZD06-2169
 - vector.GDB.Footprint_2004
 - Hillside-Hilltop Overlay District



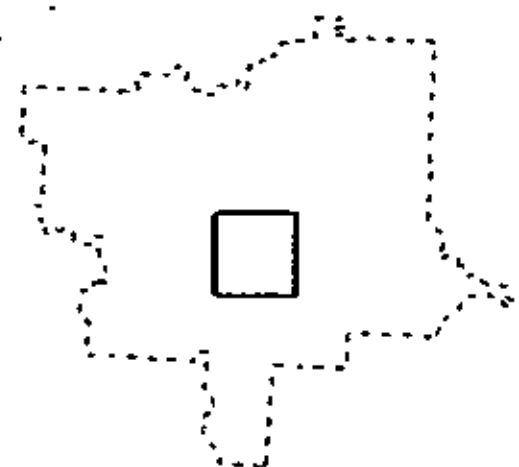
RPZD06-2169

6TH & WOOD

One Mile View



Overview



Legend

Subject Property

RPZD06-2169

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

B. 2
RZN 06-2240 Combs
Page 1 of 22

17-Oct-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2240: Rezoning (Combs, 564): Submitted by H2 Engineering, Inc. for property located at the southeast corner of Morningside Drive and 15th Street. The property is zoned RSF-4, Single-Family Four Units Per Acre and contains approximately 61.98 acres. The request is to rezone 52.65 acres of the subject property to RMF-6, Residential Multi-family, 6 Units Per Acre, and the remaining 9.33 acres to C-1, Neighborhood Commercial.

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

Budgeted Item

☐

Budget Adjustment Attached

☐


Department Director

9-28-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

9-29-06

Original Contract Number: n/a


Finance and Internal Service Director

9-29-06
Date

Received in City Clerk's Office

ENTERED

9/29/06


Mayor

10/3/06
Date

Received in Mayor's Office

ENTERED

9/29/06

Comments:

Left on the first reading 10/17/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: September 28, 2006

Subject: Rezoning for Combs (RZN 06-2240)

RECOMMENDATION

The Planning Commission recommended approval of the subject rezoning request from RSF-4 to C-1 (9.33 acres) and RMF-6 (52.65 acres) on the subject property.

BACKGROUND

The property is located at the southeast corner of 15th Street (State Highway 16) and Morningside Drive. The property consists of approximately 61.98 acres of undeveloped agricultural land. Surrounding properties are mainly undeveloped and agricultural in nature with industrial uses bordering a portion of the eastern side of the site near 15th Street.

The applicant applied to have the subject property rezoned from RSF-4 to RMF-24 at the May 8, 2006 Planning Commission meeting (RZN 06-2049). Planning Staff recommended denial of the requested rezoning, and the item was tabled indefinitely by the Planning Commission at the applicant's request. The applicant has revised the original rezoning request and is now requesting a mix of C-1 along 15th Street, and RMF-6 over the remainder of the property.

DISCUSSION

This item was heard at the regular Planning Commission on September 28, 2006. The Planning Commission voted 7-1-0 to recommend approval of this rezoning request to the City Council, with Commissioner Ostner voting 'No'. Commissioner Ostner's main concern centered on the potential incompatibility a large number of multi-family dwellings on this property could pose with the many single-family dwellings in the area.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING RZN 06-2240 SUBMITTED BY H2 ENGINEERING, INC. FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF MORNINGSIDE DRIVE AND 15TH STREET, FOR APPROXIMATELY 61.98 ACRES, REZONING THE SUBJECT PROPERTY FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO RMF-6, RESIDENTIAL MULTIFAMILY, 6 UNITS PER ACRE AND C-1, NEIGHBORHOOD COMMERCIAL.

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

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

From RSF-4, Residential Single Family Four Units Per Acre, to C-1 Neighborhood Commercial, and RMF-6, Residential Multi-Family Family as shown on Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

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

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2240

SURVEY DESCRIPTION (RSF-4 TO RMF-6):

A PART OF THE WEST HALF OF THE SOUTHEAST $\frac{1}{4}$ AND A PART OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 22 IN TOWNSHIP 16 NORTH OF RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: COMMENCING FROM A FOUND RAILROAD SPIKE, MARKING THE NORTHWEST CORNER OF THE NW $\frac{1}{4}$, SE $\frac{1}{4}$ OF SAID SECTION 22; THENCE ALONG THE WEST LINE OF SAID FORTY ACRE TRACT, S02°52'58"W 183.00 FEET TO A 5/8" REBAR AND THE POINT OF BEGINNING; THENCE LEAVING SAID WEST LINE, S87°15'33"E 849.75 FEET TO A 5/8" REBAR; THENCE N02°46'10"E 152.24 FEET TO A 5/8" REBAR ON THE SOUTH RIGHT OF WAY OF ARKANSAS STATE HIGHWAY 16, THENCE ALONG SAID SOUTH RIGHT OF WAY, S87°03'55"E 1054.92 FEET TO A POINT, WITH A FOUND $\frac{1}{2}$ " REBAR BEING OFFSET 7.25 FEET S02°41'04"W FROM CORNER, THENCE LEAVING SAID SOUTH RIGHT OF WAY S02°41'04"W 1286.96 FEET TO A FOUND 3/8" REBAR ON THE SOUTH LINE OF THE NE $\frac{1}{4}$, SE $\frac{1}{4}$ OF SAID SECTION 22, THENCE ALONG THE SOUTH LINE OF SAID FORTY ACRE TRACT, N87°31'44"W 594.85 FEET TO A FOUND 5/8" REBAR IN CONCRETE, MARKING THE SOUTHWEST CORNER OF THE NE $\frac{1}{4}$, SE $\frac{1}{4}$ OF SAID SECTION 22; THENCE ALONG THE EAST LINE OF THE W $\frac{1}{2}$, SE $\frac{1}{4}$, S02°37'48"W 333.40 FEET TO A 5/8" REBAR, THENCE LEAVING SAID EAST LINE, N87°14'49"W 882.31 FEET TO A FOUND $\frac{1}{2}$ " REBAR, THENCE N49°37'35"W 545.90 FEET TO A FOUND $\frac{1}{2}$ " REBAR, MARKING THE SOUTHWEST CORNER OF THE NW $\frac{1}{4}$, SE $\frac{1}{4}$ OF SAID SECTION 22, THENCE ALONG THE WEST LINE OF SAID FORTY ACRE TRACT, N02°52'58"E 1140.98 FEET TO THE POINT OF BEGINNING, CONTAINING 61.98 ACRES, MORE OR LESS, AND SUBJECT TO ANY EASEMENTS AND RIGHTS OF WAY OF RECORD.

LESS AND EXCEPT:

A PART OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND PART OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 22 TOWNSHIP 16 NORTH RANGE 30 WEST OF THE FIFTH PRINCIPLE MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: COMMENCING FROM A FOUND RAILROAD SPIKE, MARKING THE NORTHWEST CORNER OF THE NW $\frac{1}{4}$, SE $\frac{1}{4}$ OF SAID SECTION 22, THENCE ALONG THE NORTH LINE OF SAID NW $\frac{1}{4}$, SE $\frac{1}{4}$ S87°19'15"E 849.27 FEET, THENCE DEPARTING SAID NORTH LINE S02°46'10"W 29.30 FEET TO AN EXISTING 5/8" REBAR IN THE SOUTH RIGHT OF WAY OF ARKANSAS STATE HIGHWAY 16 AND THE POINT OF BEGINNING, THENCE ALONG SAID SOUTH RIGHT OF WAY S87°03'55"E 1054.92 FEET, THENCE DEPARTING SAID SOUTH RIGHT OF WAY S02°41'04"W 408.42 FEET, THENCE N84°33'35"W 1056.67 FEET, THENCE N02°46'10"E 362.22 FEET TO THE POINT OF BEGINNING CONTAINING 9.33 ACRES MORE OR LESS. CONTAINING A TOTAL OF 52.65 ACRES MORE OR LESS.

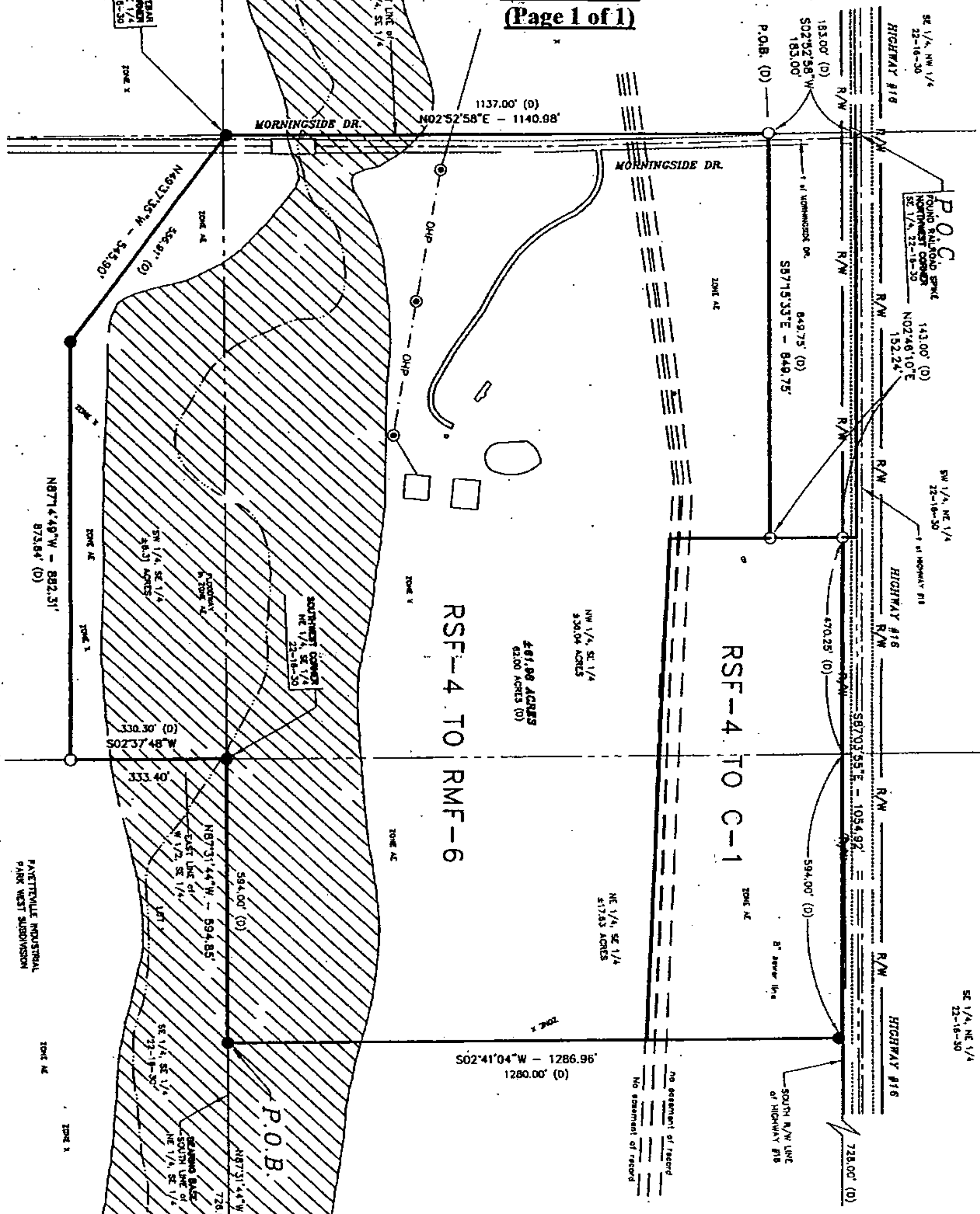
AND

SURVEY DESCRIPTION (RSF-4 TO C-1):

A PART OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND PART OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 22 TOWNSHIP 16 NORTH RANGE 30 WEST OF THE FIFTH PRINCIPLE

MERIDIAN IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT: COMMENCING FROM A FOUND RAILROAD SPIKE, MARKING THE NORTHWEST CORNER OF THE NW ¼, SE ¼ OF SAID SECTION 22, THENCE ALONG THE NORTH LINE OF SAID NW ¼, SE ¼ S87°19'15"E 849.27 FEET, THENCE DEPARTING SAID NORTH LINE S02°46'10"W 29.30 FEET TO AN EXISTING 5/8" REBAR IN THE SOUTH RIGHT OF WAY OF ARKANSAS STATE HIGHWAY 16 AND THE POINT OF BEGINNING, THENCE ALONG SAID SOUTH RIGHT OF WAY S87°03'55"E 1054.92 FEET, THENCE DEPARTING SAID SOUTH RIGHT OF WAY S02°41'04"W 408.42 FEET, THENCE N84°33'35"W 1056.67 FEET, THENCE N02°46'10"E 362.22 FEET TO THE POINT OF BEGINNING CONTAINING 9.33 ACRES MORE OR LESS.

EXHIBIT "B"
RZN 06-2240
(Page 1 of 1)





PC Meeting of September 25, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: September 19, 2006 *Updated September 26, 2006*

RZN 06-2240: Rezoning (COMBS, 564): Submitted by H2 ENGINEERING, INC. for property located at SE CORNER OF MORNINGSIDE DRIVE AND 15TH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 61.98 acres. The request is to rezone 52.65 acres of the subject property to Residential Multi-family, 6 units per acre and the remaining 9.33 acres to C-1, Neighborhood Commercial.

Property Owner: CHARLES T. COMBS
Planner: ANDREW GARNER

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:		Required	☒ YES
		☒ Forward (recommendation for approval)	☐ Denied
Motion: Myres			
Second: Graves			
Vote: 7-1-0 (Ostner voting "No")			
Date: September 25, 2006			
CITY COUNCIL ACTION:		Required	☒ YES
		☐ Approved	☐ Denied
Date: October 17, 2006 (1 st reading if recommended)			

BACKGROUND:

Background: The applicant applied to have the subject property rezoned from RSF-4 to RMF-24 at the May 8, 2006 Planning Commission meeting (RZN 06-2049). Planning Staff recommended denial of the requested rezoning, and the item was tabled indefinitely by the Planning Commission at the applicant's request.

Property: The subject property is located at the southeast corner of 15th Street (State Highway 16)

and Morningside Drive in south Fayetteville. The property consists of approximately 62 acres of undeveloped agricultural land. Surrounding properties are mainly undeveloped and agricultural in nature with industrial uses bordering a portion of the eastern side of the site near 15th Street. Surrounding land use and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Agricultural	RSF-4; RMF-24
South	Agricultural/Salvage yard	I-2
East	Industrial	I-1
West	Agricultural/Rural Residential	I-1, RMF-24, R-A

RSF-4 (Residential Single-Family Four Units Per Acre)
RMF-24 (Residential Multi-Family 24 Units Per Acre)
I-1 (Heavy Commercial and Light Industrial)
I-2 (General Industrial)

Request: The request is to rezone the 61.98-acre property as shown in *Table 2*, with the maximum amount of units that would be allowed and overall density on the site included:

Table 2
Proposed Rezoning

Existing Zoning	Proposed Zoning	Acres	Location On the Property	Residential Density (Units/Acre)	Maximum Number of Units
RSF-4	C-1	9.33	Along 15th Street frontage adjacent to north and east property lines.	24	223.92
RSF-4	RMF-6	52.65	Remainder of property including approximately 32 acres in the floodplain.	6	315.90
TOTAL		61.98		9	540

Note #1: Residential units in the C-1 zoning district are required to be accessory to the commercial use on the site.

Note #2: Approximately 32 acres of the proposed RMF-6 acres are located within a floodplain which would be a constraint to development. Therefore the overall density would likely be less than the maximum allowed by ordinance.

Recommendation: Staff recommends approval of the rezoning based on findings stated herein. The proposed zoning would be compatible with adjacent zoning and existing density and development, and would be in character with the mix of surrounding agricultural, residential, and industrial development.

INFRASTRUCTURE:

Streets: Currently the site has access to Morningside Drive, which is a Collector along the western property line, and 15th Street (State Highway 16) which is a Principal Arterial along the northern property line. Street improvements to Morningside Drive and 15th

Street would be evaluated at the time of development, as well as signal assessment or installation at the time of development.

Water: Public water is adjacent to the site. There is a 24" waterline along Morningside Drive. 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 available on the site. There are sewer lines that run across the property. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended within the property at the time of development.

Fire: The subject property is located 1.9 miles from the Fire Station No. 1. A response time of 4.75 minutes is estimated; however, when the proposed Station 3 is in service at Happy Hollow and East Huntsville, the response time will decrease to 2.25 minutes. No adverse effects on call volume or response time are anticipated.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will alter the population density but will not create an undesirable increase on police services.

LAND USE PLAN: The City Plan 2025 Interim Future Land Use Plan designates this site as **Mixed Use**. Rezoning this property to C-1 and RMF-6 in the layout proposed is consistent with that plan. There are multiple transportation corridors in this vicinity and a mixture of uses would be able to be provided. The residential uses would be adjacent to the creek, density would be increased by approximately 2 units per acre, in a different development pattern than a typical RSF-4 zoning. The C-1 zoning along 15th Street would allow for provision of neighborhood commercial services that would be accessible to surrounding residential areas in the vicinity. The entire property frontage along 15th Street would be zoned commercial to prevent residential property from backing up to, or accessed off of, a principal arterial.

FINDINGS OF THE STAFF:

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

Finding: The proposed zoning is consistent with the City's land use planning objectives, principles and policies. The proposal represents a modest increase in density over the site with commercial use proposed along 15th Street in the northeast portion of the property with multi-family residential development over the remaining portions of the site and adjacent to Town Branch Creek in the southern portion of the property. There is a small pocket of multi-family zoning adjacent to the western border of the site, and single-family and multi-family

zoning north of the site across 15th Street, industrial zoning and uses are located to the east. Staff finds that rezoning to RMF-6 and C-1 creates the potential for consistent and compatible development standards and land uses in this transition area between industrial and residential uses. The Interim Future Land Use Plan supports mixed use in this location. The proposed RMF-6 density on approximately 52 acres provides adequate transition between a variety of the surrounding zonings and land uses.

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

Finding: Staff finds the proposed zoning is justified and needed. The anticipation of future residences and commercial use to support those residences is needed in this vicinity and consistent with the City Plan 2025. The request utilizes commercial zoning along the 15th Street frontage and residential development along Morningside Drive to provide compatibility with the surrounding zonings, and existing streets adjacent to the property.

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

Finding: The additional traffic generated by the rezoning request for the RMF-6 portion of the property fronting Morningside Drive approaches 4,000 average daily vehicle trips (ADT). Collector Streets are designed to support 4,000 – 6,000 ADT. State Highway 16 (15th Street) is designated as a Principal Arterial with a designed service volume of 17,600 – 20,600 (ADT). Fifteenth Street had an ADT of 12,000 in the year 2002¹. The proposed 9.33 acres of C-1 zoning would generate traffic that would be accessed off of 15th Street. It is not anticipated that the proposed rezoning to C-1 and RMF-6 would create an appreciable increase in traffic danger and congestion. However, street and traffic conditions in the vicinity and potential on- and off- site street improvements to address these conditions would be analyzed in detail at the time of development. As part of this analysis, the City would evaluate for street improvements to Morningside Drive and 15th Street, as well as signal assessment or installation at the time of development.

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

Finding: The proposed zoning would increase population density from that zoning

¹ 2002. Arkansas State Highway and Transportation Department of Planning and Research Division in Cooperation with the United States Department of Transportation Federal Highway Administration. 2002 Traffic Volumes Maps of Fayetteville-Springdale.

currently in place. The 62-acre tract under an RSF-4 zoning designation would allow for a maximum 248 single family residential dwelling units. With the proposed RMF-6 and C-1 designation, a maximum of 540 multi-family dwelling units would be permitted². This change in zoning would not substantially increase the possible number of residents in this area creating adverse impacts to public services.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. The recommendation from these departments is that the proposed rezoning would not undesirably increase the load on public services.

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

Finding: N/A

² The C-1 Zoning district allows a density of 24 units/acre for residential units that are accessory to a commercial use.

Fayetteville Unified Development Code

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

(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 Unified Development Code
161.10 District Rmf-6, Residential Multi-
Family – Six Units Per Acre**

(A) *Purpose.* The RMF-6 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a low density that is appropriate to the area and can serve as a transition between higher densities and single-family residential areas.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

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

(C) *Density.*

Units per acre	4 to 6
----------------	--------

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

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

(E) *Setback requirements.*

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

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

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

(G) *Building area.* None.

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

**Fayetteville Unified Development Code
161.16 District C-1, Neighborhood
Commercial**

1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

(A) *Purpose.* The Neighborhood Commercial District, is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

September 18, 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 rezoning **RZN 06-2240: (COMBS, 564)**: Submitted by H2 ENGINEERING, INC. for property located at SE CORNER OF MORNINGSIDE DRIVE AND 15TH STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE 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.

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

In reference to HORTON OF HARRIS MCHANEY REALTORS for property located at SW CORNER RZN 06-2244: (HENNINGSEN COLD STORAGE, 717): Submitted by JERRY OF SUNRISE MOUNTAIN AND S. SCHOOL (HWY 71B S).

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

In reference to R-PZD 06-1884: Planned Zoning District (WESTSIDE VILLAGE CONDOS, 439): Submitted by TODD JACOBS CRITICAL PATH DESIGN for property located at S OF WEDINGTON, E OF RUPPLE RD.

RZN06-2028 (Mountain Ranch)

These 229.53 acres is covered by Engine 7 at 835 N Ruppel.

It is 1.6 miles from the station with an expected response time of 4 minutes. When Persimmon is extended past Betty Jo, the response time should be decreased to 3.25 minutes and even less time and distance when Persimmon is extended to Ruppel Road.

There has been no measured hydrant flow conducted in this area.

We do not figure calls for service on property where the request is to modify the boundary of the zoning districts.

RZN06-2048 (Tetra Investments)

These 1.37 acres is covered by Engine 6 at 900 S. Hollywood.

It is 1.1 miles from the station with an expected response time of 3.75 minutes.

The Fire Department anticipates 7 (4 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There has been no measured hydrant flow conducted in this area.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

RZN06-2049 (Combs)

These 62 acres is covered by Engine 1 at 303 W Center.

It is 1.9 miles from the station with an expected response time of 4.75 minutes. When the proposed Station 3 is put in service at Happy Hollow and E Huntsville, the response time will decrease to 2.25 minutes.

The Fire Department anticipates 337 (204 EMS – 133 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There has been no measured hydrant flow conducted in this area.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

RZN06-2050 (Wales)

This 1.42 acres is covered by Engine 5 at 833 N Crossover.

It is 2.1 miles from the station with an expected response time of 5.5 minutes. When the new station 5 is put in service at Crossover and Old Wire the response time will increase to 6 minutes. Measured Hydrant Flow in this area is 835 gallons/minute.

There are no anticipated calls for service for a zoning this small and there should be no adverse effects on our response time to this annexation.

Please contact me if you have any questions or concerns.

Dale Riggins

479-444-3448

Fayetteville Fire Department



August 17, 2006

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

RE: 15TH STREET & MORNINGSIDE DRIVE REZONING REQUEST

Staff,

Please accept this correspondence and the enclosed application materials as an official request to rezone approximately 62 acres at the southeast corner of 15th St. (Hwy 16) and Morningside Drive in southeast Fayetteville. The property is currently owned by Gary Combs and there is no sale proposed or pending related to this parcel at this time.

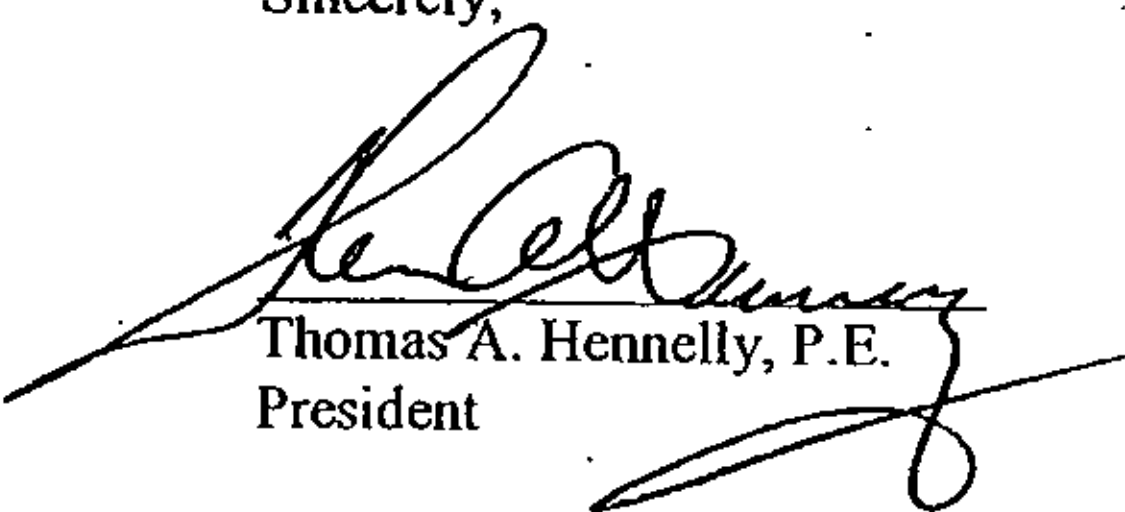
The 61.98 acre parcel described in this application is currently zoned RSF-4. The request is to rezone 52.65 acres to RMF-6 and the remaining 9.33 acres along 15th St. to C-1. The reason for the request is that approximately 32 of the 61.98 acres is in the flood plain leaving only 30 acres for development. Additionally, the property is surrounded by higher density or industrial zoning. There is RMF-24 and R-A to the west, I-2 to the south, I-1 to the east, and RMF-24 to the north. The requested RMF-6 zoning allows for better use of the property outside of the flood plain. We also anticipate, with so much RMF-24 zoned property in the area, a need for more C-1 Neighborhood Commercial in the area. The C-1 request was made on 15th street so as not to have residential property backing up to, or accessing off of, a principal arterial.

With the requested zoning, this property will be similar in land use, traffic generation, and appearance, to the surrounding properties. Signage will be in accordance with the city code.

There are existing 30" and 8" sewer mains running through the property. There is an existing 12" water main on the north side of 15th street and a 24" water main on Morningside Drive.

If you have any questions regarding this request, please call me @ 582-4234.

Sincerely,



Thomas A. Hennelly, P.E.
President



August 17, 2006

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

RE: 15TH STREET & MORNINGSIDE DRIVE REZONING REQUEST

Commissioners,

Please accept this correspondence and the enclosed application materials as an official request to rezone approximately 62 acres at the southeast corner of 15th St. (Hwy 16) and Morningside Drive in southeast Fayetteville. The property is currently owned by Gary Combs and there is no sale proposed or pending related to this parcel at this time.

The 61.98 acre parcel described in this application is currently zoned RSF-4. The request is to rezone 52.65 acres to RMF-6 and the remaining 9.33 acres along 15th St. to C-1. The reason for the request is that approximately 32 of the 61.98 acres are in the flood plain leaving only 30 acres for development. Additionally, the property is surrounded by higher density or industrial zoning. There is RMF-24 and R-A to the west, I-2 to the south, I-1 to the east, and RMF-24 to the north. The requested RMF-6 zoning allows for better use of the property outside of the flood plain. We also anticipate, with so much RMF-24 zoned property in the area, a need for more C-1 Neighborhood Commercial in the area. The C-1 request was made on 15th street so as not to have residential property backing up to, or accessing off of, a principal arterial.

This rezoning request is consistent with land use planning objectives in that the property is bounded by high density residential zoning and industrial zoning. While we are requesting an increase in the density we feel that RMF-6 is a reasonable density in this area. The future land use plan indicates this parcel to be an industrial use.

We feel this zoning request is justified in part due to the amount of property which is located in the flood plain associated with the Town Branch which is undevelopable. There is only about 30 acres of the 62 which is outside of the flood plain. It is the owner's intent to donate the remaining 32 acres to the parks department, which has this area slated for a trails corridor. We have made the request for 9.33 acres of C-1 zoning because there is a need for neighborhood commercial in this area to service the amount of residential property in the area.

While the rezoning will create an increase in traffic in the area we do not anticipate an increased traffic danger. We have been made aware of the plan to signalize the 15th Street/Morningside intersection. The developer anticipates improvements to 15th Street, Morningside Drive, and an assessment to cover a portion of the cost of signalizing the intersection.

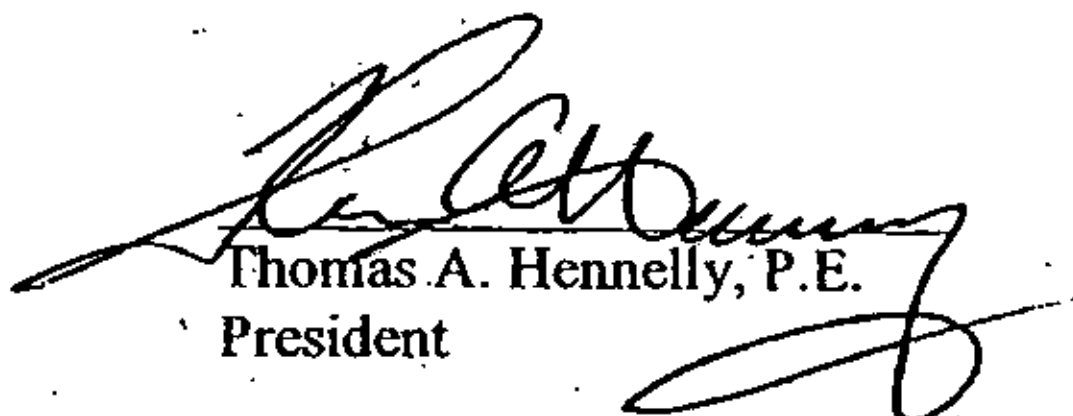
The rezoning will increase the population density, but not to the point so as to cause an undesirable burden on public services. The addition of commercial zoning to the area will help prevent residents from traveling across town to shop, thus reducing traffic in other areas of the

city. In addition, the increase in sales tax generated is anticipated to help offset the added student load on the schools.

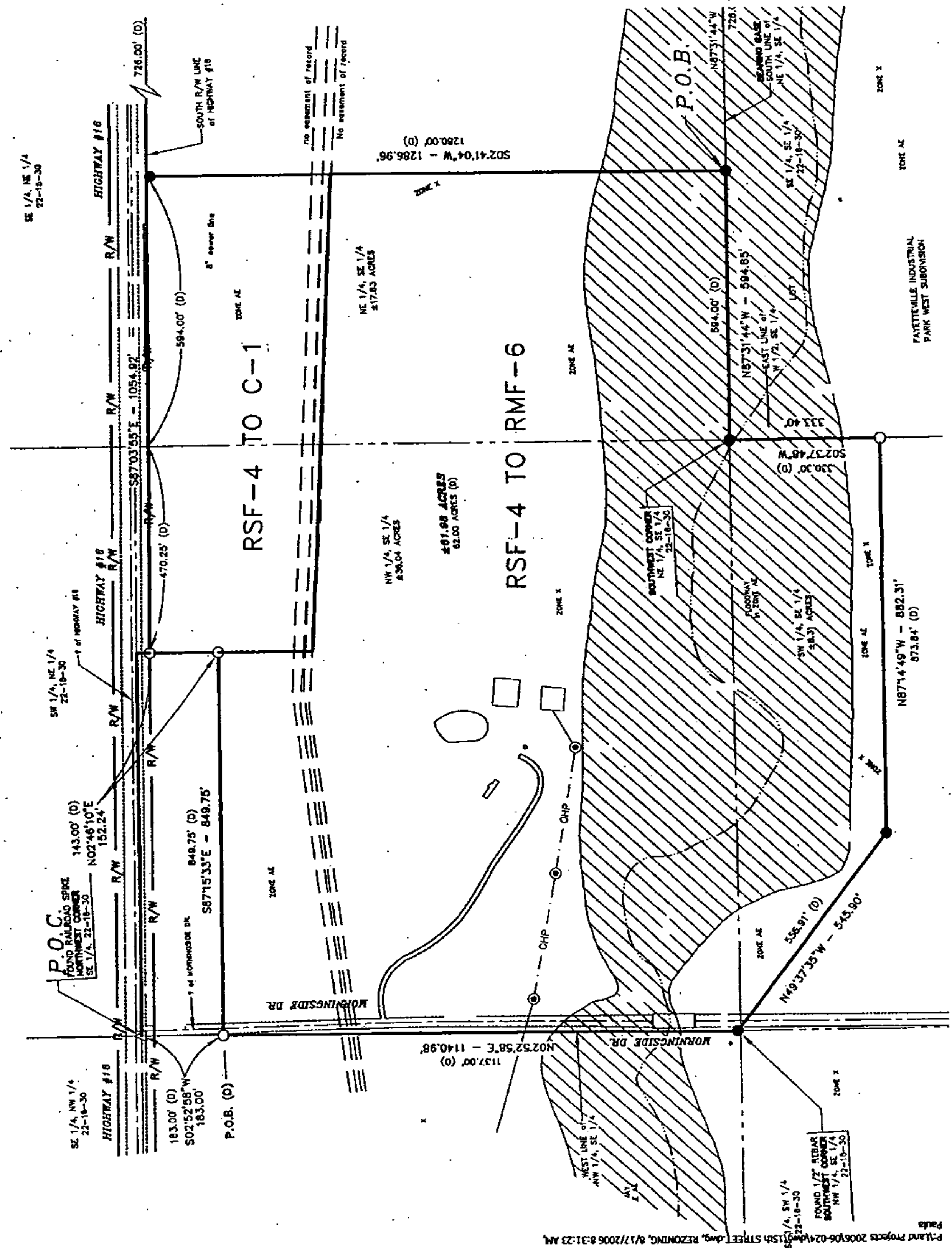
As stated previously, with nearly half of the property in the flood plain it is difficult to develop the property at the current density of 4 units per acre.

If you have any questions regarding this request, please call me @ 582-4234.

Sincerely,



Thomas A. Hennelly, P.E.
President

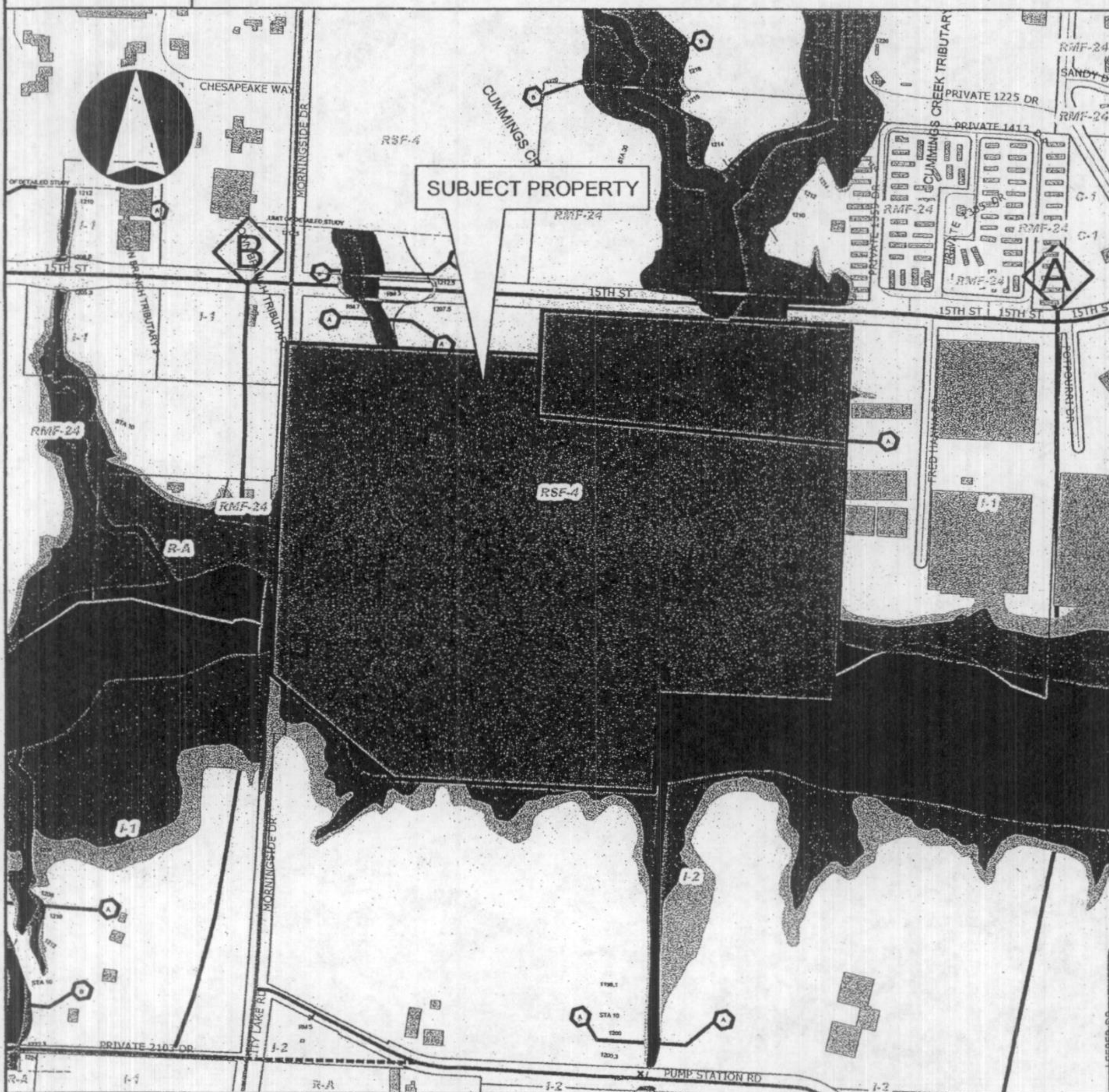


Project 200606-0241, Rezoning, 8/17/2006 8:31:23 AM, Pauls

RZN06-2240

Close Up View

COMBS

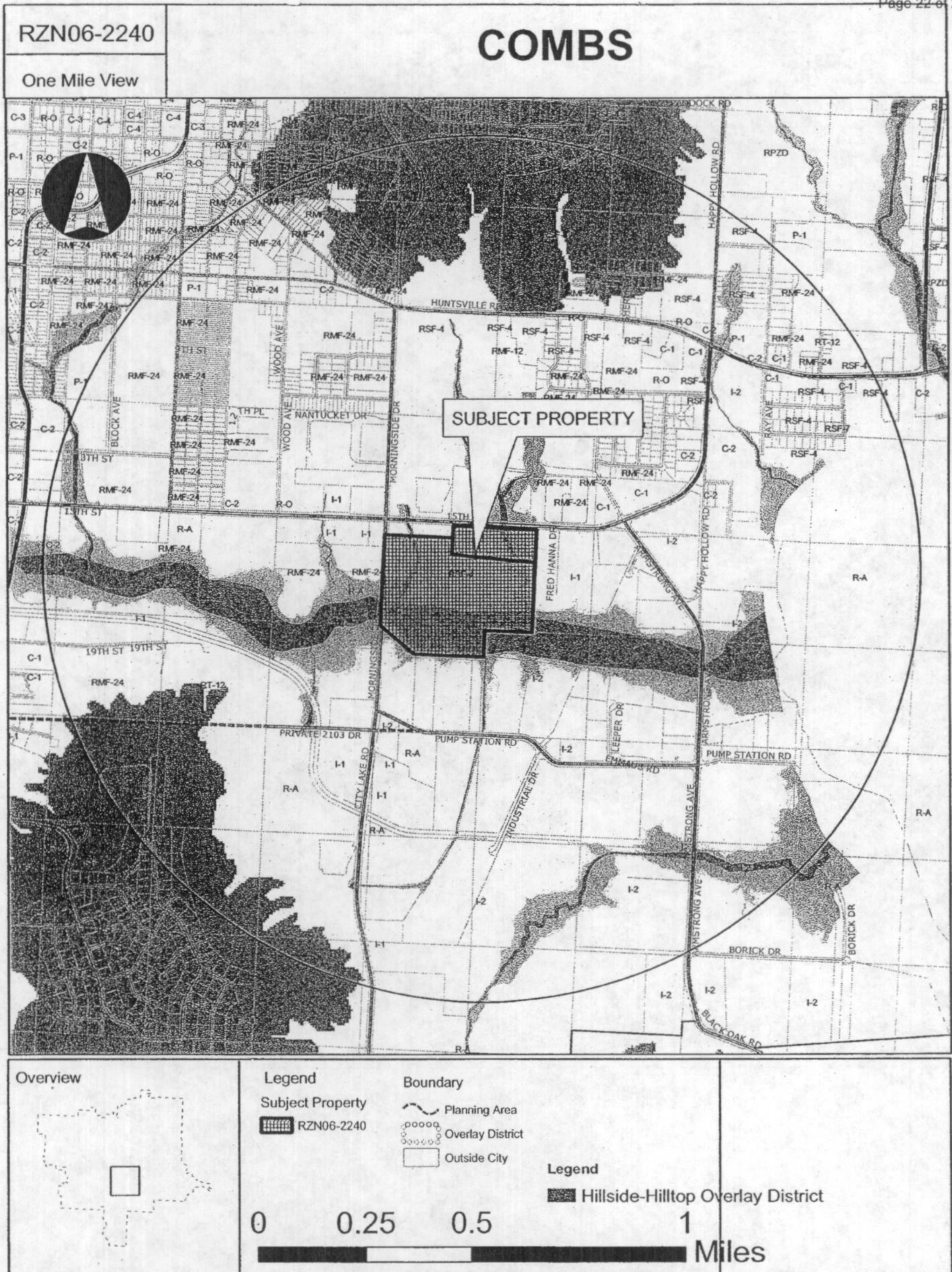


Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-2240
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 200 400 800 1,200 1,600 Feet



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 1
Raze and Removal at
1762 Stirman Avenue
Page 1 of 18

7-Nov-06
City Council Meeting Date

Yolanda Fields
Submitted By

Community Resources
Division

Operations
Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structures located at 1762 Stirman Ave, Fayetteville, AR 72701

\$10,000.00

Cost of this request

\$25,000.00

Category/Project Budget

1010 6420 5315 00

Account Number

\$25,000.00

Funds Used to Date

Contract Services

Program / Project Category Name

\$0.00

Remaining Balance

General Fund

Fund Name

Budgeted Item

Budget Adjustment Attached

X

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Received in City Clerk's Office

Finance and Internal Service Director

Date

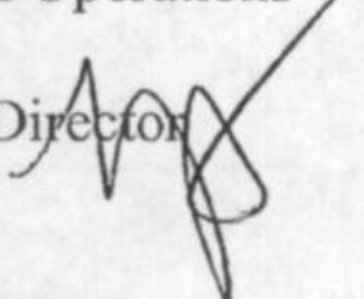
Received in Mayor's Office

Mayor

Date

Staff recommends Raze and Removal of the structures and approval of the budget adjustment.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, CRCC Director 
Date: October 13, 2006
Subject: Raze & Removal of structure on 1762 Stirman Ave

BACKGROUND

Service Request #35375, Case #4707: Code Compliance responded to a complaint concerning the structure located at 1762 Stirman Ave. The structure appeared to possibly be in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

An Unsafe Buildings Notice of Violation was sent by Certified Mail to the property owner and family of the property owner on May 5, 2006. An agent for the property owner signed the Certified Mail receipt on May 8, 2006. The son of the property owner also signed for the Certified Mail receipt on May 6, 2006. By ordinance, the owner was given until June 8, 2006 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains a one story wood frame single family dwelling and a small shed. The building is secure but has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structures.

BUDGET IMPACT

Contracting the raze and removal of the structures would cost approximately \$10,000.00. A budget adjustment is needed to fund this project. 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 RUBY M. ABEL AND LYNN EDWARD ABEL LOCATED AT 1762 STIRMAN AVENUE IN THE CITY OF FAYETTEVILLE, ARKANSAS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$10,000.00.

WHEREAS, Ruby M. Abel and Lynn Edward Abel are the record owners of the real property situated at 1762 Stirman Avenue, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-09653-000; 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, Ruby M. Abel and Lynn Edward Abel 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, Ruby M. Abel and Lynn Edward Abel 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 Ruby M. Abel and Lynn Edward Abel 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.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$10,000.00 to contract for the razing and removal of said structure.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: DAN COODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

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

C. 1
Raze and Removal at
1762 Stirman Avenue
Page 5 of 18

Budget Year 2006	Department: Operations Division: Community Resources & Code Comp Program: Community Code Enforcement	Date Requested 10/19/2006	Adjustment Number
--------------------------------	--	---	-------------------

Project or Item Added/Increased: \$10,000 is requested in the Contract Services account of the Community Code Enforcement program.	Project or Item Deleted/Reduced: \$10,000 from the Transfer to CEMS account located in Miscellaneous Program.
---	--

Justification of this Increase: Due to a software error, the amount was contained in the 2006 Annual Budget but wasn't included in the actual funds appropriation.	Justification of this Decrease: This adjustment is administrative. There is no increase in the use of fund balance. Due to the contract approved with CEMS, only \$250,000 of the budgeted \$300,000 is needed for 2006.
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Contract services	1010 6420 5315 00	10,000	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Transfer to CEMS	1010 6600 5705 00	10,000	

Approval Signatures

Requested By	Date
	10/14/06
Budget Manager	Date
Department Director	Date
	10-19-2006
Finance & Internal Services Director	Date
Mayor	Date

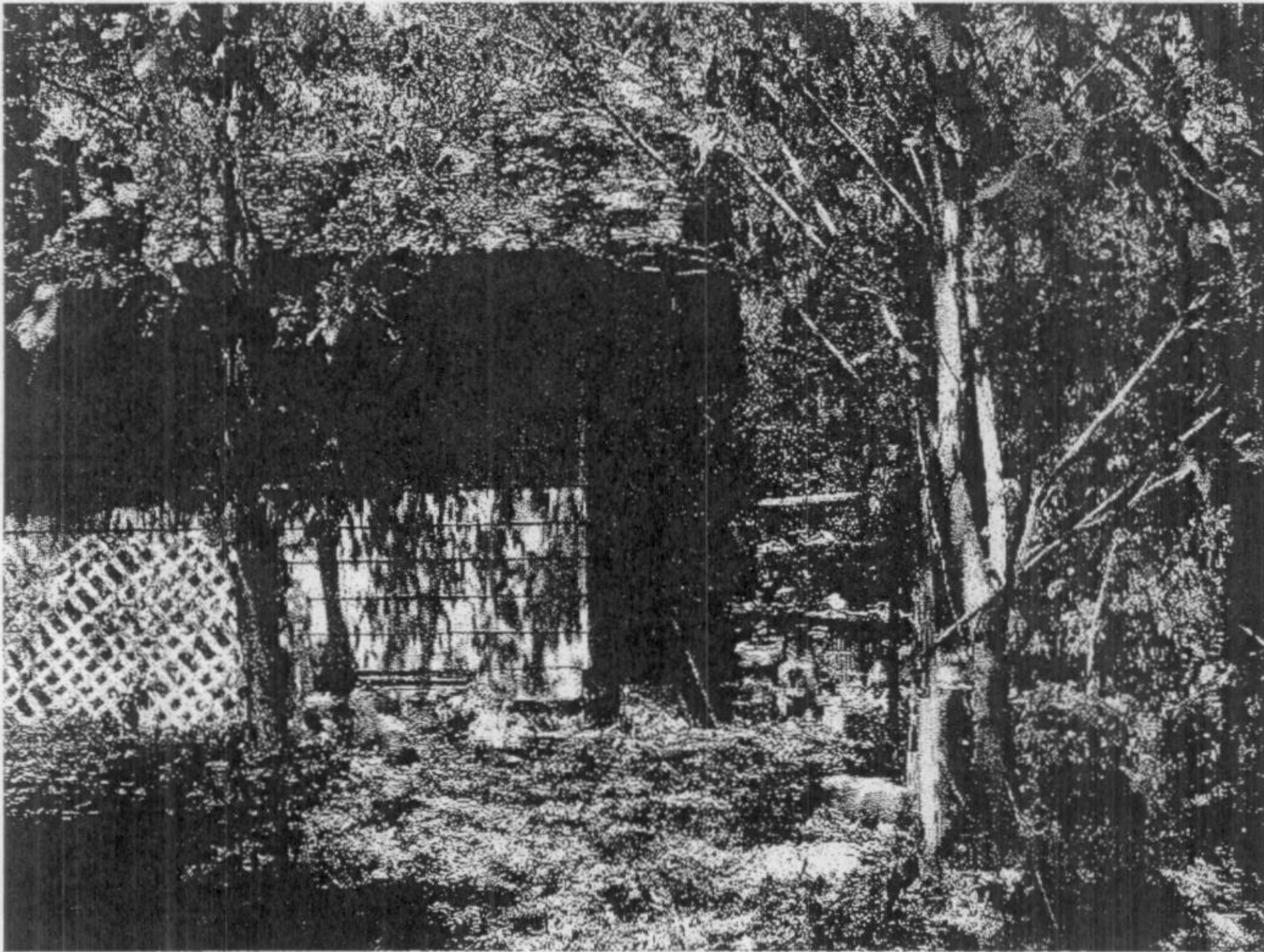
Budget Office Use Only

Type:	A	B	C	<u>D</u>	E
Posted to General Ledger	Initial		Date		
Posted to Project Accounting	Initial		Date		
Entered in Category Log	Initial		Date		

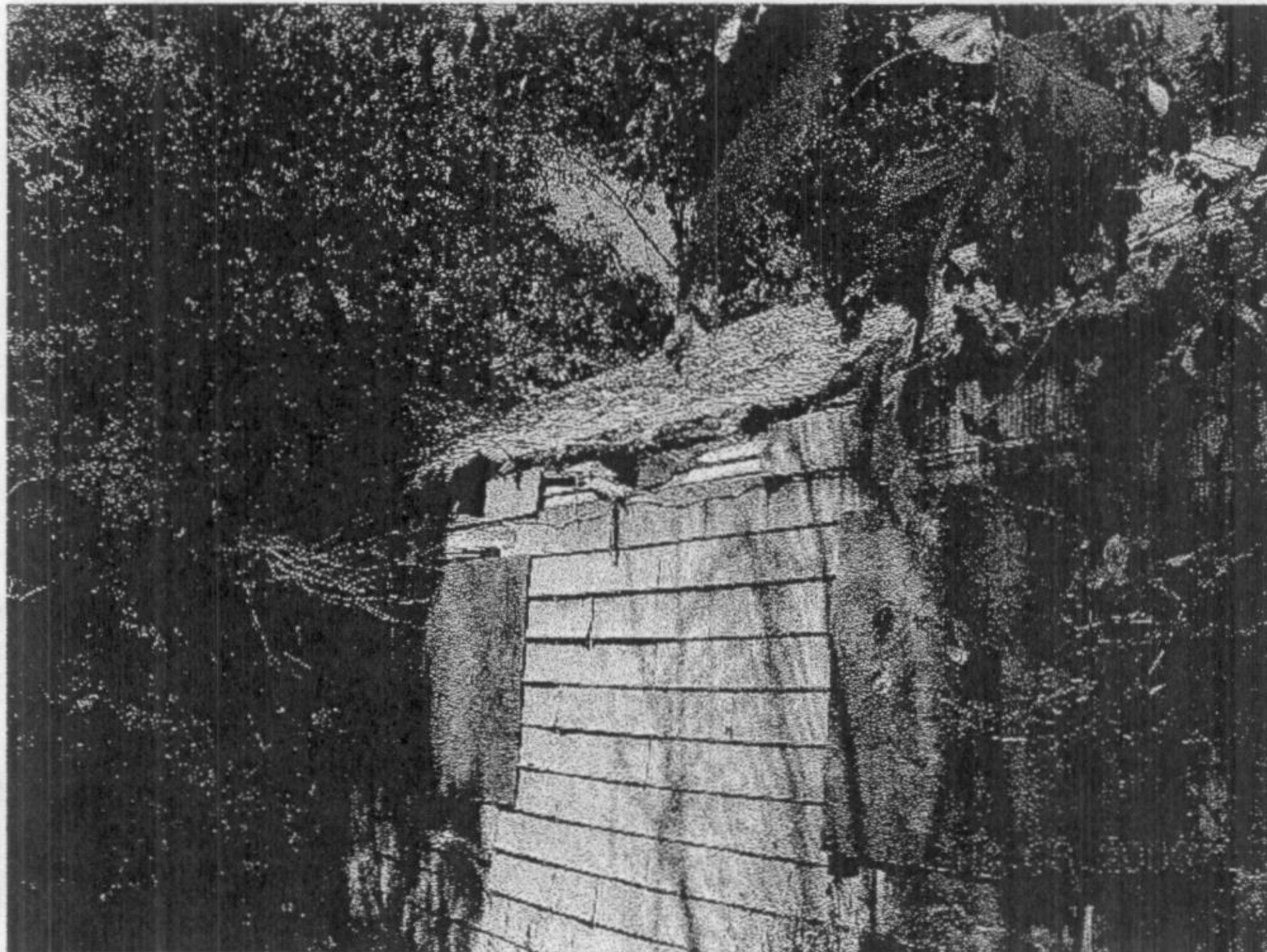


1762 S Stirman





1762 S Stirman





Community Resources and Code Compliance
Unsafe Building Violation Determination

Address / Location: 1762 S. Stirman Ave.

WC Parcel # 765-09653-000

I have determined that the structure above has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

I recommend the raze and removal of the structure.

A handwritten signature in black ink, appearing to be "J. L. Little", written over a horizontal line.

Building Safety Division Director

I have determined that the structure above is not in violation of Ordinance 173.08 of the Fayetteville Code Of Ordinances.

Building Safety Division Director

PLEASE RETURN THIS FORM TO CRCC

Date Sent: 4/17/06

Date Received: 5/3/06

A handwritten signature in black ink, appearing to be "J. L. Little", written over a horizontal line.

CRCC Division Director

SR- 35375 C# 4707



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

C. 1
Raze and Removal at
1762 Stirman Avenue
Page 9 of 18

July 5, 2006

Ruby M. Abel, Lynn Edward Abel
#1 N. School Ave #401
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 1762 S. Stirman Ave (Parcel #765-09653-000), 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 September 5, 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

CITY OF FAYETTEVILLE CODE COMPLIANCE PROGRAM

OFFICER DELIVERY FORM

Officer delivery is required for the attached document: Notice: 173.08 Unsafe Buildings.

Name and Address to Deliver: Ruby M. Abel, Lynn Edward Abel
#1 N. School Ave. #401
Fayetteville, AR 72701

Owner/Occupant's Signature (NO Signature) Ruby Abel

Return of Service

I, Chad Ball, of the Code Compliance Program
(Officer name - print)

certify that I provided a true copy of the document described above to:

Ruby Abel at the following address;
(name of recipient)

#1 N. School Ave (Hillcrest Towers)

Delivery Date 7/12/06 Time 2:25pm

Officer Signature [Signature]



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

C. 1
Raze and Removal at
1762 Stirman Avenue
Page 11 of 18

July 5, 2006

Ruby M. Abel , Lynn Edward Abel
#1 N. School Ave #401
Fayetteville, AR 72701

RE: Enforcement of Ordinance 173.08
Arkansas Code Ann. 14-56-203

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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 ☐ Agent ☒ Addressee B. Received by (Printed Name) Adrian Abel C. Date of Delivery 7-12-06 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
1. Article Addressed to: RUBY M & LYNN EDWARD ABEL C/O ADRIAN ABEL 165 TIMBER LANE WEST FORK, AR 72774	3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes
2. Article Number (Transfer from service label)	7004 2510 0000 8363 0560
PS Form 3811, February 2004 Domestic Return Receipt 4707 PH 102595-02-M-1540	

0950 0363 0000 0152 4002

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	\$	7/10/06 Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To Anne

Street, Apt. No., or PO Box No.

City, State, ZIP+4

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
1762 Stirman Avenue
Page 13 of 18
Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

May 05, 2006

Owner: RUBY M. ABEL; ABEL, LYNN EDWARD
C/O ADRIAN ABEL
165 TIMBER LN.
WEST FORK, AR 72774

RE: Property @ 1762 S STIRMAN AVE, Fayetteville, AR

WC Parcel # 765-09653-000

Case # 4707

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)575-8237.

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,

PRESTON HAMMONS
Code Compliance Officer

Cc: file, A. Abel

copy as mailed
to R. Abel
@ #1 N. School Ave #409

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 <i>J. Henning</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: <i>Ruby M. Abel; Lynne E. Abel 1 N. School Ave., #401 Fayetteville, AR 72701</i>		B. Received by (Printed Name)	C. Date of Delivery <i>5-8-06</i>
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	
2. Article Number (Transfer from service label)		7005 1820 0001 9765 1198	
PS Form 3811, February 2004		Domestic Return Receipt <i>4707</i>	

7005 1820 0001 9765 1198

U.S. Postal Service TM	
CERTIFIED MAIL [®] RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <i>Ruby M. Abel; Lynne E. Abel</i> Street, Apt. No., or PO Box No. <i>1 N. School Ave., #401</i> City, State, ZIP+4[®] <i>Fayetteville, AR 72701</i> PS Form 3800, June 2002 See Reverse for Instructions	

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



VIOLATION NOTICE

C. 1
Raze and Removal at
1762 Stirman Avenue
Page 15 of 18

Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

May 05, 2006

Owner: RUBY M. ABEL; ABEL, LYNN EDWARD
C/O ADRIAN ABEL
165 TIMBER LN.
WEST FORK, AR 72774

RE: Property @ 1762 S STIRMAN AVE, Fayetteville, AR

WC Parcel # 765-09653-000

Case # 4707

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)575-8237.

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,

A handwritten signature in cursive script, appearing to read "Preston Hammons".

PRESTON HAMMONS
Code Compliance Officer

Cc: file, R. Abel

*Copy as mailed to
A. Abel
@ 165 Timber Ln.
Westfork AR 72774*

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 <i>[Signature]</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: <i>Ruby M. Abel; Lynn F. Abel</i> <i>c/o Adrian Abel</i> <i>165 Timber Ln.</i> <i>Westfork, AR 72774</i>		B. Received by (Printed Name) <i>ADRIAN ABEL</i>	C. Date of Delivery <i>5-6-04</i>
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
2. Article Number (Transfer from service label) 7005 1820 0001 9765 1181		4. Restricted Delivery? (Extra Fee) ☐ Yes	
PS Form 3811, February 2004 Domestic Return Receipt <i>4707</i> 1025 1540			

7005 1820 0001 9765 1181

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
Sent To <i>Ruby M. Abel; Lynn F. Abel</i> <i>c/o Adrian Abel</i> Street, Apt. No., or PO Box No. <i>165 Timber Ln.</i> City, State, ZIP+4 <i>Westfork, AR 72774</i>	
PS Form 3800, June 2002 See Reverse for Instructions	

Real Estate Parcel Information

Record 1 of 1 Last Updated 10/12/06

Page 1 of 2
 Raze Removal at
 1762 Stirman Avenue
 Page 17 of 18

Parcel Number: **765-09653-000** Prev. Parcel Number: **143024-000-00** Type: **RI**
 Location: **1762 STIRMAN**
 Owner Name: **ABEL, RUBY M.; ABEL, LYNN EDWARD**
 Mailing Address: **1762 S Stirman Ave Fayetteville AR 72701-6849**
 Lot: Block: S-T-R: **21-16-30**
 Addition: **PARKSDALE ADD**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **LOTS 23 TO 31 INCLUSIVE BLOCK 9**
 Current Year A79 Credit Status: **F**
 Last Appraised: **2004**

	Appraised Value	Taxable Value
Land	22,400	2,300
Improvement	13,400	2,090
Total	35,800	4,390

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	4,390	\$231.35	\$0.00	\$0.00	\$0.00	\$231.35	F	\$0.00	\$0.00	
2004	4,390	\$227.67	\$0.00	\$0.00	\$0.00	\$227.67	F	\$0.00	\$0.00	PAID
2003	4,390	\$232.49	\$0.00	\$0.00	\$0.00	\$232.49	F	\$0.00	\$0.00	PAID
2002	4,390	\$228.10	\$0.00	\$0.00	\$0.00	\$228.1	F	\$0.00	\$0.00	PAID
2001	4,390	\$228.10	\$0.00	\$0.00	\$0.00	\$228.1	F	\$0.00	\$0.00	PAID
2000	4,390	\$0.00	\$0.00	\$0.00	\$0.00		O	\$0.00	\$0.00	PAID
1999	4,390	\$224.77	\$0.00	\$0.00	\$0.00			\$224.77	\$224.77	PAID
1998	5,640	\$289.33	\$0.00	\$0.00	\$0.00			\$318.26	\$318.26	PAID
1997	5,640	\$289.33	\$0.00	\$0.00	\$0.00			\$289.33	\$289.33	PAID
1996	5,640	\$0.00	\$0.00	\$0.00	\$0.00			\$0.00	\$0.00	PAID
1995	5,640	\$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
1999	4325	10/2/2000	\$224.77	\$0.00	\$0.00	\$0.00	\$0.00	\$224.77

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
7/17/2001	2001	84749	ABEL, RUBY M.; ABEL, LYNN EDWARD		QC	0	0.00
WS & DC 2001-84749 QCD NO REV JTWROS							
7/17/1987	1234	026	ABEL, RUBY M. ET AL		WD	15,000	16.50
MH TRANSFERRED FROM 14956-011 FOR 89 MH REMOVED FOR 1990 SOLD OCT. 89							
1/1/1985	886	113	DUDLEY, RUBY			0	0.00

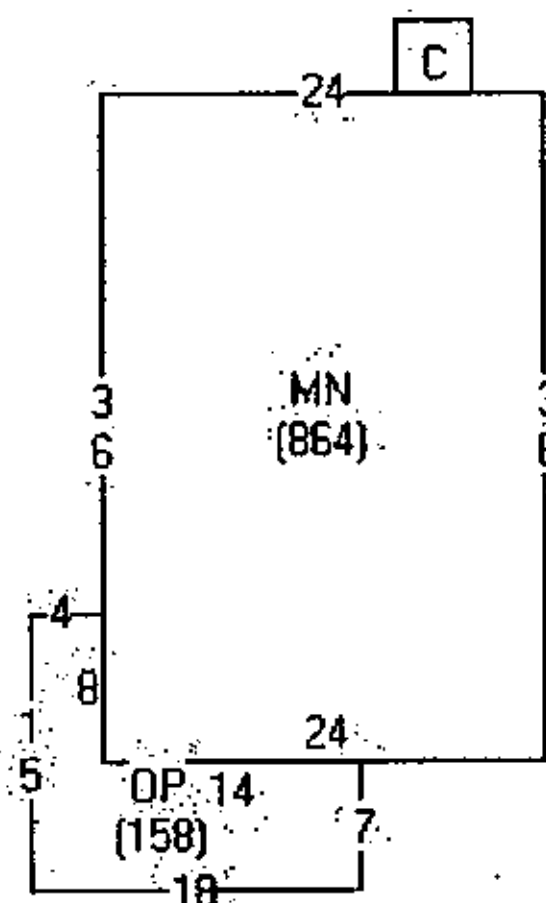
Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	864	864		

Real Estate Parcel Information

Page 2 of 6
 Raze and Removal at
 1762 Stirman Avenue
 Page 18 of 18

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
5	A	COMP.SHNGL			68

Sketch:



Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	Outbuilding,frame		

[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

C. 2
Buffco Inc. Taxi Service
Page 1 of 14

7-Nov-06
City Council Meeting Date

Greg Tabor
Submitted By

Division

Police
Department

Action Required:

Schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Buffco Inc.

N/A
Cost of this request
N/A
Account Number
N/A
Project Number

N/A
Category/Project Budget
N/A
Funds Used to Date
N/A
Remaining Balance

N/A
Program Category / Project Name
N/A
Program / Project Category Name
N/A
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

Received in Mayor's Office

Mayor

Date

Comments:

FAYETTEVILLE

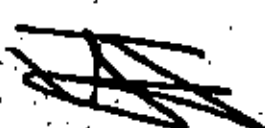
THE CITY OF FAYETTEVILLE, ARKANSAS

C. 2
Buffco Inc. Taxi Service
Page 2 of 14

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Interim Chief of Police 

DATE: October 9, 2006

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for Buffco Inc. Taxi Service

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to Buffco Inc.

Background:

The council passed an ordinance governing taxi and limousine companies in Fayetteville. There were meetings with city staff, the police department and the fleet division to determine the procedure that will be used to implement the new ordinance.

Discussion:

This application is basically the transfer of Tony C.'s Cab Co. to a new owner Danny Buffington. During the transfer, the applicant also desires to change the name to Buffco Inc. Attached are copies of his application and corresponding papers.

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO BUFFCO INC. FOR THE OPERATION OF FOUR (4) TO TEN (10) TAXICABS WITHIN THE CITY OF FAYETTEVILLE, ARKANSAS.

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 a Certificate of Public Convenience and Necessity to Buffco. Inc. for the operation of four (4) to ten (10) taxicabs within the City of Fayetteville, Arkansas, in accordance with Chapter 117, Fayetteville Code of Ordinances.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

**BUFFCO INC.
P O BOX 2316
ROGERS, AR 72757
1-479-631-7496**

SEPT.27,2006

**RE: REQUEST PERMISSION TO TRANSFER TONY C'S
TAXI PERMIT TO NEW OWNER.**

TO : PUBLIC VEHICLE COMMISSION

**I, DANIEL BUFFINGTON, AM REQUESTING
PERMISSION FOR TONY C'S TAXI TO TRANSFER THEIR
TAXI PERMIT TO ME AS A NEW OWNER OF TONY C'S
TAXI COMPANY, TO OPERATE IN FAYETTEVILLE, AR
I AM CURRENTLY OPERATING UNDER THAT NAME. I
WOULD LIKE TO SCHEDULE A MEETING ABOUT
TRANSFERRING THE CURRENT PERMIT FROM TONY
CATROPPA TO DANIEL BUFFINGTON TO TRANSPORT
PASSENGERS. WE SERVICE THE FAYETTEVILLE
COUPON PROGRAM.**

SINCERELY


DANIEL BUFFINGTON


RICK CATROPPA, TONY C'S TAXI

Certificate of Public Convenience & Necessity Application/Renewal

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

Daniel Buffington, P.O. Box 2316 Rogers Ar 72757
Applicant Name Address Phone Number 479-631-7496, Cell; 381-6913

Buffco Taxi 479-636-6600
Name of Business Phone Number

2102 1/2 S. 8th St. Rogers Ar. 72757
Business Location

P.O. Box 2316 Rogers Ar. 72757
Mailing Address

Corporation
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

Andrew Buffington/Pres. P.O. Box 1677 Tahlequah OK
Daniel Buffington/Secretary P.O. Box 2316 Rogers Ar. 72757

Name of person to whom complaints should be directed:

Daniel Buffington

Financial status of applicant (Attach financial statement or profit and loss statement)

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

None

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

President drove for Yellow Cab in
Oakland Calif. for 6 years, officer has
managed taxi cab business for 1 1/2 years.

Give any facts you believe tend to prove the necessity of granting a certificate:

Serving the transportation needs of the
elderly and young, People, such as bus-
iness persons and tourist who visit N.W. Ark,

List the number of vehicles that will be under your operation or control:

20

Minimum and Maximum number of vehicles to be permitted:

4

Minimum

10

Maximum

List the location of proposed depots and terminals:

Describe the color scheme or insignia to be used to designate your vehicle:

White with black lettering

List your days and hours of operation:

Monday thru Thursday 5am to 3am
Friday & Saturday 24 hrs. Sunday 9am to 9pm

List any days you do not propose to provide taxicab service to the general public:

Christmas.

List your proposed passenger rate schedule:

\$2.00 pickup, \$1.50 a mile \$30 a minute wait
time.

Police Department Representative

Date

Corporation

Danny Buff's, Inc.

FINANCIAL STATEMENT as of

Check applicable section on the reverse side to see whether a financial statement is necessary.
Check one: ☒ Business Financial Statement ☐ Personal Financial Statement

ASSETS		LIABILITIES (Contd)	
Cash (List Banks)		Accounts Payable	
Stocks + Bonds - Describe	5000	Taxes due & accrued	
Notes Receivable - Describe		Notes Payable to Bank	
Merchandise or Material in Stock		Notes Payable to Others (Describe)	
Accounts Receivable		Mortgage on Real Estate	
Real Estate, Homestead	50,000.00	Mortgage on Real Estate	
Real Estate, Investment		Other Liabilities - Describe	
Furniture and Fixtures			
Other Assets - Describe			
TOTAL ASSETS	50,000.00	TOTAL LIABILITIES	15,000.00
		Capital Stock (Paid in)	
		NET WORTH OR SURPLUS	35,000.00
		TOTAL LIABILITIES and Net Worth	50,000.00

Gross Sales - Two Years Ago _____ Last Year _____
Net Income - Two Years Ago _____ Last Year _____

Danny

FINANCIAL STATEMENT as of

Check one: ☐ Business Financial Statement ☐ Personal Financial Statement

ASSETS		LIABILITIES	
Cash (List Banks)	16008.00	Accounts Payable	0
Stocks + Bonds - Describe	0	Taxes due & accrued	0
Notes Receivable - Describe	0	Notes Payable to Bank	0
Merchandise or Material in Stock	3000.00	Notes Payable to Others (Describe) Credit Card	300.00
Accounts Receivable	0	Mortgage on Real Estate	0
Real Estate, Homestead	0	Mortgage on Real Estate	0
Real Estate, Investment	0	Other Liabilities - Describe	0
Furniture and Fixtures	5000.00		
Other Assets - Describe Auto, 98 Mustang	4000.00		
TOTAL ASSETS		TOTAL LIABILITIES	
		Capital Stock (Paid in)	0
		NET WORTH OR SURPLUS	
		TOTAL Liabilities and Net Worth	
Gross Sales - Two Years Ago	Last Year	Net Income - Two Years Ago	Last Year

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ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	41297
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER	
1998 FORD CROWN VICTORIA	2FAPP71W9NX118808	
COMPANY PHONE NUMBER	AGENCY PHONE NUMBER	
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	41297
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER	
1998 FORD CROWN VICTORIA	2FAPP71W9WX118808	
COMPANY PHONE NUMBER	AGENCY PHONE NUMBER	
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

108

ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	41297
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL		VEHICLE IDENTIFICATION NUMBER
1997 FORD CROWN VICTORIA		2FALP71W4VX161311
COMPANY PHONE NUMBER		AGENCY PHONE NUMBER
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	41297
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL		VEHICLE IDENTIFICATION NUMBER
1997 FORD CROWN VICTORIA		2FALP71W4VX161311
COMPANY PHONE NUMBER		AGENCY PHONE NUMBER
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

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ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	41297
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL		VEHICLE IDENTIFICATION NUMBER
1994 FORD CROWN VICTORIA		2FALP71WXRK179110
COMPANY PHONE NUMBER		AGENCY PHONE NUMBER
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	41297
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL		VEHICLE IDENTIFICATION NUMBER
1994 FORD CROWN VICTORIA		2FALP71WXRK179110
COMPANY PHONE NUMBER		AGENCY PHONE NUMBER
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

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ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	41297
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER	
1999 FORD CROWN VICTORIA	2FAFP71WLXX226065	
COMPANY PHONE NUMBER	AGENCY PHONE NUMBER	
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

ARKANSAS INSURANCE IDENTIFICATION CARD

COMPANY NUMBER	COMPANY	NAIC NUMBER
	SCOTTSDALE INSURANCE COMPANY	
	8877 North Gainey Center Dr., Scottsdale, AZ 85258	41297
POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
CAS0081429	03-07-2006	03-07-2007
YEAR MAKE/MODEL	VEHICLE IDENTIFICATION NUMBER	
1999 FORD CROWN VICTORIA	2FAFP71WLXX226065	
COMPANY PHONE NUMBER	AGENCY PHONE NUMBER	
(800) 423-7675		

INSURED
TONY C'S TAXI SERVICE
8391 S. LAKESHORE DR.
ROGERS, AR 72756

IDCARDAR 01-02

SEE IMPORTANT NOTICE ON REVERSE SIDE

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

7-Nov-06
City Council Meeting Date

Greg Tabor
Submitted By

Division

Police
Department

Action Required:

Schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to J.C. Animal Farms
A new certificate of Veterinary Inspection will be submitted to FPD prior to set-up at Lights of the Ozarks.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director 10-18-06 Date

[Signature]
City Attorney 10/20/06 Date

Paul A. Beahm
Finance and Internal Service Director 10-23-06 Date

[Signature]
Mayor 10/23/06 Date

Previous Ordinance or Resolution # _____
Original Contract Date: _____
Original Contract Number: _____

Received in City Clerk's Office
ENTERED
10/19/06

Received in Mayor's Office
ENTERED
10/20/06 BEP

Comments:

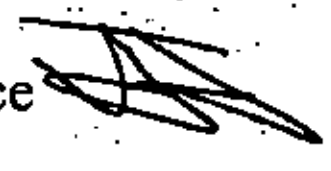
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 3
JC Animal Farms Entertainment
Page 2 of 8

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Interim Chief of Police 

DATE: October 19, 2006

RE: Request for Public Hearing on a Certificate of Public Convenience and Necessity for J.C. Animal Farms Entertainment

Recommendation:

The council should schedule a public hearing to determine if a Certificate of Public Convenience and Necessity should be issued to J.C. Animal Farms Entertainment.

Background:

Fayetteville City Ordinance §117.81 was recently amended to authorize camels and dromedaries for passenger transport on the Fayetteville Square. Operators of these non-motorized passenger transport services are required to obtain a Certificate of Public Convenience and Necessity prior to operation.

Discussion:

Attached are copies of Mr. & Mrs. Pianalto's application, proof of liability insurance, Arkansas Certificate of Veterinary Inspection and financial statement.

The Pianaltos are making the request to permit the use of up to 2 camels for rides on the Fayetteville Square during the "Lights of the Ozarks".

Their certificate of insurance lists event dates of November 11th through December 31st, 2006.

RESOLUTION NO. _____

A RESOLUTION GRANTING A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO JC ANIMAL FARMS
ENTERTAINMENT FOR THE OPERATION OF A NON-
MOTORIZED TRANSPORTATION SERVICE.

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 a Certificate of Public Convenience and Necessity to JC Animal
Farms Entertainment for the operation of a Non-Motorized Transportation
Service.

PASSED and APPROVED this 7th day of November, 2006

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

Certificate of Public Convenience & Necessity Application/Renewal

As required to comply with Chapter 117 of the Fayetteville Code of Ordinances

Justin and Casey Pianalto/ 1565 Eldridge Rd, Springdale AR 72762 (479)530-9119
Applicant Name Address Phone Number

JC Farms Animal Entertainment (479) 530-9119
Name of Business Phone Number

1565 Eldridge Rd, Springdale AR 72762
Business Location

1565 Eldridge Rd, Springdale AR 72762
Mailing Address

DBA
Type of Business (Sole Proprietor, Corporation, LLC)

Name and address of all owners, officers and stockholders:

Justin Pianalto 1565 Eldridge Rd, Springdale AR 72762

Casey Pianalto 1565 Eldridge Rd, Springdale AR 72762

Name of person to whom complaints should be directed:

Casey Pianalto (479) 530-9119

Financial status of applicant (Attach financial statement or profit and loss statement)

List any unpaid judgments against any of the owners, officers and stockholders and the nature or acts giving rise to said judgments:

NA

Describe the experience of all owners, officers and stockholders in the transportation of passengers:

We have been working with animals for over 15 years. My family have owed the camels for 9 years, and been doing Christmas plays for 5 years. We have been doing camel rides over the past year.

Give any facts you believe tend to prove the necessity of granting a certificate:

List the number of vehicles that will be under your operation or control: 2

Minimum and Maximum number of vehicles to be permitted: 1 2
Minimum Maximum

List the location of proposed depots and terminals:

We are planning to work on the South side of the Fayetteville Square during the Lights of the Ozarks 2006. We have been working with Sharon Crosson on this location.

Describe the color scheme or insignia to be used to designate your vehicle:

The camels are tan and will have red saddels and black, red or green blankets on. The loading plat form that will be used is red and our barricades to block off our location are yellow.

The camels ages are 20 and 18 years old.

List your days and hours of operation:

"Wheather permitting" we plan to work every night from the hours of 6p.m. till 12a.m. We may close earlier if there is no business.

List any days you do not propose to provide taxicab service to the general public:

We will not provide the camel rides during rain or bad weather.

List your proposed passenger rate schedule:

The camel rides will be \$5.00 per rider and additional for pictures.

Police Department Representative

Date

CERTIFICATE OF INSURANCE

PRODUCER: LESTER KALMANSON AGENCY, INC. P.O. BOX 940008 MAITLAND, FL 32794-0008 PH: (407) 645-5000 FAX: (407) 645-2810		DATE ISSUED: 08/21/2006 COMPANY: 100% CERTAIN UNDERWRITERS AT LLOYD'S / LONDON	
		POLICY NUMBER: NCM255	
NAMED INSURED: BUNKY BOGER ET AL 13231 HICKORY CREEK ROAD LOWELL, AR 72745		EFFECTIVE DATE: 03/28/2006 (BOTH DAYS AT 12:01 A.M.	EXPIRATION DATE: 03/28/2007 LOCAL STANDARD TIME)
COVERAGE INFORMATION			
THIS IS TO CERTIFY THAT THE POLICY(S) OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOT WITHSTANDING ANY REQUIREMENT, TERM(S) OR CONDITION(S) OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE(S) MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND/OR CONDITIONS OF SUCH POLICIES. LIMITS OF LIABILITY SHOWN MAY HAVE BEEN REDUCED BY ANY PAID CLAIMS			
TYPE OF INSURANCE:		LIMITS:	
☒ GENERAL LIABILITY ☒ CLAIMS MADE ☒ OWNERS, LANDLORDS, & TENANTS RETRO DATE: 03/28/2004		GENERAL AGGREGATE: \$ 1,000,000.00 LIMITED PRODUCTS AGGREGATE \$-0- PERSONAL & ADV. INJURY: \$-0- EACH OCCURRENCE: \$ 1,000,000.00 FIRE DAMAGE (ANY ONE FIRE) \$-0-	
ADDITIONAL INSURED(S): FAYETTEVILLE ARKANSAS SQUARE IS/ARE HEREBY ADDED AS ADDITIONAL INSURED ONLY AS THEIR INTEREST MAY APPEAR IN RESPECTS TO THE OPERATION(S) PERFORMED BY THE NAMED INSURED AND/OR IT'S EMPLOYEE(S) ONLY.			
SEE ATTACHED ADDENDUM "A" FOR DESCRIPTION OF LIABILITY COVERAGE(S) AFFORDED. EVENT DATE(S): NOVEMBER 11, 2006 THROUGH DECEMBER 31, 2006 LOCATION: FAYETTEVILLE ARKANSAS			
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE(S) AFFORDED BY THE POLICY(S) LISTED. "LIMITS SHOWN ARE THOSE IN EFFECT AS OF POLICY INCEPTION"			
SHOULD ANY OF THE ABOVE DESCRIBED POLICY(S) BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 00 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED BELOW, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION(S) &/OR LIABILITY(S) OF ANY KIND UPON THE COMPANY, IT'S AGENTS &/OR REPRESENTATIVES &/OR KALMANSON ET AL.			
CERTIFICATE HOLDER / ADDITIONAL INSURED: FAYETTEVILLE ARKANSAS SQUARE FAYETTEVILLE, ARKANSAS FAX# 479/527-2568		AUTHORIZED REPRESENTATIVE:  X MITCHEL KALMANSON / PRESIDENT	

ARKANSAS CERTIFICATE OF VETERINARY INSPECTION

ARKANSAS LIVESTOCK & POULTRY COMMISSION
Natural Resources Dr.
Ft. Rock, AR 72205
Telephone: (501) 907-2400

ARKANSAS

71-AR 589915

Name and Mailing Address of RECEIVER:

Brucellosis Test Charts Attached to Copy
for Receiving State Official:
☐ YES ☒ NO

Date of Shipment
8/21/00

Brucellosis Test Chart Numbers:
N/A

WASHINGTON CO. FAIR
SPRINGDALE, AR

CHASEY PIANNALZO
1505 ELDRIGE RD.
SPRINGDALE, AR

CERTIFICATE VOID
30 DAYS FROM ISSUE DATE

Entry Permit No.
N/A

ECIES: ☐ CATTLE ☐ HORSES ☐ BISON ☐ SHEEP ☐ SWINE ☒ GOATS ☒ CAMEL Other	STATE/AREA STATUS ☐ MODIFIED ACCREDITED (T.B.) ☒ TUBERCULOSIS FREE ☒ CLASS "FREE" BRUCELLOSIS ☐ CLASS "A" BRUCELLOSIS ☐ CLASS "B" BRUCELLOSIS ☐ CLASS "C" BRUCELLOSIS ☐ OTHER	HERD STATUS A. ☐ ACCREDITED HERD No. B. ☐ CERTIFIED HERD No. C. ☐ VALIDATED HERD No. D. ☐ No. E. ☐ QUALIFIED NEGATIVE HERD QUALIFYING TEST DATE(S) A. B.	CARRIER: TRUCK ☐ OTHER NAME AND ADDRESS: CHASEY PIANNALZO VACCINATION OR TREATMENT FOR: (Except Brucellosis) DATE PRODUCT
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ANIMAL IDENTIFICATION

OFFICIAL INDIVIDUAL Federal Eartag Number or Breed Registration Ear Tattoo or Breed Registration Firebrand	Brucellosis Vaccination Tattoo Symbol	REGISTRY NAME AND NUMBER or DESCRIPTION and REGISTERED OWNERSHIP BRAND	A G E	S E X	B R E E D	TUBERCULIN TEST INTRADERMAL DATE: HOUR: DATE: HOUR: 72 HR. RESULTS	DATE OF TEST: LABORATORY:	BRUCELLOSIS TEST	OTHER TEST
5762 / 1 EARTAG		"CHARLOTTE" / HUMPH FAWN	904	N	CAMEL				
5762 / 2 EARTAG		"JOE" / HUMPH FAWN	123	N	CAMEL				

Owner/Agent Statement (Where applicable):

"The animals in this shipment are those certified to and listed on this certificate."
I certify, as an accredited veterinarian, that the above-described animals have been inspected by
and that they are not showing signs of infectious, contagious, and/or communicable disease, (ex-
it where noted). The vaccinations and results of tests are as indicated on the certificate. To the
it of my knowledge, the animals listed on this certificate meet the state of destination and federal
state requirements. No further warranty is made or implied."

8/18/00
2000 Road St. Springdale, AR
Accredited Veterinarian
Address

BRUCELLOSIS VACCINATION CERTIFICATION (Where Applicable)

"All female cattle and bison over 12 months of age in this shipment are Official Brucellosis Calhoun Vaccinates with legible ear tattoos."

Date 8/18/00
Owner/Agent
Address
Page 8 of 8

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

D. 1
R-PZD 06-2191, University Club Tower
Page 1 of 46

7-Nov-06

City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 06-2191: Residential Planned Zoning District, University Club Tower, submitted by Crafton Tull and Associates, Inc. for property located north of Lowe's Home Center, east of College Avenue (Highway 71). The property is zoned R-O, Residential Office, and C-2, Thoroughfare Commercial, and contains approximately 10.39 acres. The request is for a 13 story/approximately 200' tall building with a maximum 80 dwelling units and both surface and underground parking.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 10-20-06
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 10-20-06
City Attorney

Original Contract Number: n/a

Paula A. Barber 10-23-06
Finance and Internal Service Director Date

Received in City Clerk's Office

[Signature] 10/23/06
Mayor Date

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: October 18, 2006

Subject: Residential Planned Zoning District for University Club Tower (R-PZD 06-2191)

RECOMMENDATION

The Planning Commission voted to forward the subject request for an ordinance creating a Residential Planned Zoning District (R-PZD) for University Club Tower. This action would establish a unique zoning district for a residential development on a 10.39-acre tract located on east of College Avenue, north of Lowe's Home Center.

BACKGROUND

The subject property consists of approximately 10.39 acres located on the north side of Zion Road and Lowe's Home Center, east of College Avenue, south of Clear Creek. The site is zoned C-2 (6.85 acres) and R-O (3.54 acres). Although not within the Hillside/Hilltop Overlay District, the property has considerable slope. It is undeveloped at this time and is entirely covered with tree canopy. The portion of property zoned R-O is a proposed lot within the Timberlake Office Park Subdivision, a development recently approved for construction.

The applicant requests rezoning and large scale development approval for a residential development in an R-PZD zoning district. The proposed use of the site is for a single multi-family condominium building with a maximum 80 dwelling units and 144 bedrooms. The structure will be a maximum 13 stories or 200 feet and will offer a pool, health center, and other amenities to the residents. Walking trails are proposed for the use of the residents. This residential structure will provide additional housing in a regional commercial node. It is intentionally vertical to minimize the footprint and preserve natural land and tree canopy. The close proximity to commercial services will be an asset to those who reside in the property and consequently benefit the surrounding commercial businesses. The building has been oriented in a north/south direction to minimize heat gain and the applicant has indicated devices will be installed to reduce cooling loads. Zoning criteria identifying permitted and conditional uses, building setbacks, bulk and area requirements and architectural guidelines are included within the project booklet provided by the applicant.

DISCUSSION

On October 9, 2006, the Planning Commission voted 8-0-0 to forward this request to the City Council. The motion included a requirement that the proposed street between College

Avenue and the proposed Timberlake Court be constructed and dedicated as a public street within a 40 foot right-of-way. The applicant has submitted a plan representing a 24 foot private street through the property. Staff recommends that the 24 foot street be constructed to city standards but remain a private street. (See the attached memo from Engineering Division.) The City Council would need to determine whether the street should be public or private, should the project be approved.

The Planning Commission approved a waiver of landscape requirements for 1 tree per 30 linear feet adjacent to College Avenue right-of-way, finding that due to the grade change between the street and right-of-way line, the installation of trees approximately 40' above street grade will not provide the intended shade and pedestrian streetscape.

No street improvements other than the connection between Timberlake Court and College Avenue were required for this development, finding that those improvements on Zion Road to be installed with the development of Timberlake Office Park are sufficient to provide safe ingress and egress for this development to Zion Road.

The revised plats have been modified since the Planning Commission review to add 13 additional surface parking spaces along the private drive. Either one parking space shall be removed or a landscape island shall be installed in order to satisfy parking lot landscape requirements which allow no greater than a row of 12 parking spaces. The parking requirements are being met with this additional parking, though staff recommended, and the Planning Commission concurred, that additional surface parking was not to be added to the project.

BUDGET IMPACT

None.



October 18, 2006

Ms. Suzanne Morgan
Current Planner
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: University Club Tower
Waiver Request
CTA Job No. 061031-00

Dear Ms. Morgan:

We are requesting a waiver of the Fayetteville Unified Development Code requiring the street connecting two other public streets to be a public street as well. It is our request that the proposed street that will connect Zion Court and College Avenue remain a private road. We feel that with the existing terrain in the area it will be too difficult to meet the cities standards for public roads. In addition, if the drive were public there would have to be a 50' building setback that could affect future development for the property owner to the north. The University Club Tower will have a property owners association (POA) that will be responsible for the maintenance of the private road.

We appreciate your consideration of this Waiver Request. Should you have any questions or need any further information, please feel free to contact me at (479) 878-2407 or damon.domer@craftontull.com.

Sincerely,

Crafton, Tull & Associates, Inc.

Daniel Ellis, P.E.

Cc: Matt Casey

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO: City Council
FROM: Matt Casey P.E., Assistant City Engineer
DATE: October 18, 2006
SUBJECT: University Club Condos

On October 9, 2006 the City of Fayetteville Planning Commission discussed the residential planned zoning district for the University Club Condos. With this project, the developer requested a waiver of the Unified Development Code to construct a private drive to connect College Avenue to a proposed street in the Timberlake Subdivision. At the meeting, staff's recommendation was in support of the requested waiver. However, the Planning Commission did not find in favor of this request and made it a condition of their approval that the connection be made as a public street.

The applicant has since made submittals for this item to proceed to the City Council for review of the PZD. With this submittal is the request to again consider the waiver of the requirement to make this access a public street. As before, staff feels that this is a reasonable request. It is our opinion that it would not benefit the City of Fayetteville to take ownership and maintenance responsibility for this roadway. The roadway will need to be cut into the side of the hill below the development and curve up onto the site. There will then be a large amount of fill placed in a ravine for this drive to cross to the east to make the connection to the Timberlake Subdivision. While this drive will be constructed to current City standards, it does not produce the ideal roadway conditions for long-term maintenance responsibilities. It is also our opinion that this roadway will not serve the general public, but will mostly serve the residents and guests of the proposed development.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2191, UNIVERSITY CLUB TOWER, LOCATED NORTH OF LOWE'S HOME CENTER, EAST OF COLLEGE AVENUE (HIGHWAY 71), CONTAINING APPROXIMATELY 10.39 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From R-O, Residential-Office, and C-2, Thoroughfare Commercial to R-PZD 06-2191 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council indicated in Exhibit "C" attached hereto and made a part hereof.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 06-2191

COMBINED PROPERTY DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW 1/4 OF THE NE 1/4) AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE 1/4 OF THE NE 1/4) OF SECTION TWENTY-THREE (23), TOWNSHIP SEVENTEEN NORTH (TWP 17 N) RANGE THIRTY WEST (RNG 30 W), WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A STEEL PK NAIL THAT MARKS THE SOUTHEAST CORNER OF THE SW 1/4 OF THE NE 1/4 OF SECTION 23, TWP 17 N., RNG 30 W., THENCE N02°42'31"E 37.66 FEET TO A STEEL REBAR PIN; THENCE N87°25'39"W 135.81 FEET TO A STEEL REBAR PIN ON THE EAST RIGHT OF WAY LINE OF ARKANSAS HIGHWAY 71-B, SAID PIN BEING THE POINT OF BEGINNING AND RUN THENCE ALONG SAID RIGHT OF WAY LINE N01°08'00"E 94.41 FEET TO A STEEL REBAR PIN; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE N00°10'10"W 95.42 FEET TO A CONCRETE RIGHT OF WAY MONUMENT; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE N29°40'02"W 160.98 FEET TO A STEEL REBAR PIN; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE N01°33'28"E 53.09 FEET TO A STEEL REBAR PIN; THENCE DEPARTING SAID HIGHWAY RIGHT OF WAY LINE N70°02'03"E 126.32 FEET TO A STEEL REBAR PIN; THENCE N68°57'11"E 124.05 FEET TO A STEEL REBAR PIN; THENCE N75°22'45"E 99.14 FEET TO A CHISLED "X" IN CONCRETE; THENCE N84°01'10"E 255.68 FEET TO A STEEL REBAR PIN; THENCE N75°58'11"E 77.46 FEET TO A STEEL REBAR PIN; THENCE S01°56'00"W 176.92 FEET TO A STEEL REBAR PIN; THENCE S87°20'52"E 311.46 FEET TO A STEEL REBAR PIN; THENCE N60°28'09"E 98.92 FEET TO A STEEL REBAR PIN; THENCE 142.95 FEET ALONG A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 60.00 FEET AND A LONG CHORD OF S25°54'14"E 111.46 FEET TO A STEEL REBAR PIN; THENCE 23.55 FEET ALONG A CURVE TO THE RIGHT SAID CURVE HAVING A RADIUS OF 25.00 FEET AND A LONG CHORD OF S67°10'03"E 22.69 FEET TO A STEEL REBAR PIN; THENCE S40°11'42"E 13.22 FEET TO A STEEL REBAR PIN; THENCE S49°48'18"W 220.73 FEET TO A STEEL REBAR PIN; THENCE S35°21'32"E 223.57 FEET TO A STEEL REBAR PIN; THENCE N87°25'39"W 1014.38 FEET TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 452,361 SQ. FT. OR 10.385 ACRES, MORE OR LESS.

EXHIBIT "B"

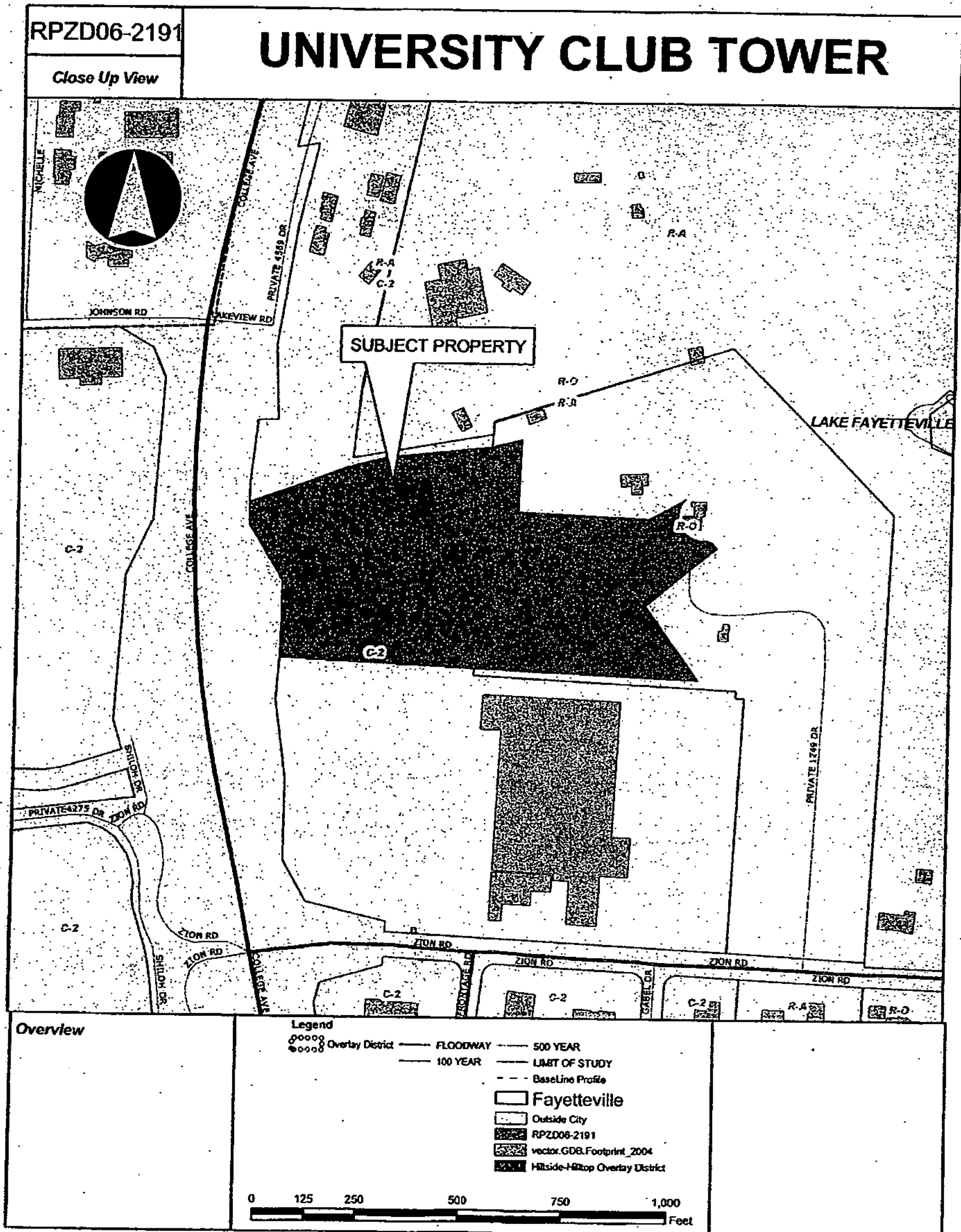


EXHIBIT "C"
R-PZD 06-2191
(Page 1 of 4)

Conditions of Approval

1. City Council determination of standards for the 24' street connecting College Avenue and Timberlake Court. *Staff recommends and the applicant requests the proposed street connecting Timberlake Court and College Avenue remain private with a public access easement allowing for public ingress/egress. The proposed 24'-wide private street shall be constructed to city standards, with regard to curb, gutter, pavement section, etc. Additionally, pedestrian sidewalks/trails shall connect from Timberlake Court to College Avenue. Slopes and sidewalk construction shall be reviewed with construction drawings. The private street option would require a waiver of Ch. 166.06 K.10.b.i., which states that any street connecting one or more public streets shall be dedicated as a public street. Staff's recommendations for the private street are included in an Engineering memo attached. The Planning Commission recommended this street be constructed and dedicated as a public street, thus meeting the above-cited code section. However, to do so, several other waivers for street design standards are necessary, due to the slope at which this street is being constructed.*
2. Planning Commission determination of a waiver of landscape requirements for 1 tree per 30 linear feet adjacent to College Avenue right-of-way. *Staff recommends approval of the requested waiver due to the grade change between the street and right-of-way line, finding that the installation of trees approximately 40' above street grade will not provide the intended shade and pedestrian streetscape. Additionally, significant slope and drainage improvements by the highway department will likely not allow additional street tree plantings in the area of right-of-way. The Planning Commission found in favor of the requested landscape waiver.*
3. Planning Commission determination of street improvements. *Staff finds that the street improvements required for the development of Timberlake Office Park are sufficient to provide safe ingress and egress for this development to Zion Road. Staff recommends that the public street through Timberlake Office Park shall be constructed, inspected, approved and dedicated prior to issuance of a Temporary Certificate of Occupancy for this project. Should Timberlake Office Park development not occur, this PZD may not be permitted or constructed without further Planning Commission consideration. The Planning Commission found in favor of the recommended street improvements.*
4. The street connection onto College Avenue shall be approved by AHTD prior to issuance of building permits. Should AHTD deny the proposed street connection, approvals for the R-PZD are null and void unless the applicant receives approval for a modification of connectivity from the Planning Commission and City Council.
5. The entrance from College Avenue shall be widened to a minimum 20' to comply with Fire Code requirements. The access shall be sufficiently marked with signage to adequately direct the flow of traffic (right in-right out only).

EXHIBIT "C"
R-PZD 06-2191
(Page 2 of 4)

6. Should the proposed street be private, an access easement granting public access from College Avenue to Timberlake Court, covering the entirety of the private street, shall be dedicated by easement plat or separate document prior to issuance of a building permit.
7. Minimum 4' concrete sidewalks and concrete or asphalt pedestrian walkways and trails as shown on the site plan along the private road, public street, and on the property shall be a requirement of the PZD and constructed prior to issuance of a Certificate of Occupancy.
8. Tree protection fencing will be very complex for this project. The developer shall coordinate with the Urban Forester to phase this fencing and where possible revise it to be closer to the limits of disturbance.
9. Parks fees for a maximum of 80 multi-family units are \$54,400. Fees will be based on the actual number of units built and will be due prior to issuance of the building permit.
10. Signs on the property shall be subject to signage requirements for residential multi-family development. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code. The ordinance allows for one on-site freestanding or monument sign with a display area of 4 square feet or 16 square feet, respectively, and one wall sign with a maximum display area of 16 square feet.
11. No reflective glass shall be permitted on the structure, pursuant to the developer's application.
12. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
13. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all building permits necessary for development of the project with a one (1) year extension available pursuant to City ordinances for large scale developments.
14. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
15. The proposed walking trail is a great asset for the development and shall be routed where possible to avoid trees and disturbance. The developer shall coordinate this route with the Urban Forester to ensure that little to no overhead canopy is removed. All slopes shall be re-vegetated to prevent erosion from this site in accordance with City accepted practices.

EXHIBIT "C"
R-PZD 06-2191
(Page 3 of 4)

16. The proposed site plans and booklet revisions required include the following:
 - a. The applicant shall add State Plane Coordinates to the plat.
 - b. Show the installation of a 6' sidewalk adjacent to the right-of-way for Timberlake Court that extends through the private driveway with no curb and gutter lines through the sidewalk.
 - c. The applicant shall modify the building setback dimension located on Sheet 2 adjacent which states a 50' BSB but points to a 15' BSB.
 - d. Large species, deciduous trees shall be planted adjacent to and within 15' of the Timberlake Court right-of-way and within required landscape islands.
 - e. Landscape Plans L0.03 and L0.04 shall be modified and inserted into the approved set of plans.
 - f. Modify the booklet to replace references to General Plan 2020 with City Plan 2025.
 - g. The sidewalk shall be shown to extend west to College Avenue street, subject to AHTD approval.
 17. The applicant shall provide a walking trail from the development to the south to provide pedestrian connectivity to Lowe's Home Center.
 18. The street shall align as closely as possible to utilize already cleared/disturbed area for Timberlake Office Park detention pond, to minimize tree disturbance, subject to approval by the Urban Forester.
- Standard Conditions of Approval:**
19. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Coordination shall occur between the Solid Waste Division and the Urban Forester regarding pruning or additional tree removal to accommodate the dumpster.
 20. All exterior lighting, including lighting proposed within the parking lot and along the private drive, shall comply with the City's Outdoor Lighting Ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
 21. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
 22. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

EXHIBIT "C"
R-PZD 06-2191
(Page 4 of 4)

23. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
24. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



PC Meeting of October 09, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: October 4, 2006 *Updated October 18, 2006*

R-PZD 06-2191: Planned Zoning District (UNIVERSITY CLUB TOWER, 135): Submitted by CRAFTON TULL & ASSOCIATES INC. - ROGERS for property located at N OF LOWE'S, E OF THE NWA MALL. The property is zoned R-O, Residential Office, and C-2, Thoroughfare Commercial, and contains approximately 10.39 acres. The request is for a 13 story/approximately 200' tall building with a maximum 80 dwelling units and both surface and underground parking.
Planner: Suzanne Morgan

Findings:

Background: The Planning Commission considered this R-PZD proposal at its September 11, 2006 meeting. It was tabled at this meeting primarily for the reevaluation of access to the property, based on the fact that the applicant could not provide the points of uninhibited ingress/egress to the proposed development; a looped street is required to provide access to a maximum 80 units within a PZD. The applicant submitted revised plans with the following modifications:

1. Emergency access to Lowe's has been removed in lieu of an access onto College Avenue.
 - ♦ A private street has been extended to College Avenue to allow for a right-in, right-out traffic movement. Therefore, the applicant has provided two uninhibited access points to this project, connecting Zion Court to Hwy 71B (College Avenue).
 - ♦ The private streets will be constructed to city standards with a 24' width; a 4' sidewalk is only proposed on one side of the driveway entrance from Timberlake Court.
 - ♦ The driveway encroaches onto adjacent property to the north. Though verbal agreement to this access is indicated, the applicant shall provide written verification by the adjacent owner that an access easement will be granted to allow this encroachment. The developer shall submit the filed access easement to the city prior to issuance of any building permit.

At the Planning Commission meeting, the applicant submitted a development proposal with the access located entirely on the subject property as he was unable to obtain written permission to build the access on the adjacent property.

2. The overflow parking has been removed, at the recommendation of staff to decrease site disturbance.
3. The site design modifications required revisions to the Tree Preservation numbers. The total percent canopy preserved dropped from 79.87% to 55.8%, to provide for the second access. This still far exceeds the minimum tree canopy required for a PZD.
4. The signage requirement as described in the PA-1 Zoning Criteria has been revised from commercial signage to residential multi-family district requirements.
5. The maximum number of units allowed was revised from 83 to 80.

Property Description: The subject property consists of approximately 10.39 acres located on the north side of Zion Road and Lowe's Home Center, east of College Avenue, south of Clear Creek. The site is zoned C-2 (6.85 acres) and R-O (3.54 acres). Although not within the Hillside/Hilltop Overlay District, the property has considerable slope with a ravine along the east side of the property, adjacent to College Avenue to the west and Clear Creek to the north. The property is undeveloped at this time and is entirely covered with tree canopy. The portion of property zoned R-O is a proposed lot within the Timberlake Office Park Subdivision, a development recently approved for construction.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Locomotion Park, Clear Creek	R-A
South	Lowe's Home Center	C-2
East	Undeveloped (Timberlake Office Park)	R-O
West	NWA Mall, College Avenue	C-2

Proposal: The applicant requests rezoning and large scale development approval for a residential development in an R-PZD zoning district. The proposed use of the site is for a single multi-family condominium building with a maximum 80 dwelling units and 144 bedrooms. The structure will be a maximum 13 stories or 200 feet and will offer a pool, health center, and other amenities to the residents. Walking trails are proposed for the use of the residents. This residential structure will provide additional housing in a regional commercial node. It is intentionally vertical to minimize the footprint and preserve natural land and tree canopy. The close proximity to commercial services will be an asset to those who reside in the property and consequently benefit the surrounding commercial businesses. The building has been oriented in a north/south direction to minimize heat gain and the applicant has indicated devices will be installed to reduce cooling loads.

Zoning Criteria: The zoning criteria are provided in duplicate in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Access: Access is provided from Zion Road to this development via a local street to be constructed within the Timberlake Office Park Subdivision and connected to College Avenue via a private, 24-foot wide street. The PZD requirements state that any private street connecting two

public streets shall be constructed and dedicated as public right-of-way. The development plan requires a waiver of this ordinance. Staff recommends approval of the proposed waiver, finding that the street will not be able to be constructed to meet all city specifications with sidewalks due to the terrain of the property; however, staff does recommend that the construction of the 24' wide private street meet all city standards with regard to curb, gutter, construction specifications, etc., with the final approval by the City Engineer. The entire private street shall be encompassed by a public access easement.

Parking: Parking is proposed to be provided within two levels of structured parking under the building and a 17-stall parking area at the entrance of the building. The applicant proposes 145 parking spaces for 144 bedrooms. Of these parking spaces, 17 stalls are to be surface parking.

Architectural Review: The applicant has submitted architectural elevations and a material sample board for the Planning Commission to see the character and type of development proposed. The Unified Development Code does not address design standards for residential projects. Staff has made specific findings on this project for Planning Commission consideration as required in the PZD ordinance found in Chapters 161 and 166 (see attached).

Phasing: The applicant proposes to develop the entire project within 12 to 18 months from the date of approval. The standard expiration period of one year with a possible one-year extension for Large Scale Developments is sufficient for this project.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: College Avenue (Principal Arterial)

Street Improvements: It was previously assumed that in evaluating street improvements for the adjacent office park subdivision, the applicant submitted projected traffic numbers for the office park as well as the future residential units on this property. However, this was not the case and the estimated vehicle trips per day for 80 units is 480, for a total 1,552 vehicle trips per day for the residential and office uses. Zion Road will be widened to a minimum 18' from centerline for a total 36' street width (back of curb to back of curb), to include pavement, curb and gutter, storm drainage, and 10' sidewalks for the length of the subject property with the development of the office subdivision. Engineering staff has evaluated the proposed traffic volumes for the residential units and recommends no additional street improvements to Zion Road at this time. Additionally, College Avenue is a divided state highway at the project's entrance; the access shall be designed as a right-in/right-out, and shall be permitted through AHTD.

Parks: On July 10, 2006 PRAB reviewed this project and recommended accepting money in lieu of park land to satisfy the park land dedication ordinance. This decision was based on the project's proximity to Lake Fayetteville Park. Additionally, the plans for the development include a pedestrian trail within the property as well as a link by sidewalk through the adjacent development to the east to Lake Fayetteville Park. Fees for a maximum of 80 multi-family units are \$54,400. Fees will be based on the actual number of units built and will be due prior to issuance of the building permit.

Tree Preservation: Existing Canopy: 98%
Preserved Canopy: 55.84% 52.15%
Required Canopy: 15%
Mitigation: Mitigation will not be required for this project

The above numbers reflect the Tree Preservation Report (see attached), not the applicant's Tree Preservation Plan which did not exclude canopy located in the existing and proposed easements.

Recommendations:

8/17/06 – The Subdivision Committee forwarded R-PZD 06-2191 to the Planning Commission without a recommendation.

9/11/06 – The Planning Commission tabled the project to 9/25/06.

9/25/06 – The Planning Commission tabled the project to 10/09/06.

Staff recommends forwarding **R-PZD 06-2191** to the City Council with a recommendation of approval with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of a waiver of landscape requirements for 1 tree per 30 linear feet adjacent to College Avenue right-of-way. *Staff recommends approval of the requested waiver due to the grade change between the street and right-of-way line, finding that the installation of trees approximately 40' above street grade will not provide the intended shade and pedestrian streetscape. Additionally, significant slope and drainage improvements by the highway department will likely not allow additional street tree plantings in the area of right-of-way.*

The Planning Commission found in favor of the requested landscape waiver.

2. Planning Commission determination of street improvements. *Staff finds that the street improvements required for the development of Timberlake Office Park are sufficient to provide safe ingress and egress for this development to Zion Road. Staff recommends that the public street through Timberlake Office Park shall be constructed, inspected, approved and dedicated prior to issuance of a Temporary Certificate of Occupancy for this project. Should Timberlake Office Park development not occur, this PZD may not be permitted or constructed without further Planning Commission consideration.*

The Planning Commission found in favor of the recommended street improvements.

- ~~3. Planning Commission determination of a waiver of the Unified Development Code, Chapter 166.06 B(10)(h)(i), which states, "...Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street." The applicant proposes a private street connection from College Avenue to Timberlake Court for a maximum 80 units. Staff recommends approval of the proposed~~

~~waiver, finding that the street will not be able to be constructed to meet all city specifications due to the terrain of the property.~~

The Planning Commission voted to strike this condition recommending that the developer construct and dedicate a public street to connect College Avenue and the proposed Timberlake Court.

4. Planning Commission determination of construction standards for the 24' private-drive ***public street*** connecting College Avenue and Timberlake Court. ***Staff recommends construction of a 24' wide street meet all city standards with regard to curb, gutter, materials, etc. Additionally, the applicant shall provide a network of sidewalks and trails to connect Timberlake Court and College Avenue. To do so, a sidewalk connection shall be provided from the trail interior to the project to College Avenue. Slopes and sidewalk construction shall be reviewed and approved with construction drawings.***
5. ~~The proposed private street encroaches onto adjacent property to the north. The applicant shall provide written verification by the adjacent owner that an access easement will be granted to allow this encroachment for Planning Commission consideration. The developer shall submit the filed access easement to the city prior to issuance of any building permit.~~
6. The private street connection onto College Avenue shall be approved by AHTD prior to issuance of building permits. Should AHTD deny the proposed street connection, approvals for the R-PZD are null and void unless the applicant receives approval for a modification of connectivity from the Planning Commission and City Council.
7. The entrance from College Avenue shall be widened to a minimum 20' to comply with Fire Code requirements. The access shall be sufficiently marked with signage to adequately direct the flow of traffic.
8. An access easement granting public access from College Avenue to Timberlake Court, covering the entirety of the private street, shall be dedicated by easement plat or separate document prior to issuance of a building permit.
9. Minimum 4' concrete sidewalks and concrete or asphalt pedestrian walkways and trails as shown on the site plan along the private road, public street, and on the property shall be a requirement of the PZD and constructed prior to issuance of a Certificate of Occupancy.
10. Tree protection fencing will be very complex for this project. The developer shall coordinate with the Urban Forester to phase this fencing and where possible revise it to be closer to the limits of disturbance.
11. Parks fees for a maximum of 80 multi-family units are **\$54,400**. Fees will be based on the actual number of units built and will be due prior to issuance of the building permit.

12. Signs on the property shall be subject to signage requirements for residential multi-family development. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code. The ordinance allows for one on-site freestanding or monument sign with a display area of 4 square feet or 16 square feet, respectively, and one wall sign with a maximum display area of 16 square feet.
13. No reflective glass shall be permitted on the structure, pursuant to the developer's application.
14. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
15. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all building permits necessary for development of the project with a one (1) year extension available pursuant to City ordinances for large scale developments.
16. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
17. The proposed walking trail is a great asset for the development and shall be routed where possible to avoid trees and disturbance. The developer shall coordinate this route with the Urban Forester to ensure that little to no overhead canopy is removed. All slopes shall be re-vegetated to prevent erosion from this site in accordance with City accepted practices.
18. Site and Landscape Plan, Tree Preservation Plan, and booklet revisions to be completed for the information on record at the City Planning Division:
 - a. The applicant shall add State Plane Coordinates to the plat.
 - b. Show the installation of a 6' sidewalk adjacent to the right-of-way for Timberlake Court that extends through the private driveway with no curb and gutter lines through the sidewalk.
 - c. The applicant shall modify the building setback dimension located on Sheet 2 adjacent which states a 50' BSB but points to a 15' BSB.
 - d. Large species, deciduous trees shall be planted adjacent to and within 15' of the Timberlake Court right-of-way and within required landscape islands.
 - e. Landscape Plans L0.03 and L0.04 shall be modified and inserted into the approved set of plans.
 - f. Change all references to the General Plan 2020 located within the booklet to City Plan 2025.
 - g. The sidewalk shall be shown to extend west to College Avenue street.

19. *The applicant shall provide a walking trail from the development to the south to provide pedestrian connectivity to Lowe's Home Center.*
20. *The street shall align as closely as possible to utilize already cleared/disturbed area for Timberlake Office Park detention pond, to minimize tree disturbance, subject to approval by the Urban Forester.*

Standard Conditions of Approval:

21. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. *Coordination shall occur between the Solid Waste Division and the Urban Forester regarding pruning or additional tree removal to accommodate the dumpster.*
22. All exterior lighting, including lighting proposed within the parking lot and along the private drive, shall comply with the City's Outdoor Lighting Ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
23. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
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. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: ☒ Fwd to City Council ☐ Tabled ☐ Denied

Motion: Clark
Second: Graves
Vote: 8-0-0

Meeting Date: October 9, 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

Findings associated with MDP R-PZD 06-2191

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Interim Future Land Use Plan Map adopted as part of City Plan 2025 designates this site Regional Commercial where zoned C-2 and Mixed Use where zoned R-O. The Sector Map also adopted as part of City Plan 2025 designates this specific area as an Intended Growth Area. Rezoning this property to R-PZD 06-2191 for multi-family dwelling units is consistent with the land use plan and sector map. It will provide residential units in an area that is developed for commercial use and will serve as in fill development in northeast Fayetteville.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The site proposed for development will require the extension of utilities. Right-of-way is to be extended to this property with the development of adjacent Residential Office property. Surrounding properties to the west (the Mall), south (Lowe's) and north (Locomotion) have been developed with public facilities. This site has not been developed due in part to the steep grade from the property to College and lack of accessible street frontage and the creek to the north. Development of this project will require the provision of public facilities, at the cost of the developer. Staff recommends that building permits be issued for this project only after the completion, inspection and dedication of sufficient infrastructure from Zion Road to this property.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow multi-family residential uses at a density of 8 units per acre. All of the surrounding properties are zoned and either developed or approved for development of commercial use. The proposed residential use is compatible with the surrounding commercial uses, such as

Northwest Arkansas Mall, a regional shopping area. As evident in the downtown area, the close proximity of residential and commercial use provides a mutually beneficial relationship, when designed appropriately.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is a completely wooded site with floodplain along the northern boarder. The applicant has purposely designed a tall, vertical structure on the property to reduce the footprint of disturbance and reduce the amount of canopy removal. The applicant has removed 16 surface parking spaces to reduce the amount of pavement on the site and potential removal of trees. The removed tree canopy increased, however, due to the private street connection to College Avenue.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended residential land use will impact the existing traffic conditions. This site will have access to two public streets, one of which is yet to be fully developed. No access is proposed to Lowe's as was shown in previous proposals for this connection could not be adequately coordinated. Allowing two means of access will ease congestion and turning movements at the Timberlake Court/Zion Road intersection by providing an alternate route.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all

applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed University Club Tower proposes a residential area amidst commercial and future office development. The site has been designed to provide a large percentage of preservation of the significant existing tree canopy, pedestrian trails throughout the property, and preservation of the floodway and floodplain. In order to accomplish these goals, the applicant's design of a 13-story/200' structure is unique within the immediate area. Unlike the approved 16 story residential towers located on Joyce Boulevard, within one mile of this project, the University Club Tower will be more visible because it is situated on a hill; it will be situated amidst mature tree canopy, unlike the project on Joyce Boulevard. However, the proposed design does fulfill many of the goals and purposes of the PZD ordinance.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: The applicant is proposing to retain approximately 55.84% of the existing tree canopy and plant trees and vegetation required by the Landscape Ordinance. The Unified Development Code does not require screening of residential development.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Vehicular circulation throughout the site is accomplished by the installation of private street, as is typical within multi-family developments. The project requires a waiver from Ch. 166.06 B(10)(h)(i) for this street to be private.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: The applicant proposes to comply with the parking requirements set forth in Chapter 172 of the Unified Development Code.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The applicant proposes to retain a green buffer around the site, with the exception of those areas cleared for installation of utilities and the private street.

- (6) *Sidewalks.* As required by §166.03.

FINDING: The applicant shall install a 6' sidewalk where the property is adjacent to Timberlake Court (along a portion of the cul-de-sac). An internal 4' sidewalk along the private drive and minimum 4' trails will be installed on the property to promote recreational activity on the site.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights shall be installed along the private driveway at a ratio of one light per 300'.

- (8) *Water.* As required by §166.03.

FINDING: Water shall be installed to serve the project.

- (9) *Sewer.* As required by §166.03.

FINDING: Sewer shall be installed to serve the project.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.
- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:
 - (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
 - (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
 - (v) The plat of the planned development shall designate each private street as a "private street."
 - (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
 - (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant proposes access via a private street for 80 units. The ordinance states that such a private street that connects one or more public streets shall be dedicated as a public street and built to meet city street standards. Staff recommends approval of the waiver, finding that the terrain will not allow the construction of a full city street with sidewalks. Staff does recommend that the physical construction of the private street be done in accordance with city requirements and identified "private street" as required by ordinance.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: No non-residential facilities are proposed.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of

buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to preserve significant tree canopy.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: Commercial design standards are not applicable for a residential development.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Similar to the location of the NWA Mall, this property is at the peak of a hill, though there are other residential areas to the east at a greater elevation than this site. Staff finds that there are no significant or historical sites or buildings whose view would be obstructed by the development of a 13 story/200' tall building. While taller than structures surrounding the property, residential structures are not subject to commercial design standards, which refer to "compatibility and transition." The applicant will not be installing reflective glass on the structure to reduce the potential glare from the building.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open

spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.

- (b) Membership and fees must be mandatory for each home buyer and successive buyer.

- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the CityPlan 2025, as well as the above ten criteria, including compatibility and transition of land use, providing creative and harmonious land uses, provision of a residential housing in a commercial area, open spaces, and enhancement and preservation of existing natural features. The following guiding policies within Residential Areas are applicable to this development, and help to achieve the six primary goals of the CityPlan 2025:

Residential Areas:

12.1.4.c Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness. (Goal 4)

12.1.4.e Utilize more intense development patterns within the infill sector and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity. (Goal 1)

12.1.4.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services. (Goals 1g and 3)

12.1.4.j Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc. (Goal 3a)

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council, an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application with recommended conditions to enhance the project and bring it into better compliance with the intent of the PZD ordinance.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The proposed development is 100% residential.

(F) *Bulk and area regulations*

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

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

FINDING: The C-2 zoning district will allow for the development of accessory residential units at a density of 24 units per acre and the R-O zoning district permits single family and two-family development at a density of 24 units per acre. Staff finds that the zoning requested is necessary to develop residential units on the property. The current zoning of C-2 on this site that has limited access is justifiably changed. A density of less than 8 units per acre will allow for growth and infill as intended on the City's Sector Map and City Plan 2025. Density will be concentrated on a small footprint by building up on the site, thereby preserving much of the natural topography and character of the natural environment.

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

FINDING: The setbacks set forth are compatible to the C-2 zoning district setback requirements.

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

FINDING: The applicant proposes a building height of no more than 13 stories or 200 feet for residential use only. Staff does not find that the height of this building will block or reduce adequate light and air necessary for adjacent properties. No protected or historic views of the community will be blocked by the proposed structure that will negatively impact or harm the community.

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

FINDING: The Zoning Criteria for this Planning Area states that no more than 40% of the site will be covered by structures/buildings, and the site plan indicates that a total 14% of the site will be impervious (i.e. driveways, parking, buildings, etc.)

***Required Findings for Rezoning Request.**

RECOMMENDATION: Staff recommends approval of the requested zoning modification from C-2 and R-O to R-PZD with the zoning criteria outlined in the project booklet, with modifications requested by Planning Staff.

Land Use Plan: The City Plan designates this site as a Commercial and Mixed Use area. Rezoning this property to R-PZD 06-2191, with the associated Master Development Plan, varies this future land use to a residential use. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan for new development.

FINDINGS OF THE STAFF

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

Finding: Staff finds that the proposed residential zoning will be harmonious with the surrounding commercial uses. The property is identified as an Intended Growth Area on the City's adopted Sector Map. Rezoning the property will allow infill of residential uses in a primarily commercial area; this area was specifically targeted in the CityPlan 2025 for desired residential growth.

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

Finding: Although the C-2 zoning district will allow for the development of accessory residential units at a density of 24 units per acre and the R-O zoning district permits single family and two-family development, it is the applicant's intent

to create a development that is completely residential in nature. The zoning requested is necessary to develop residential units on the property. Staff finds the current zoning of C-2 on this site that has limited access is justifiably changed.

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

Finding: The PZD regulations require that a development of 80 units or less shall have a looped street system. Access is to be provided to Zion Rd and College Ave. The additional vehicle trips from 80 units will not appreciably increase traffic danger and congestion on Zion Road, with the planned improvements.

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: Staff finds that in evaluating this proposal, the population density would undoubtedly be increased. The Police Department has stated that the rezoning for 80 units will create potential traffic hazards in the area. Improvements will be installed at the intersection of Zion Road and Timberlake Drive prior to the issuance of a Temporary Certificate of Occupancy for this project and the City has planned significant improvements of Zion Road that would mitigate any traffic hazards. Therefore, with the improvements recommended for this project, staff finds that the load created on public services will not create a detrimental impact.

Engineering: Public water is adjacent to the site. There is an 8" waterline along College. Water service will need to be extended within the property and east to tie into the Timberlake subdivision at the time of development.

Sanitary sewer is available on the site. There is an 8" sewer main that runs through the Lowe's parking lot. 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.

The site will have access to the proposed Timberlake Commercial Subdivision. This will be a new 28' wide street. This new street connects to Zion Road. Improvements are being made along Zion as part of the Timberlake project. Should this project never occur, the PZD will have to return for an evaluation of access and street improvements.

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

Police: It is the opinion of the Fayetteville Police Department that the zoning of this project will not substantially alter the population density and will not create an undesirable increase on police services. The potential of creating 80 new residences with all vehicular traffic exiting the complex onto an already congested two lane road (Zion), will increase traffic danger and congestion in the area.

Fire: These 16.11 acres is covered by Engine 4 and Ladder 4 at 3385 N Plainview. It is 1.6 miles from the station with an expected response time of 5 minutes. The Fire Department anticipates 19 (12 EMS – 7 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured Hydrant Flow in this area is 1500 gallons/minute. The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this 13 story high rise.

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

Finding: N/A



CC Meeting of November 7, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville City Council

From: Sarah K. Patterson, Urban Forester

Date: October 19, 2006

ITEM # R-PZD 06-2191: Planned Zoning District (University Club Tower)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	10.39
square feet	452,588.4
Existing Tree Canopy	
acres	10.20
square feet	444,348
percent of site area	98 %
Existing Tree Canopy Preserved	
acres	5.47
square feet	238,569
percent of total site area	52.71 %
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 completely wooded with a sloping topography. Most if not all the trees found on this project site are a high priority for**

preservation.

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

- **Environmental degradation should be very minimal on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **An additional ingress/egress is planned for this site along the north boundary. Extensive canopy will have to be removed to get this drive in. Removal may affect 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. Topography and connectivity have been a challenge.**

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 the trees is good to fair.**

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

- **Canopy will be removed for the essential roadways, utilities, and structure. Staff does however not approve of the additional canopy removal around the building and parking areas.**

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

- **There is an existing water line and easement along the west property line. Service lines for the development will come through several wooded areas. Canopy has been shown as removed for the above calculations.**

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

- **The roads have been routed in most cases taking into consideration the topography. The canopy is 100% and unfortunately can not be avoided.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will not be required on this site.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **N/A**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. **Tree protection fencing will be very complex for this project. Please coordinate with the Urban Forester to phase this fencing and where possible revise it to be closer to the limits of disturbance.**
2. **The area marked for storage of materials west of the circle drive should be relocated to an area of disturbance. Staff would like to see the fencing to the south and west hug this parking area and protect tree # 200. This should increase the amount of preservation.**
3. **The proposed walking trail should be coordinated with the Urban Forester to insure that little to no overhead canopy is removed.**
4. **Staff is in support of keeping these drives private. If made public, additional right of way may be needed which would increase the amount of canopy that would need to be removed.**



PC Meeting of September 11, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Fayetteville Planning Commission
From: Suzanne Morgan, Current Planner
Date: September 7, 2006

ITEM #: R-PZD 06-2191 (University Club Condos)

Applicable Requirements:

✓	Off Street Parking
✓	Commercial Design Standards
✓	Buffers and Screening
NA	I-540 Design Overlay

Plan Checklist:

- ✓ submitted by applicant
- ✗ requested

Preliminary Submittal	Final Submittal	
		Off-Street Parking and Loading
✗	✓	wheel stops / curbs
✗	✓	irrigation
✗	✓	edged landscape beds indicated
✗	✓	species of plant material identified
✓	✓	size of plant material at time of installation indicated
✗	✓	interior landscaping
		narrow tree lawn (8' min. width, 17' min. length / 1 tree per 15 spaces) tree island (10' min. width / 1 tree per 12 spaces)
✗	✗	perimeter landscaping
		side and rear property lines (5' landscaped) adjacent to street R.O.W (15' greenspace exclusive for landscaping / 1 street tree every 30 L.F., a continuous planting of shrubs and ground cover - 50% evergreen)
✗	✓	soil amendments notes include that soil is amended and sod removed
✓	✓	mulching notes indicate mulching around trees and within landscape beds.
✓	✓	planting details according to Fayetteville's Landscape Manual
		Commercial Design Standards
✓	✓	greenspace adjacent to street R.O.W. (15' wide)
✗	✗	street trees planted every 30' L.F. along R.O.W.
✓	✓	outdoor storage screened with landscaping

		Buffer Strips and Screening
✓	✓	landscaped area (12' min.)
NA	NA	fence required
NA	NA	outdoor storage screened with landscaping
✓	✓	non-residential landscape screen when adjacent to residential zones
NA	NA	landscape requirement for setback reduction
		Overlay District Requirements
		greenspace adjacent to street R.O.W. (25' wide)
		street trees planted every 30' L.F. along R.O.W.
		25% of total site area left in greenspace (80% landscaped)
		parking lots and outdoor storage screened with landscaping

Please modify the Landscape Plan to address the following:

1. Add one tree to the interior of the overflow parking to break up the row of 15 parking spaces.
2. One large species tree is required every 30' adjacent to the right-of-way. These trees are to be planted within 15' of the right-of-way. A note on the Landscape Plan indicates that there are existing trees along the western and eastern property lines that will fulfill the landscape requirements. If this be the case, update the Landscape Plans to show the location, size and species of the existing trees on the landscape plan. Additional trees may be required if the existing trees are not sufficient to fulfill the requirement.

Standard Requirement:

3. Redbuds, Dogwoods, and the Serviceberry cannot count for the required landscape trees, though they can be planted on the site where trees are not required by ordinance.



Crafton, Tull & Associates, Inc.
Architects, Engineers & Surveyors

www.craftontull.com

D. 1
R-PZD 06-2191, University Club Tower
Page 41 of 46

Job No: 061031-00 Sheet No. 1 Of 1

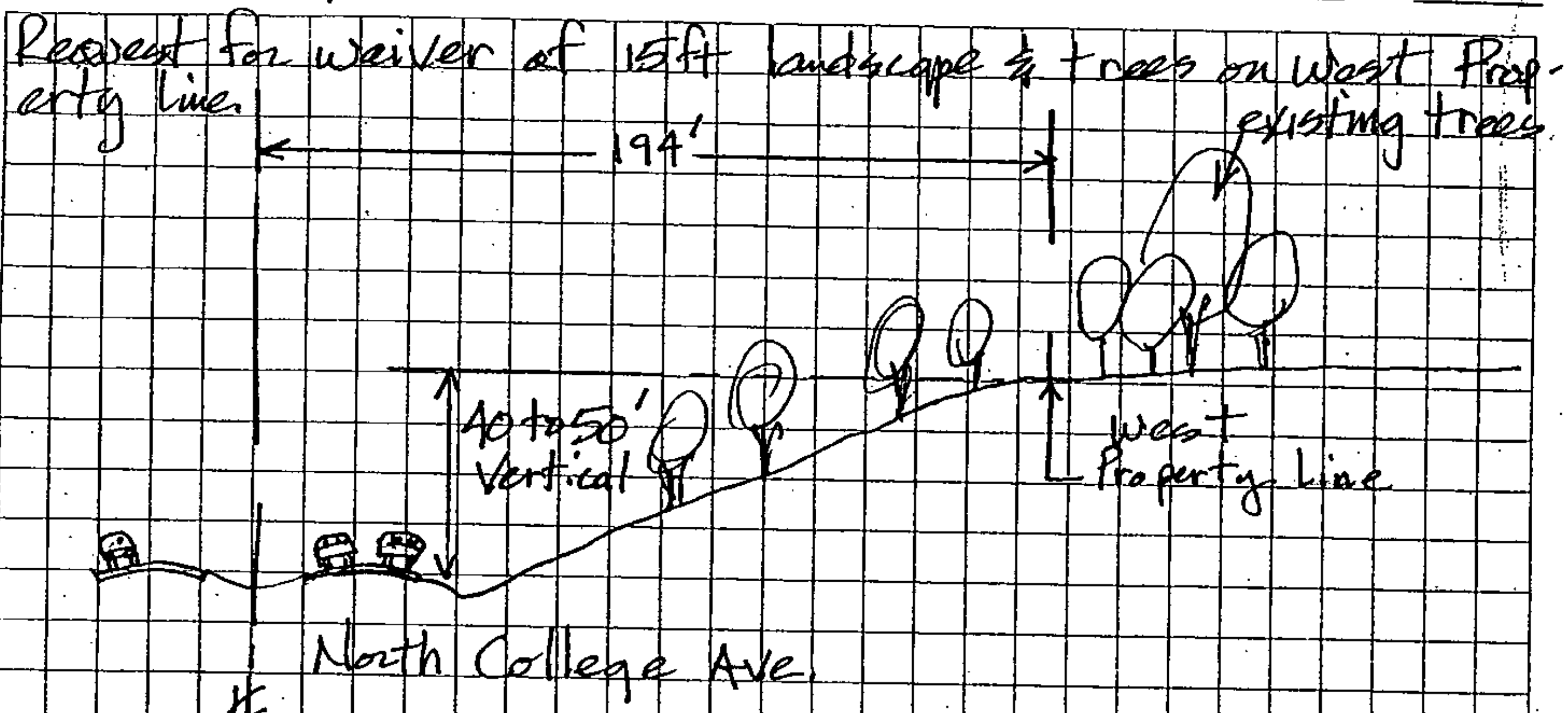
Client: R. Chapman

Project: _____ Scale: _____

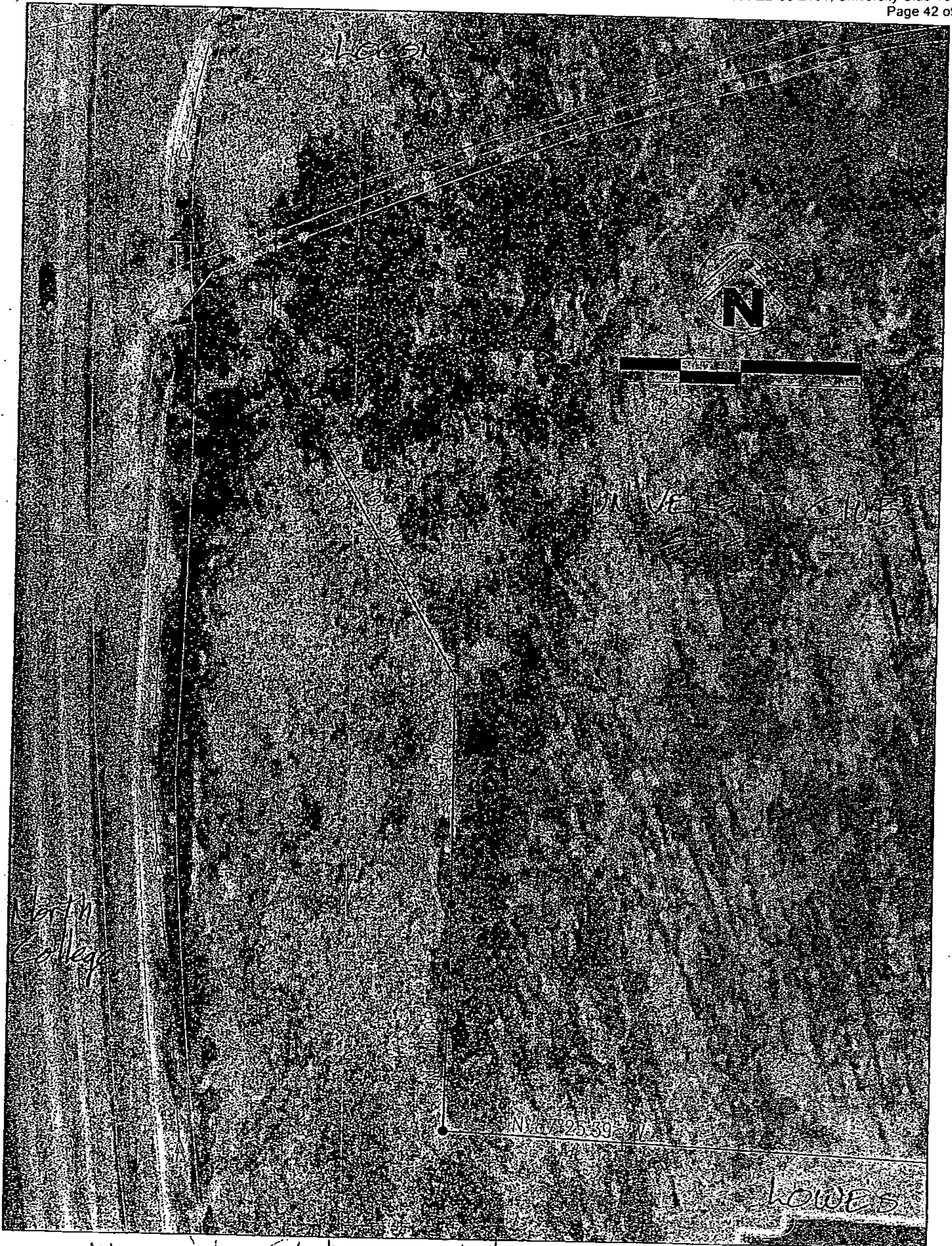
Calculated By: C. Green Date: 9/11/06

Checked By: _____ Date: _____

Subject University Club Condos



We are asking for a waiver of the perimeter landscape requirement. This is an unusual circumstance because the R.O.W. line is so far removed from the street. Any trees planted along this west perimeter will not appear as street trees & probably will not even be seen by most citizens because they will be over 194 ft. from the road & 40 to 50 ft. above the road. Also there are many existing trees; oaks, hickories, elms, red buds etc. along this perimeter as evidenced by the Fayetteville GIS aerial photo & site visits.



University Club

CTA # 001031-CC

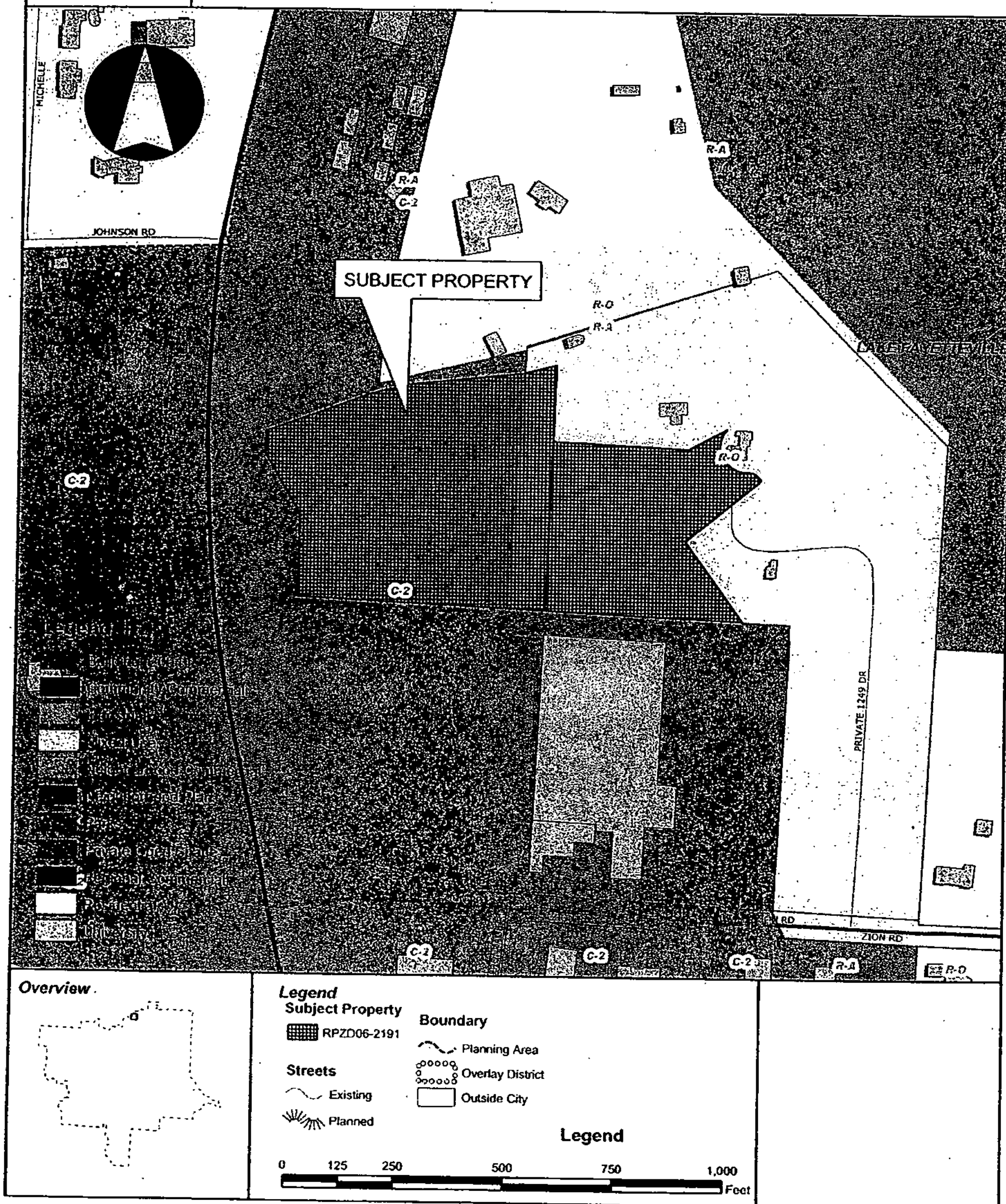
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③

RPZD06-2191

Future Land Use

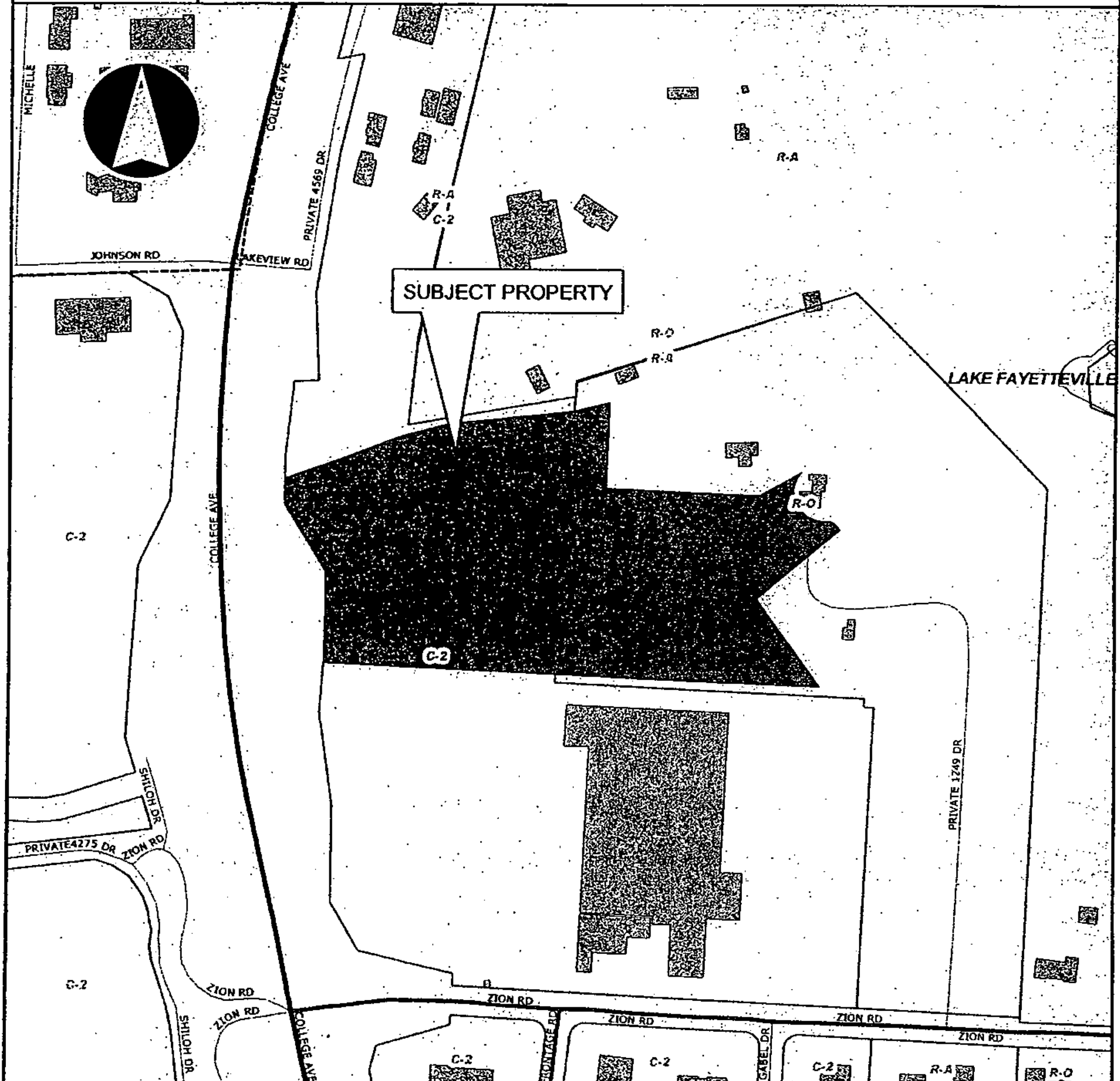
UNIVERSITY CLUB TOWER



RPZD06-2191

UNIVERSITY CLUB TOWER

Close Up View



Overview

Legend

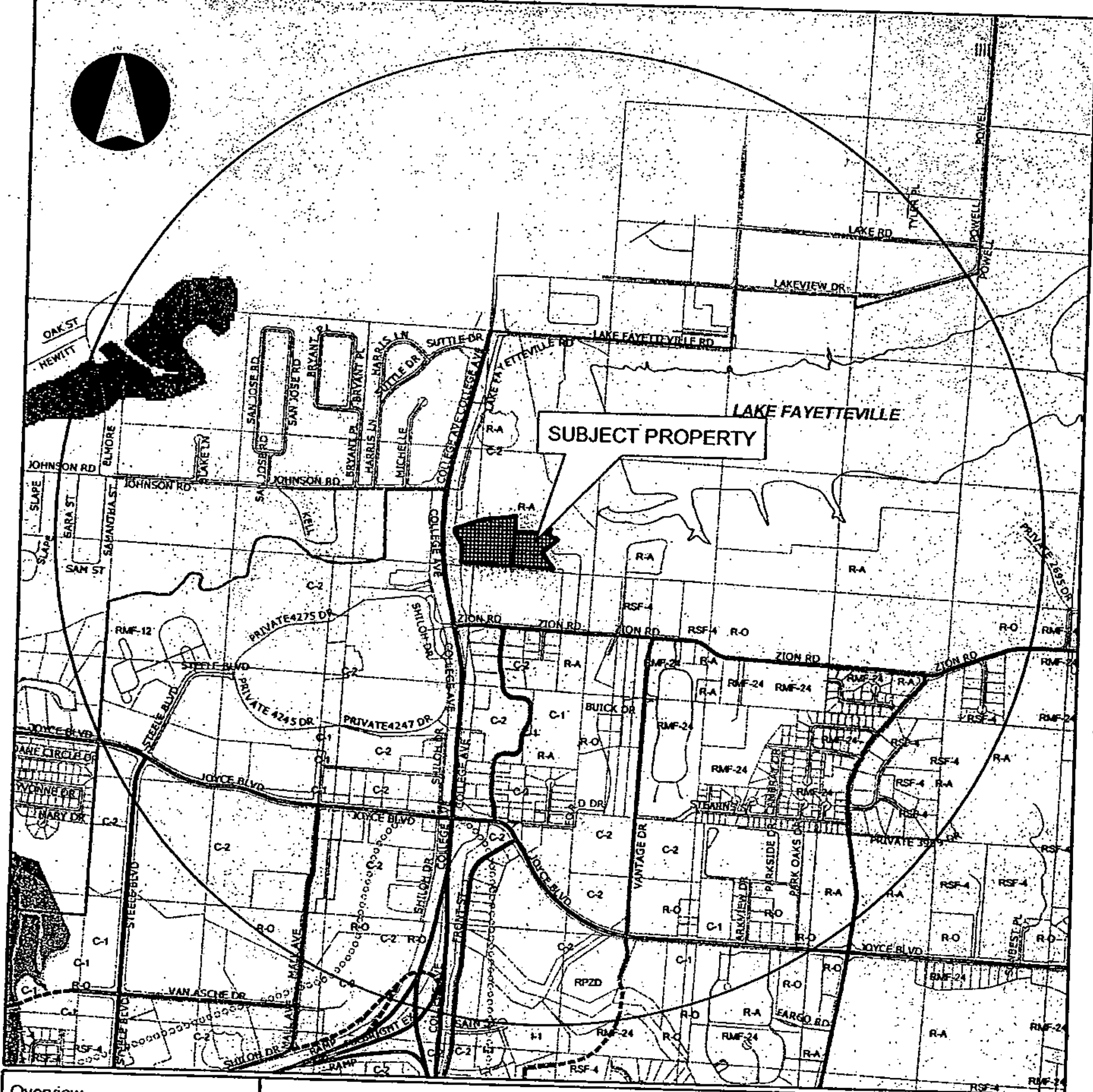
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- R-PZD06-2191
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 125 250 500 750 1,000 Feet

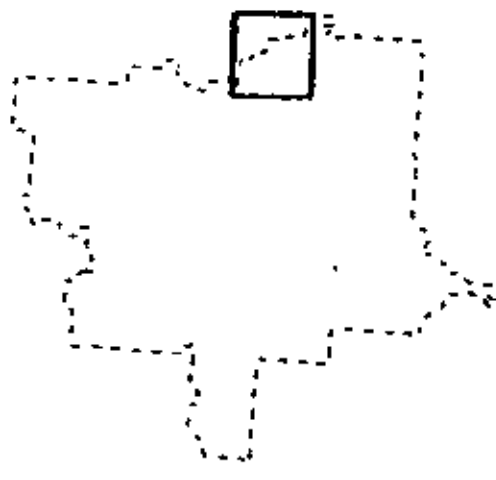
RPZD06-2191

One Mile View

UNIVERSITY CLUB TOWER



Overview



Legend

Subject Property

RPZD06-2191

Boundary

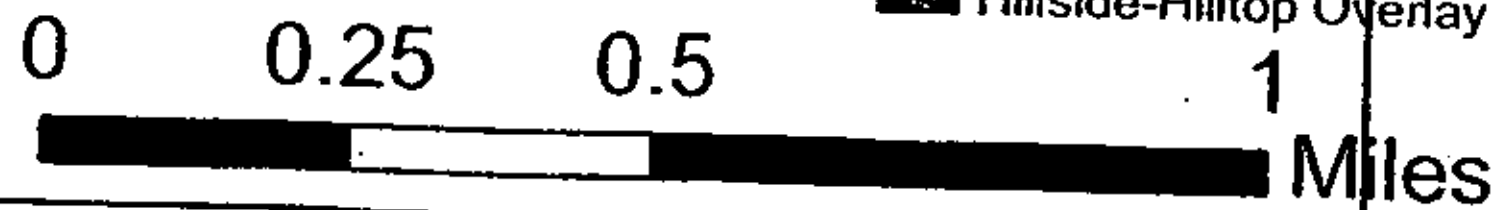
Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



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

7-Nov-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 06-2256: Planned Zoning District (932 Garland, 444): Submitted by Architects 226, Inc. for property located at 932 Garland, between Berry and Hughes Street. The property is zoned RMF-40, Residential Multi-Family, 40 units per acre and R-O, Residential Office and contains approximately 0.84 acres. The request is to approve a Master Development Plan - Residential Planned Zoning District with 37 dwelling units and 22,854 s.f. of non-residential use.

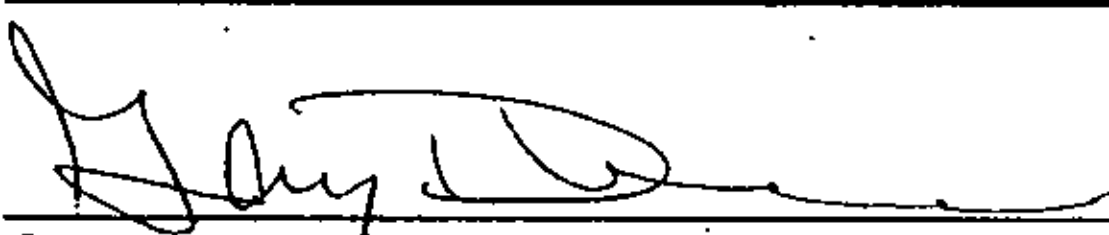
\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
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Account Number	Funds Used to Date	Program / Project Category Name
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Project Number	Remaining Balance	Fund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

Budgeted Item

☐

Budget Adjustment Attached

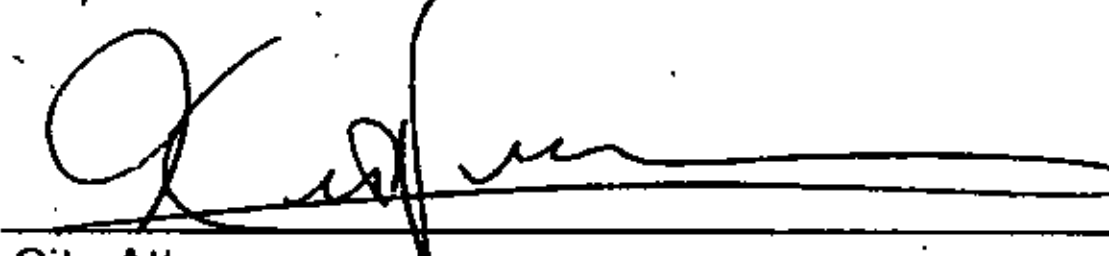
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Department Director

10-18-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

10-18-06
Date

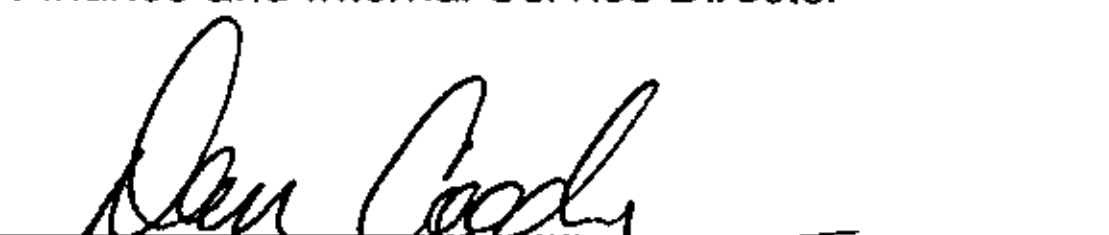
Original Contract Number: n/a

Paul A. Bech
Finance and Internal Service Director

10-18-06
Date

Received in City Clerk's Office




Mayor

10/19/06
Date

Received in Mayor's Office



Comments:

City Council Meeting of November 7, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^X

Date: October 11, 2006

Subject: Master Development Plan-Residential Planned Zoning District for 932 Garland
(RPZD 06-2256)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Master Development Plan - Residential Planned Zoning District (R-PZD 06-2256) for 932 Garland, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a mixed-use project on approximately 0.84 acres. Development approval will not be granted with this request.

BACKGROUND

The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property within one (1) planning area. The proposal includes street-level retail/restaurant space along Garland Avenue and office space on the second level for a maximum of 22,854 square feet of non-residential space. A maximum of 37 residential condominiums, totaling 66,227 square feet will be provided above the non-residential floors. This results in a total density of 44.04 dwelling units per acre and an intensity of 27,207 SF of nonresidential space per acre over the entire 0.84 acre site. The parking will be accommodated on-site in a two-level parking garage with access from both Hughes and Berry Streets.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on October 9, 2006. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

No public comment was received at the Planning Commission meeting. However, the commissioners stated at the time of development they would expect to see more windows and/or doors on the west elevation at street level. In respect to the building height, commissioners stated that the width of Garland Ave. helped balance the height and mass and the building would be good introduction into the university campus. Commissioners had concerns regarding the view of Old Main from Garland being obstructed by the proposed building. However, it was pointed out by the applicants that Old Main was not visible from this particular part of Garland because of the existing topography.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2256, 932 GARLAND, LOCATED AT 932 GARLAND, BETWEEN BERRY AND HUGHES STREET, CONTAINING APPROXIMATELY 0.84 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RMF-40, Residential Multi-Family, 40 units per acre and R-O, Residential Office, to R-PZD 06-2256 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council indicated in Exhibit "C" attached hereto and made a part hereof.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 06-2256

A PART OF LOTS NUMBERED SEVEN (7), EIGHT (8), NINE (9), TEN (10), ELEVEN (11), AND TWELVE (12), ALL IN BLOCK NUMBERED FIVE (5) OF ROSE HILL ADDITION, AN ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT SEVEN (7), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N86°50'55"W 109.61 FEET ALONG THE SOUTH LINE OF SAID LOT SEVEN (7) TO A SET 1/2" IRON REBAR ON THE EAST RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY #112 (GARLAND AVENUE) AS RELOCATED BY THE ARKANSAS HIGHWAY COMMISSION; THENCE N44°02'02"W ALONG SAID RIGHT-OF-WAY LINE 26.93 FEET TO A SET 1/2" IRON REBAR; THENCE N03°48'11"E ALONG SAID RIGHT-OF-WAY LINE 181.10 FEET TO AN EXISTING IRON REBAR; THENCE N12°43'57"E 101.05 FEET TO AN EXISTING IRON REBAR ON THE NORTH LINE OF SAID LOT TWELVE (12); THENCE LEAVING SAID RIGHT-OF-WAY LINE, S86°43'25"E 107.08 FEET TO AN EXISTING IRON REBAR AT THE NORTHEAST CORNER OF SAID LOT TWELVE (12); THENCE S02°30'00"W 298.81 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

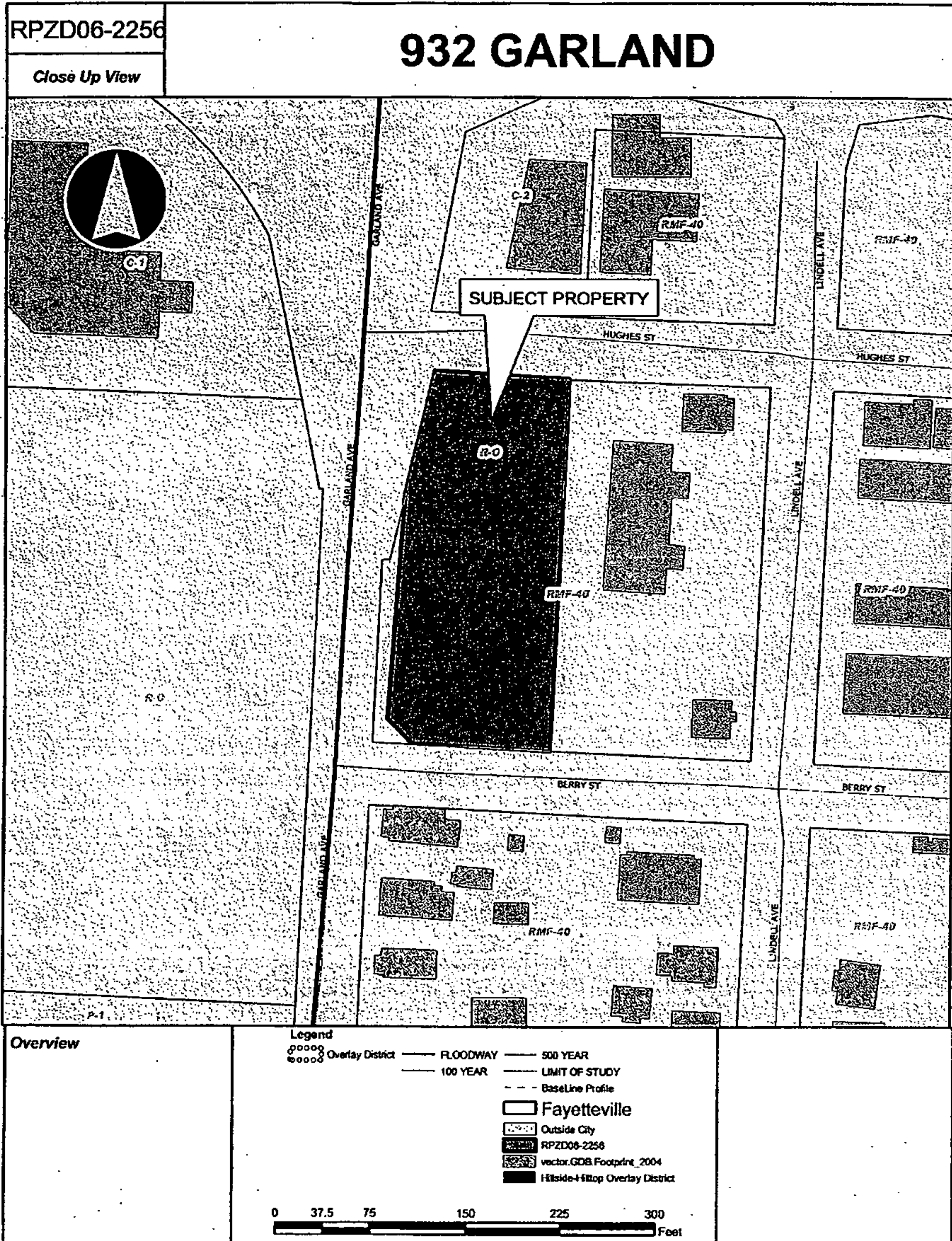


EXHIBIT "C"
R-PZD 06-2256

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. The large scale development 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 932 Garland project booklets and on the submitted Master Development Plan plats. Flexibility will be allowed in the development criteria 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. All density and intensity information provided is maximum totals for the property.
4. **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 tenants within 932 Garland to ensure a cohesive sign program; however, the sign ordinance may not be violated in doing so. Commercial tenants within the project shall be permitted to utilize signage in compliance with commercial zoning districts; all commercial signage shall be placed on the portion of the structure utilized for commercial activities. No signage shall be permitted above the 2nd story of the building, as this is residential in use. No pole or pylon signs shall be permitted within the 932 Garland project site.
5. **Phasing:** 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:

EXHIBIT "C"
R-PZD 06-2256

The applicant shall be granted one (1) year from the date of Planning Commission approval of the large scale development to receive all permits necessary for development with a one (1) year extension available.

6. 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.
7. Future development shall comply with at least the minimum design standards for development in the Unified Development Code as adopted at the time of development, including but not limited to landscaping, parking, access, street design, storm water detention, tree preservation, 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.
8. Overhead awnings, balconies, stairways, stoops and other appurtenances to the primary structure may not extend within the Master Street Plan right-of-way. Allowances shall be at the discretion of the Planning Commission and City Council to ensure safety measures, clearance and other criteria for zoning and development in the Unified Development Code are not compromised.
9. 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. Staff will recommend, at minimum, the following:
 - Install curb and gutter along Hughes and Berry Streets as well as storm drainage along Hughes Street. The alley along the east side of the property will be rehabilitated and paved with asphalt, resulting in a 20' width for two-way traffic movements. Additionally, 8' sidewalks will be constructed along Hughes Street, Garland Avenue and Berry Street. The sidewalk along Garland will be partially located outside of the dedicated right-of-way and therefore will be located within a pedestrian access easement. Additional improvements may be required once development plans have been submitted and reviewed in detail.
10. All sidewalks shall meet applicable City and A.D.A. requirements.
11. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
12. Street lights shall be installed on all abutting streets with a maximum spacing of 300'.
13. Street trees shall be provided pursuant to Chapter 177, Landscape Regulations, pertaining to the provision of urban tree wells in this location. Subject to sight distance limitations, street trees shall be planted along Berry, Hughes and Garland Avenue.



PC Meeting of October 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: October 2, 2006

MDP R-PZD 06-2256: Residential Planned Zoning District (932 GARLAND): Submitted by ARCHITECTS 226, INC. for property located at 932 GARLAND, BETWEEN BERRY AND HUGHES STREET. The property is zoned RMF-40, MULTI FAMILY - 40 UNITS/ACRE and contains approximately 0.84 acres. The request is to review a Master Development Plan for a Residential Planned Zoning District with 37 dwelling units and 22,854 s.f. of commercial space.

Property Owner: MANSFIELD PROPERTY MANAGEMENT, LLC.
Planner: JESSE FULCHER

Findings:

Property Description: The property consists of several parcels totaling 0.84 acres that is currently developed with single-family homes within the RMF-40, Residential Multi-family zoning district. The property is bounded by Hughes Street to the north, Berry Street to the south, Garland Avenue to the west and a 20' public alley to the east. The property is currently zoned R-O and RMF-40.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Commercial strip center	C-2
South	Residential	RMF-40
East	Residential	RMF-40
West	Undeveloped	R-O

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property within one (1) planning area. The proposal includes street-level retail/restaurant space along Garland Avenue and office space on the second level for a maximum of 22,854 square feet of non-residential space. A maximum of 37 residential condominiums, totaling 66,227 square feet will be provided above the non-residential floors. This results in a total density of 44.04 dwelling units per acre and an intensity of 27,207 SF of

nonresidential space per acre over the entire 0.84 acre site. The parking will be accommodated on-site in a two-level parking garage with access from both Hughes and Berry Streets.

To meet applicable zoning criteria, the proposed Planning Area has to have established bulk and area criteria, setbacks, height, etc. Otherwise the proposal would have to return to the City Council to address these zoning issues with development. The information is provided both in a booklet form, which describes the intent of the Planning Area along with a conceptual drawing, and by way of the larger plat, which gives much of the same technical information, along with the actual Master Development Plan. The building, street, and parking arrangement indicated on the master plan will likely vary somewhat from that which is presented. However, these issues can be resolved with the development review of the project and additional City Council action, if needed. At this step in the process it is important to make the policy decision of whether the zoning is appropriate and compatible to this area, given the proposed Master Development Plan, statement of commitments, and development standards.

Process: The purpose of the subject request is for a rezoning approval in order to secure entitlement for the property with a concept for a variety of uses and 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 large scale development process 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.

Access: Access to the site is provided from Garland Avenue, Berry Street, Hughes Street and a mid-block alley. No vehicular access is to be provided directly from Garland Avenue. Sidewalks will be improved in the area to provide pedestrian access.

Adjacent Master Street Plan Streets: Garland Avenue (Principal Arterial), Berry Street (Local Street), Hughes Street (Local Street)

Street Improvements: The developer is proposing to install curb and gutter along Hughes and Berry Streets as well as storm drainage along Hughes Street. The alley along the east side of the property will be rehabilitated and paved with asphalt, resulting in a 20' width for two-way traffic movements. Additionally, the applicant proposes 8' sidewalks along Hughes Street and Garland Avenue and a 4' sidewalk along Berry Street. The sidewalk along Garland will be partially located outside of the dedicated right-of-way and therefore will be located within a pedestrian access easement. Recommendations for additional improvements may be required once

development plans have been submitted and reviewed, based upon the actual development proposal submitted.

Tree Preservation: Tree preservation requirements will be assessed at the time of large scale development. By ordinance, staff will require preservation of tree canopy on-site unless supportive information is provided as to why on-site preservation requirements can not be met. Supportive information could include a tree inventory provided by a certified arborist assessing all existing tree canopy.

Parks: The Parks and Recreation Advisory Board reviewed this project on August 17, 2006 and recommended accepting money-in-lieu to satisfy the Park Land Dedication Ordinance requirement. Based on the number of units proposed at this time (37, less a credit for five existing homes), \$20,360.00 would be required. Actual numbers will be generated at the time of development.

Public Comment: Staff has not received any public opposition to the project. The applicant did present the plans at a Ward 4 meeting with City Council representatives and citizens for input.

Phasing: The development of the 932 Garland project is anticipated to occur over the next 1-4 years. A phasing schedule has been provided within the project booklet, identifying the anticipated construction time frame. Upon Large Scale Development approval, the estimated time frame will be 9-12 months for pre-construction work and 18-20 months for construction. The standard one-year time frame with a one-year extension available for typical large scale developments is adequate, pursuant to City codes.

Recommendation: Staff recommends forwarding a recommendation of approval of the Master Development Plan – Planned Zoning District for 932 Garland (R-PZD 06-2256) 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. The large scale development 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 932 Garland project booklets and on the submitted Master Development Plan plats. Flexibility will be allowed in the development criteria 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. All density and intensity information provided is maximum totals for the property.
4. **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 tenants within 932 Garland to ensure a cohesive sign program; however, the sign ordinance may not be violated in doing so. Commercial tenants within the project shall be permitted to utilize signage in compliance with commercial zoning districts; all commercial signage shall be placed on the portion of the structure utilized for commercial activities. No signage shall be permitted above the 2nd story of the building, as this is residential in use. No pole or pylon signs shall be permitted within the 932 Garland project site.
5. **Phasing:** 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:
 - The applicant shall be granted one (1) year from the date of Planning Commission approval of the large scale development to receive all permits necessary for development of the Phase with a one (1) year extension available.
6. 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.
7. Future development shall comply with at least the minimum design standards for development in the Unified Development Code as adopted at the time of development, including but not limited to landscaping, parking, access, street design, stormwater detention, tree preservation, 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.
8. Overhead awnings, balconies, stairways, stoops and other appurtenances to the primary structure may not extend within the Master Street Plan right-of-way. Allowances shall

be at the discretion of the Planning Commission and City Council to ensure safety measures, clearance and other criteria for zoning and development in the Unified Development Code are not compromised.

9. 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. Staff will recommend, at minimum, the following:
 - Install curb and gutter along Hughes and Berry Streets as well as storm drainage along Hughes Street. The alley along the east side of the property will be rehabilitated and paved with asphalt, resulting in a 20' width for two-way traffic movements. Additionally, 8' sidewalks will be constructed along Hughes Street, Garland Avenue and Berry Street. The sidewalk along Garland will be partially located outside of the dedicated right-of-way and therefore will be located within a pedestrian access easement. Additional improvements may be required once development plans have been submitted and reviewed in detail.
10. All sidewalks shall meet applicable City and A.D.A. requirements.
11. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
12. Street lights shall be installed on all abutting streets with a maximum spacing of 300'.
13. Street trees shall be provided pursuant to Chapter 177, Landscape Regulations, pertaining to the provision of urban tree wells in this location. Subject to sight distance limitations, street trees shall be planted along Berry, Hughes and Garland Avenue.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled
Motion: Graves
Second: Clark
Vote: 8-0-0
Meeting Date: October 9, 2006

Comments: *The Planning Commission made the following comments:*

- *More windows or doors were recommended for the west elevation at street level, to create a more "inviting" experience at the pedestrian level.*
- *The width of Garland helped balance the height of the structure.*
- *Removal of the existing curb-cuts was an improvement to the site.*
- *Recommended utilizing the same tree species as the University used for the boulevard section.*
- *Height at the northeast corner of the property was a concern.*
- *View of Old Main from Garland.*
- *Good introduction into campus.*

CITY COUNCIL ACTION:

Required

YES

City Council Action:

☐ Approved

☐ Denied

☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date:

November 7, 2006

Comments: _____

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this rezoning/master development plan item.

By _____

Date _____

Findings associated with MDP R-PZD 06-2256 (932 Garland)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in substantial compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. In review of the City Plan 2025, the application provides for a mixture of residential, office, commercial and mixed uses, which will provide future residents with job opportunities nearby and contribute to transportation goals by reducing dependency on car trips. The proposal is an intense development within an appropriate infill sector of the city, which promotes mixed uses to promote better community design, while maintaining human scale and greatly enhancing pedestrian activity near a center of pedestrian movement, the University of Arkansas.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development. Examples of this include requirements for the installation of curb, gutter, sidewalks and storm drainage. Fire and police have responded accordingly.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, creates a mixture of commercial, office, retail/restaurant and residential uses. Commercial land uses currently exist to the north and northwest, with undeveloped, Residential Office zoned property to the west across Garland Avenue. Many multi-family dwellings are located to the east of the property. Leverett Elementary School and various structures containing

student housing, offices, health centers, etc. are located nearby, in conjunction with the University of Arkansas. The highest elevations of the building are shifted to the west and north of the site in response to the institutional character of the nearby university buildings and commercial structures located at the intersection of Garland Avenue and Wedington Drive. This enables the scale of the building to step down considerably to the east and south in deference to the residential scale of the adjacent properties. Ultimately, the bulk of the building height is located along the non-residential edge of the site to allow for an appropriate transition between the subject development and the existing multi-family structures to the east.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is comprised of several, developed residential properties with little remaining undisturbed areas. Additionally, the design incorporates the slope and topography of the property to limit the visual impact from surrounding areas, and to create structured parking that works with the existing slope.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Based on staff findings and the attached Fayetteville Police Department report, the proposed rezoning would not create or appreciable increase traffic congestion in the area, or burden the existing road network. The property is served by Garland Avenue, a Principal Arterial, along with two other Local Streets, Berry and Hughes, as avenues to disperse traffic. Additionally, with redevelopment of the site, multiple curb-cuts will be removed from the site perimeter. Garland Avenue in the immediate vicinity has recently been improved to a boulevard cross-section, which controls traffic movement in the area.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the community once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: Staff finds that in review of the requested rezoning, the Master Development Plan proposed does not violate recognized zoning considerations, as found below.

(J) *Development standards, conditions and review guidelines*

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. At this time, the Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments offered by the applicant and those recommended by staff, and design standards to ensure the proposal will achieve a high level of compatibility with adjacent properties. While a shift in land uses from its current single use to one of mixed use, staff finds that the proposal herein does incorporate an acceptable level of compatibility, and development features further the health, safety, amenity and welfare of the community. Density, maximum dwelling units and maximum intensity (non-residential square feet) have been addressed for the proposed planning area; circulation is achieved via public streets, with an emphasis on a traditional urban design, allowing pedestrians freedom of movement; parking, screening, signage, and landscaping are all proposed to meet City of Fayetteville standards, allowing for a project that enhances the neighborhood.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required at this time; with development of the site, all applicable development criteria will be applied for appropriate landscaping, screening and buffering of parking areas and objectionable uses. This includes street tree plantings along all public streets, in appropriately sized greenspace areas or within urban tree wells.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in

light of the projected future traffic volumes.

- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Ingress and egress to the property will be provided via three (3) existing public streets and an alley which will be improved to provide a 20' paved surface. Sidewalks will be constructed along all three public streets, providing areas for pedestrian activity and movement, separate from vehicular traffic. Ingress and egress will be evaluated in detail for all public services at the time of development.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: The project does not comply with the standard minimum parking requirements for the uses proposed. Based on the square footage for office, retail, restaurant and residential, 132 parking spaces will be required with the 30% allowable reduction. The applicants are proposing to provide 128 parking spaces within the mixed use development, and a mixed-use parking chart has been provided in the booklet to demonstrate this shared use.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: Greenspace areas have not been provided pursuant to standard ordinance requirements, however a 25' greenspace is being provided between the proposed sidewalk and Garland Avenue. This greenspace will not only provide a buffer between pedestrians

and vehicular traffic, but also allow "green" zone for public benefit. This project is subject to the requirements of Chapter 177, Landscape Regulations, and shall provide street tree plantings in appropriately sized greenspace areas, or within urban tree wells, subject to approval by the Urban Forester.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development to ensure compliance. Wider sidewalks (8'-10') may be required for urban tree well conditions; a minimum width of 6' is required for all sidewalks on this mixed-use project, if the greenspace option is utilized.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights will be required at the time of development along all public streets (Berry, Hughes, Garland), with a maximum spacing of 300'.

(8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code and may include looping/connecting to other water lines to adequately maintain the water system in the area.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical

Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards, which have been indicated in the submitted statement of commitments. The Planned Zoning District process allows an applicant to propose alternative street cross-sections, sidewalk width and location, etc., all at the discretion and with the approval of the Planning Commission. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: N/A

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: Tree preservation requirements will be assessed at the time of large scale development. Staff will not support the removal of all on-site canopy unless supportive information is provided as to why on-site preservation requirements can not be met. At the time of development, staff would recommend a tree inventory provided by a certified arborist assessing all existing tree canopy.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: All office and commercial components of the building shall be evaluated as set forth in the code, at the time of development. Though strict adherence is not essential, submitted concept drawings will be utilized as templates for the future buildings.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: The project site sits well below the peak elevation of Rose Hill and therefore no significant views to the south should be affected by the building proposal. Views to the north and west are currently obstructed by existing vegetation and topographical changes. As the area section indicates, Old Main and many university structures are sited well above the project.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

- (3) *Effect.* In the event of revocation, any completed portions of the development or those

portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property.

FINDING: The applicant shall comply with the above requirements, as part of the Planned Zoning District ordinance.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The subject R-PZD is an adaptive reuse of existing property. The mixed-use components of the project, along with overall architectural and development principles utilized in the site planning, allow for a transition from the commercial nature of North

Street and the primarily residential nature of the Rose Hill neighborhood to the east. Harmony and compatibility are achieved by stepping down the building massing on the east side, respecting the scale of the multi-family apartments nearby, while also providing a greenway along Garland that will compliment the current boulevard landscaping. Additionally, the commercial uses are pushed towards the street edge of Garland Avenue, affording a separation between the existing residential uses to the east. A positive impact on adjoining properties should be achieved, enhancing the health, safety and welfare of the surrounding community. The project is consistent with many of the guiding policies of the City Plan 2025, including a revitalization effort through an infill strategy that discourages urban sprawl, while encouraging traditional urban life and pedestrian activity near centers of immense activity. Current development ordinances, including Tree Preservation, landscaping and design standards, enable more developments to be visually compatible than before.

The following guiding policies within Residential Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Areas:

12.1.4.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods. (Goal 3)

12.1.4.d Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances.

12.1.4.e Utilize more intense development patterns within the infill sector and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity. (Goal 1)

12.1.4.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services. (Goals 1g and 3)

12.1.4.g Encourage residential dwellings in appropriate specified Mixed Use Areas. (Goals 1 and 3)

12.1.4.h Encourage a development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas. (Goal 3a)

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 06-2256, with one (1) unique Planning Area. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's General Plan and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: The subject R-PZD meets the purpose and intent by providing a mixed-use development on a site that is generally prohibitive for redevelopment in this location, given the parameters of the existing zoning designation and topographical challenges. The project allows for a transition between the commercial development to the north and the residential areas to the east. The extensive development of public facilities to serve this property is not needed, for the project is surrounded by developed property and installed infrastructure. Instead, needed improvements to surrounding infrastructure, including curb and gutter, storm drains, sidewalks, landscaping, and the relocation of overhead lines underground will provide an amenity to the surrounding community.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial,

Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: See Zoning Criteria Chart within the project booklet provided by the applicant for the uses permitted by right and by conditional use in each Planning Area as proposed by the applicant. This project booklet, if approved, will remain on file in the Planning Division for comparison to future development on the property. Uses proposed have been evaluated and found to be reasonably compatible in adjacency to other uses.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The majority of development (approximately 75%) within the proposed Master Development Plan is slated for residential use. (66,227 sq. ft. of residential) (22,854 sq. ft. of non-residential)

(F) *Bulk and area regulations*

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

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

FINDING: The property is located at the edge of the Rose Hill neighborhood, which is composed of all types of residential uses within the RMF-40 zoning district; however properties to the north are exclusively commercial. The proposal is for 44 units/acres, which is consistent with adjacent zoning.

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

FINDING: Setbacks are varied on this project to allow for the nonresidential uses to be shifted to the north and west of the site, while also allowing the scale of the project to step down to the east and south in deference to the residential scale of the adjacent properties.

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

FINDING: A building height limit of 122' from the lowest point on the site has been established with the proposed R-PZD. Currently there is no height limitation in the RMF-40 zoning district, however any building which exceeds the height of 20' shall be set back from any side boundary line an additional distance of 1' for each 1' of height in excess of 20'. The current height proposal under the RMF-40 zoning district would result in a side setback of 110' from the east property line (not possible on this property). Other than the northern portion of the structure, which faces the commercial properties to the north, the bulk of the building sits approximately 70' from the western edge of the alley. This is accomplished by pushing the building envelop up to the street right-of-way along Garland Avenue, resulting in a significant step down as the building approaches the multi-family development to the east. There are many multi-story structures in the area, both on Garland Avenue and in the surrounding neighborhood. They consist of the University of Arkansas Quad, existing 8-9 story residential dormitories, 3-4 story multi-family structures, etc. Staff finds that adequate light and air are afforded to adjacent properties with this proposal, and that the cohesive design does not denude the visual quality of the community.

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

FINDING: The lot coverage is comparable to that which is allowed for a large scale development, whether commercial or residential.

***Required Findings for Rezoning Request.**

LAND USE PLAN: The City Plan 2025 Interim Future Land Use Plan designates this site as a Residential Area. Rezoning this property to R-PZD 06-2256, with the associated Master Development Plan, varies this future land use to a mixed use, though the principal use on the property will remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the General Plan 2020 for new development.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is to a great degree consistent with many of the principles and policies in place. The policies encouraged by the City Plan 2025 call for new residential areas accessible to roadways, alternative transportation modes, community amenities, schools, infrastructure and retail and commercial goods and services; encourage residential dwellings in appropriate specified mixed use areas, while encouraging development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas. This project meets all of these goals, and creates an internal transition of land uses that attempt to address adjacent land uses.

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

Finding: The proposed zoning is needed in order to develop a dense, mixed use, urban project that is in harmony with the guiding policies of the City Plan 2025, yet considerate to the existing residential properties located in the immediate vicinity.

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

Finding: Based on staff findings and the attached Fayetteville Police Department report, the proposed rezoning would not create or appreciable increase traffic danger and congestion in the area. The property is served by Garland Avenue, a Principal Arterial, along with two other Local Streets, Berry and Hughes, as avenues to disperse traffic.

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: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Engineering: Public water is adjacent to the site. There is an 8" waterline along both Hughes Street and Garland Avenue. Water service will need to be extended within the property and looped through the development at the time of development.

Sanitary sewer is available on the site. There is an 8" sewer main along the

east property line of this site. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to be extended within the property at the time of development.

The site has access to Garland Avenue, via Berry and Hughes Streets. Garland is an improved 4-lane boulevard with an 8' sidewalk proposed with this development. Berry and Hughes Streets are two-lane paved roadways with no curb and gutter or storm drains. Sidewalks, curb and gutter and storm drains are proposed with this development.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services.

Fire: The subject property is located approximately 0.25 miles from the Fire Station No. 2. Response time to the property is 1.5 minutes. There are no adverse impacts on call volume or response time anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: HGM Consultants Inc

From: Sarah K. Patterson, Urban Forester

Date: October 4, 2006

Subject: Planning Commission Review Comments

ITEM #: PZD 06-2256: Planned Zoning District (Mansfield)

TREE PRESERVATION PLAN

1. When this PZD enters the process for construction plan approval all requirements of Chapter 167 shall be met. This should include but not be limited to:
 - ❖ Tree Preservation and Grading Plan
 - ❖ Tree inventory of all significant trees include species, diameter at breast height, condition, priority, and canopy spread in square feet
 - ❖ Tree canopy calculations including existing canopy, preserved canopy, and removed canopy.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

D. 2
R-PZD 06-2256, 932 Garland
Page 31 of 38

POLICE DEPARTMENT

October 2, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville AR. 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Planned Zoning District R-PZD 06-2256: Planned Zoning District (MANSFIELD, 444): Submitted by YUME AND RUSSELL RUDZINDKI for property located at 932 GARLAND, BETWEEN BERRY AND HUGHES STREET 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.

It is the opinion of the Fayetteville Police Department that this planned zoning district will not create an undesirable increase in the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to R-PZD 06-2213: Planned Zoning District SUNBRIDGE VILLAS, 200): Submitted by PROJECT DESIGN CONSULTANTS, INC. for property located at NW OF SUNBRIDGE DRIVE AND HELLA BLVD, VILLAS PARK

It is the opinion of the Fayetteville Police Department that this planned zoning district will not create an undesirable increase in the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Captain William Brown
Fayetteville Police Department



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: October 4, 2006
Re: October 2, 2006 Zoning Review – Fire Department Comments

R-PZD06-2256 (Mansfield)

These .84 acres are covered by Engine 2 at 708 N Garland.

It is .25 miles from the station with an expected response time of 1.5 minutes.

The Fire Department anticipates 8 (5 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is at 1760 gpm.

The service impact of the 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.

R-PZD06-2213 (Sunbridge Estates)

These 20.97 acres are covered by Engine 4 and Ladder 4 at 3385 N Mainview.

It is 2.2 miles from the station with an expected response time of 6 minutes.

The Fire Department anticipates 18 (23 EMS – 15 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There is no recorded Measured Hydrant Flow in this area.

The service impact of the 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.

Feel free to contact me with any questions you may have about these comments.

**Captain Dale Riggins
Fayetteville Fire Department**



**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date: 09/19/06

To: PAUL + MARY DAWN BLAIR

APPLICANT/REPRESENTATIVE CONTACT INFO:

Name: Yume Rudzinski (Architects 226)

Address: 70 N. College Ave., Suite. 1 Fayetteville, Arkansas 72701

Phone/Email: 479-251-1085 yume@a226.com

PROJECT DESCRIPTION: The project is on .84 acre located at 932 Garland Ave. The program consists of a single mixed-use structure containing street-level retail along Garland Avenue, rental office space on the second level, and thirty-seven residential condominiums above. The parking will be accommodated on site in a two-level parking garage with access from both Hughes and Berry Streets. The design is directed toward professionals, university professors and families who are attracted to a modern, maintenance-free housing option with ready access to the University and other Fayetteville amenities.

Subdivision Committee Meeting: Thursday, Sept. 28th, 9:00 am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting: Monday, Oct. 9th, 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

☐ I have been notified of the above meetings for the described project.

☒ I do not object to the project described above.

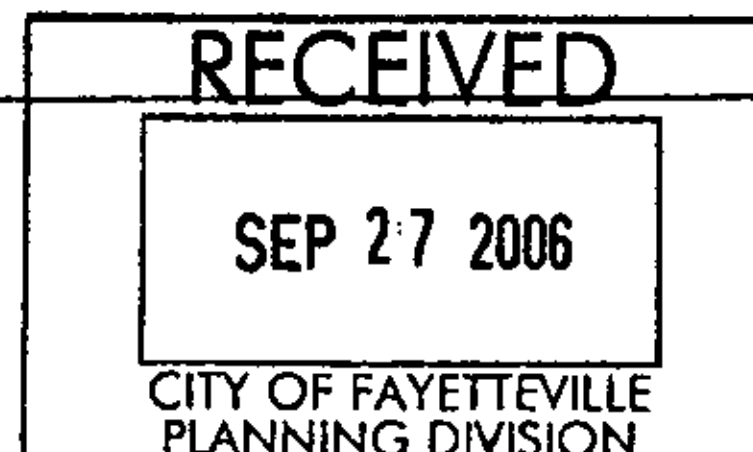
☐ I do object to the project described above because:

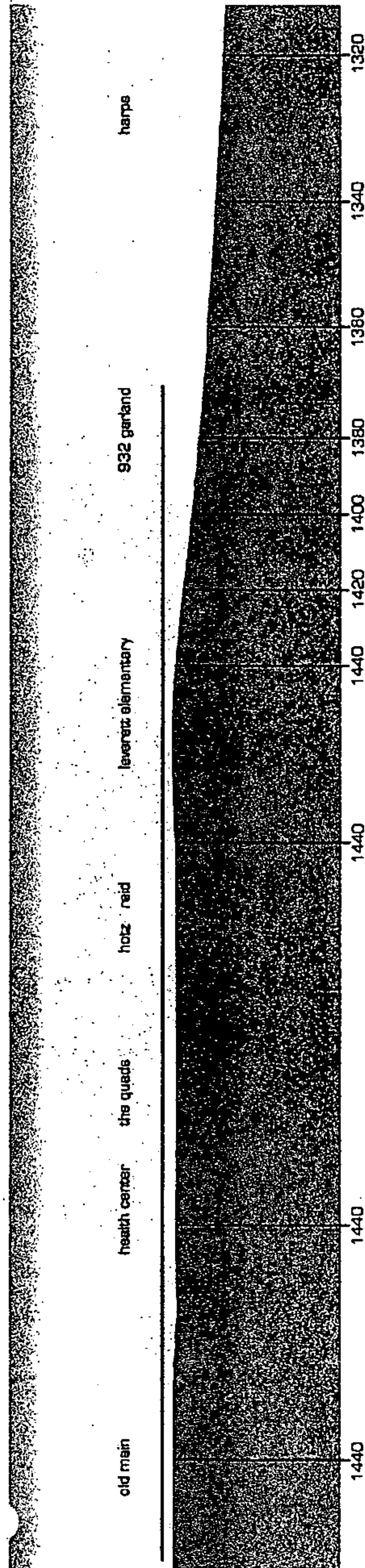
Paul Blair
Name of Property Owner (Printed)

820 N. Garland Fayetteville, AR 72701
Address of Property Owner

Paul Blair
Signature of Property Owner

932 GARLAND
Project Name

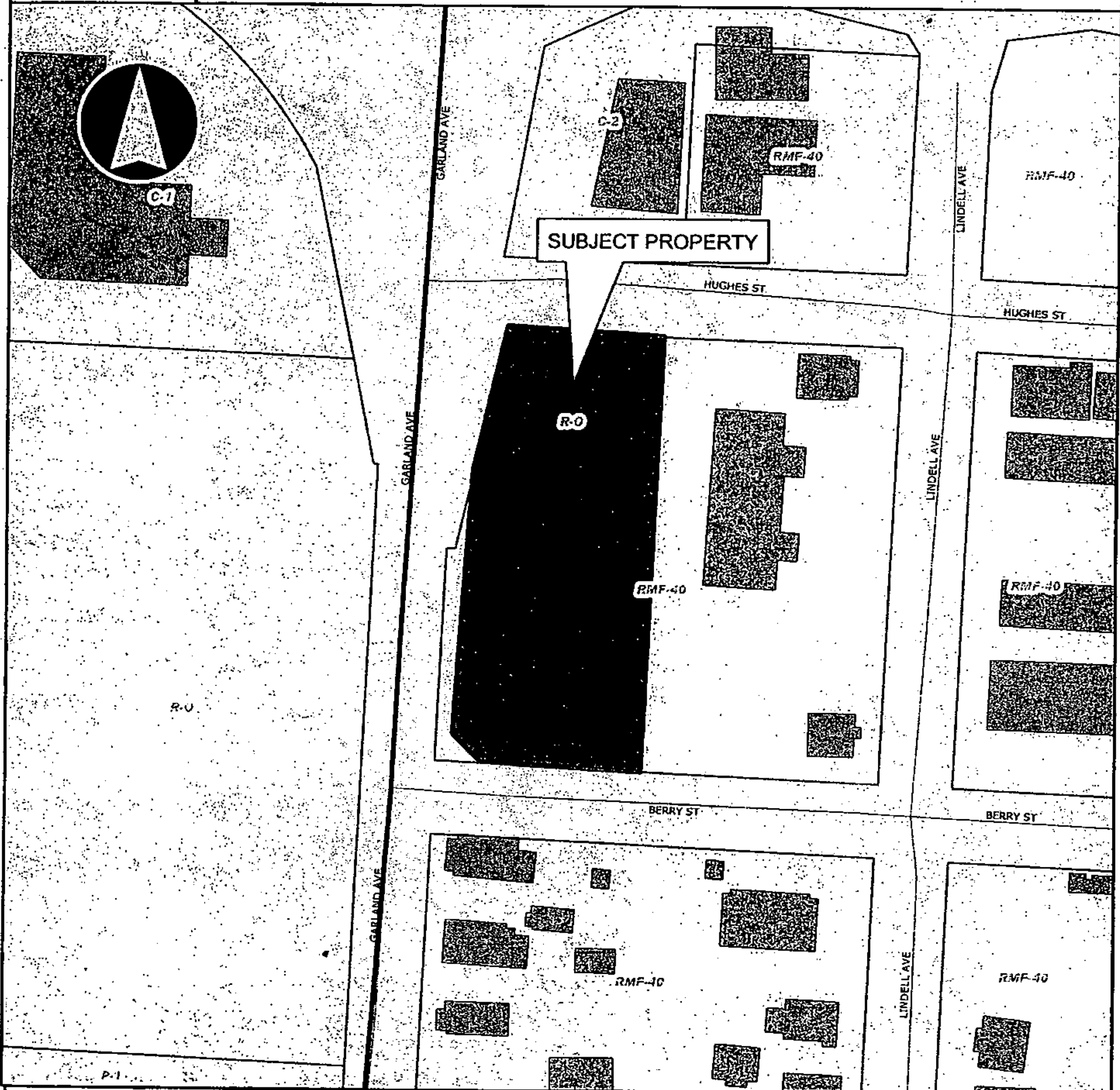




RPZD06-2256

Close Up View

932 GARLAND



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- Fayetteville
- Outside City
- RPZD06-2256
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 37.5 75 150 225 300 Feet

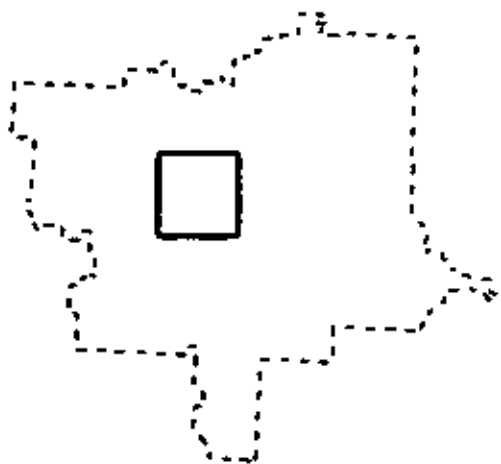
RPZD06-2256

932 GARLAND

One Mile View



Overview



Legend

Subject Property

RPZD06-2256

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

D. 3
ADM 06-2294 Amend Chapter 161, Zoning Regulations
Page 1 of 8

7-Nov-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 06-2294 (Use Unit 15/R-O) Approval of an ordinance amendment to the Unified Development Code to allow Use Unit 15, Neighborhood shopping, as a conditional use in the R-O, Residential Office zoning district

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

Budgeted Item

☐

Budget Adjustment Attached

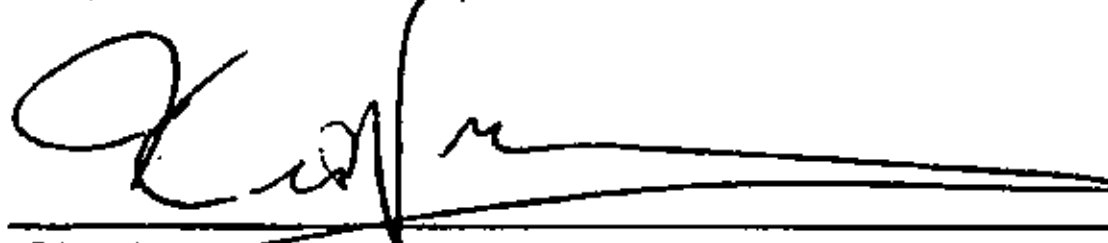
☐


Department Director

10-13-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

10-13-06

Original Contract Number: n/a

Paul A. Becher
Finance and Internal Service Director

10-13-06
Date

Received in City Clerk's Office



Mayor

10/13/06
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^X

Date: October 11, 2006

Subject: AMENDMENT TO CHAPTER 161.15 (B.2.)

RECOMMENDATION

Planning Staff recommends approval to amend the Unified Development Code Section 161.15 (B.2.), District R-O, Residential Office to add Use Unit 15, Neighborhood shopping goods as a conditional use.

BACKGROUND

Use Unit 15: Neighborhood shopping goods, is a use that is allowed by right in the C-1, C-2, C-3 and C-4 zoning districts. It is also permitted by right in all of the Downtown Zoning Code districts recently approved by the City Council, with the exception of Neighborhood Conservation. This use consists of a variety of convenience goods and services that are grouped or distributed in areas to provide convenience of access for surrounding neighborhoods, including but not limited to bakeries, dry cleaners, drugstores, florists, barber/beauty shops, video rental, etc. Staff recommends allowing this use in the R-O district with a conditional use permit, for the Planning Commission to address any potential impacts to surrounding residential districts such as hours of operation, delivery times, noise, etc. Along with the goals of the recently adopted CityPlan 2025, a mixture of appropriate uses near to and serving residential areas is desirable, when designed and situated with the surrounding neighborhoods in mind.

DISCUSSION

This item was heard at the regular Planning Commission on October 09, 2006. The Planning Commission voted 8-0-0 to forward this item to the City Council with a recommendation of approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 161, ZONING
REGULATIONS, SECTION 161.15 B.2 OF THE CODE OF
FAYETTEVILLE, TO ADD USE UNIT 15, NEIGHBORHOOD
SHOPPING GOODS AS A CONDITIONAL USE TO THE R-O,
RESIDENTIAL OFFICE ZONING DISTRICT

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

Section 1: That Chapter 161: Zoning Regulations, § 161.15 B.2, of the Code of
Fayetteville, is hereby repealed and Exhibit "A" is inserted in its stead.

See Exhibit "A" attached hereto and made a part hereof.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
ADM 06-2294

161.15 District R-O, Residential Office

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

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

(2) *Lot area minimum.*

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

(3) *Land area per dwelling unit.*

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

(D) *Density.*

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

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside/Hilltop Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside/Hilltop Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside/Hilltop Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts except for the HHOD, provided, however, that any building that exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet. In the Hillside/Hilltop Overlay District the maximum building height is 60 ft. as measured from the lowest point of the structure at the historic grade, prior to development, to the highest point of the structure allowing 3 stories on the uphill side and 4 stories on the downhill side of the building. If the building is placed on a graded pad then the height of the building is reduced allowing a maximum of 3 stories as measured from the historic grade, pre-development.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.



PC Meeting of October 09, 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: October 02, 2006

ADM 06-2294: Administrative Item: (USE UNITS): The request is to add Use Unit #15, Neighborhood shopping goods, within the R-O, Residential Office zoning district as a Conditional Use Permit, amending the Unified Development Code.

Amendment to Chapter 161 "Zoning Regulations" of the Unified Development Code, Section 161.15, District R-O, Residential Office to include Use Unit #15, Neighborhood shopping goods as a conditional use within the zoning district.

PLANNING COMMISSION ACTION: Required YES
☒ Approved ☐ Denied

Date: October 09, 2006

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied

Date: November 07, 2006

RECOMMENDATION:

Planning Staff recommends approval to amend the Unified Development Code Section 161.15 (B.2) District R-O, Residential Office to include Use Unit #15, Neighborhood shopping goods as a conditional use.

This use is currently only allowed within the existing commercial zoning districts, C-1, Neighborhood Commercial, C-2, Thoroughfare Commercial, C-3, Central Commercial and C-4, Downtown, all as a permitted use by right. Neighborhood shopping goods is not currently allowed as a conditional use in any zoning district. Use Unit #15, Neighborhood shopping goods, is described as the following:

Unit 15 includes a variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential areas.

In a review of the uses found within this zoning district, and the goals of the recently adopted CityPlan 2025, a mixture of appropriate uses near to and serving residential areas is desirable, when designed and situated with the surrounding neighborhood in mind. Staff finds that including this use as a *Conditional Use* affords the Planning Commission the ability to ensure that the surrounding neighborhood has an opportunity to participate in how a proposed use is implemented in Residential-Office type environments, much as the Planning Commission currently reviews eating places (Use Unit #13) as a conditional use in the R-O district. There are also several Residential-Office areas within the City of Fayetteville where many citizens are employed in office environments but do not have the ability to conduct everyday business (dry cleaning, bookstore, picture framing, pet shop, tailor, video rental, barber, bakery, grocery, etc) without driving to a commercial establishment, thus increasing congestion at peak periods of the day. Staff finds that including these uses as an option, subject to approval by the Planning Commission, a more mixed-use environment can be achieved, where it is appropriate. This does not result in all R-O zoning districts being appropriate for these uses; rather, by allowing an applicant to apply for a conditional use permit for the proposed neighborhood shopping use in an R-O zoning district, issues such as delivery times, hours of operation, compatibility with the neighborhood, ingress/egress, refuse and service, screening and buffering, etc. can be considered and addressed.

Use Unit #15, Neighborhood shopping goods, currently includes the following uses:

Retail Trade

Apparel and accessory	
Bicycle shop	
Bookstores	
Camera shop	
Cellular telephones and accessories	
Clothing	
Drugstore	
Florists	
Food:	•Bakery •Food specialty stores •Dairy products •Grocery •Supermarkets •Delicatessen •Health food store
Home furniture store	
Jewelry	
Hardware store	
Hobby shop	
Laundry-coin operated	

Leather goods and luggage	
News and magazine stand	
Optical goods	
Pet shop	
Picture framing, retail	
Radio and television store	
Record, tape, and cd shop	
Service establishment:	•Dry cleaning •Barber and beauty shop (6 or fewer chairs) •Laundry
Shoe	
Sporting goods	
Stationary store	
Tailoring	
Toy shop	
Video rental store	

The existing R-O, Residential Office zoning district, currently includes the following uses:

161.15 District R-O, Residential Office

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

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

City of Fayetteville
Staff Review Form
City Council Agenda Items

or
Contracts
11-7-06
~~17-06-06~~

City Council Meeting Date

Leif Olson
Submitted By

Planning
Division

Operations
Department

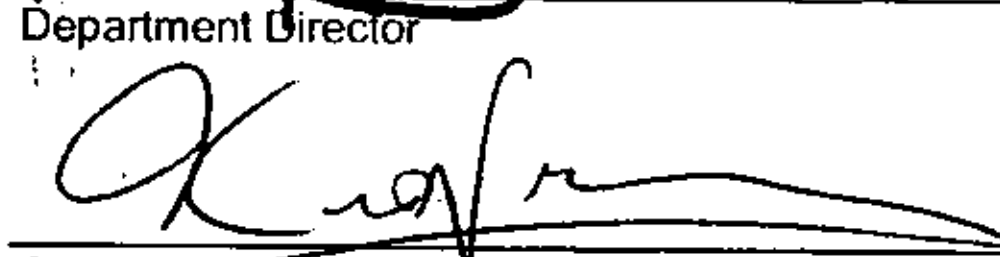
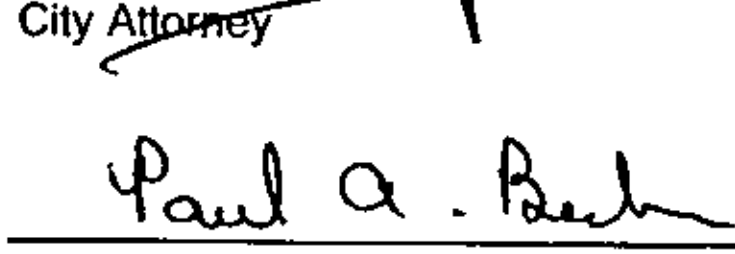
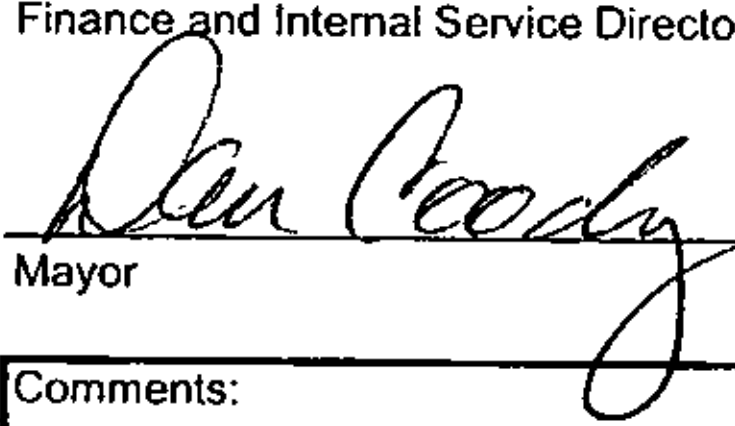
Action Required:

ADM 06 -2324 (DMP Supplementary Regulations: sidewalk cafes, transit shelters, taxi stands, downtown cross street and pole banners, artist live work units) Approval of an ordinance amending the Unified Development Code to codify regulations for uses and functions that typically occur within the public right-of-way.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

 Department Director	10-20-06 Date	Previous Ordinance or Resolution # n/a
 City Attorney	10-20-06 Date	Original Contract Date: n/a
 Finance and Internal Service Director	10-23-06 Date	Original Contract Number: n/a
 Mayor	10/23/06 Date	Received in City Clerk's Office ENTERED 10/20/06 Received in Mayor's Office ENTERED 10/20/06 BLP
Comments:		

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Planning and Development Management Director

From: Leif Olson, Long Range Planner

Date: October 17, 2006

Subject: Amendments to the UDC to regulate sidewalk cafes, transit system shelters, taxi stands, cross street and light pole banners, and artist live work units.

RECOMMENDATION

Planning Staff recommends approval of an ordinance amending the Unified Development Code to codify regulations for uses and functions that typically occur within the public right-of-way.

BACKGROUND

The City Council approved the Downtown Master Plan Zoning Code and Map on October 3, 2006. The downtown zoning code will regulate the building use, form and placement within the urban setting. An additional set of regulations is needed in order to ensure an orderly use of the public right-of-way in the downtown area. The following proposed amendments to the Unified Development Code will create standards for the placement of sidewalk cafes, transit system shelters and taxi stands in the public right of way. Additionally, amendments are proposed to the sign ordinance to regulate the placement and content of cross street and light pole banners. A definition of an artist live work unit is proposed to allow for mixed use artist space in zoning districts where Use Unit 12 – Offices, studios and related services, are allowed.

DISCUSSION

This ordinance was discussed at a meeting of the City Council Ordinance Review Committee on September 28, 2006. Lacking a quorum the Ordinance Review Committee generally agreed that the ordinance should be considered by the full City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF FAYETTEVILLE TO AMEND VARIOUS SECTIONS OF THE CODE IN ORDER TO IMPLEMENT THE SUPPLEMENTARY DISTRICT REGULATIONS FOR THE DOWNTOWN MASTER PLAN AREA.

WHEREAS, the City of Fayetteville recognizes the unique and significant role that the downtown area plays in the vitality of the City and the region; and

WHEREAS, the City of Fayetteville has determined that street activities should be encouraged; and

WHEREAS, the City of Fayetteville recognizes that street activities should be regulated by the City in order to ensure that access to the public right of way is safe.

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

Section 1: That Chapter 151 Definitions is amended by inserting an artist live/work unit into Section §151.01 Definitions, a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

Section 2: That Chapter 162 Use Units is amended by inserting a use unit for Sidewalk Cafes in Section §162.01, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

Section 3: That Chapter 163 Use Conditions is amended by inserting Section §163.19 Transit System Shelters, a copy of which marked Exhibit "C" is attached hereto and made a part hereof.

Section 4: That Chapter 171 Street and Sidewalks is amended by inserting Taxi Stands in Section §171.01 Miscellaneous Provisions, a copy of which is marked Exhibit "D" is attached hereto and made a part hereof.

Section 5: That Chapter 174 Signs is amended by inserting Wayfinding Kiosks and Cross Street Banners in Section §174.13 Downtown Master Plan Area, a copy of which is marked Exhibit "E" is attached hereto and made a part hereof.

Section 6: That Chapter 178: Sidewalk Cafes is adopted and added to the Unified Development Code, a copy of which is marked Exhibit "F" is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

To be inserted in Chapter 151 Definitions:

§151.01 Definitions.

Artist studio. (Zoning) Any building or place of business where Artists use the premises for creating art or craftwork and/or display and sales of merchandise. The Artist shall also be permitted to reside on the premises as long as the structure meets all applicable residential building codes.

EXHIBIT "B"

To be inserted in Chapter 162 Use Units:

162.01 Establishment/Listing

The various use units referred to in the zoning district provisions are herein listed in numerical order. Within the use units, the permitted uses are ordinarily listed in alphabetical order. In these use units where there is a preliminary descriptive statement (which may mention specific uses) in addition to the detailed list of uses, the detailed list shall govern. The asterisk (*) next to a specific use indicates that the use has special conditions as required by Chapter 163, Use Conditions and Chapter 164 Supplemental Regulations.

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 11	Manufactured home park
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 21	Warehousing and wholesale
Unit 22	Manufacturing
Unit 23	Heavy industrial
Unit 24	Home occupation
Unit 25	Professional offices
Unit 26	Multi-family dwellings
Unit 27	Wholesale bulk petroleum storage facilities with underground storage tanks
Unit 28	Center for collecting recyclable materials
Unit 29	Dance halls
Unit 30	Extractive uses
Unit 31	Facilities emitting odors & facilities handling explosives
Unit 32	Sexually oriented business
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 37	Manufactured homes
Unit 38	Mini storage units
Unit 39	Auto salvage and junk yards
Unit 40	Sidewalk Cafes

(NN) Unit 40. Sidewalk Cafes.

(1) Description. Unit 40 is provided in order that sidewalk cafes may be located in appropriate commercial areas.

(2) Included uses.

Sidewalk Cafes

EXHIBIT "C"

To be inserted in Chapter 163 Use Conditions:

164.19 Transit System Shelters

(A) Intent. Transit System Operators may apply for a conditional use permit to allow for the location of bus shelters in the right of way of public streets subject to the following conditions and requirements.

(1) Requirements for locating, constructing and maintaining a transit system bus shelter are as follows;

- (a) The bus shelter conditional use permit application shall require a site plan illustrating the location and dimensions of the proposed structure, the street right of ways and any existing utility easements.**
- (b) The City may require that the transit system provide a cash or security bond in an amount approved by the City sufficient to cover the cost of removing the transit systems facilities or improvements.**
- (c) The City may require that the transit system provide a provision authorizing the City to remove, without liability, any part of a facility for which a permit has been issued if there is a lawful need for the site or for access to the site.**
- (d) The City may require the transit system to provide public liability insurance.**
- (e) The City may require that the transit system provide and pay for any necessary or essential traffic and safety studies.**

(2) The Planning Commission may issue a bus shelter conditional use permit based on the following findings;

(a) The improvement or facility will not be located, extend onto, or intrude on the roadway or the sidewalk to such an extent as to impede the area needed for vehicular traffic or pedestrian use.

(b) The improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the street or sidewalk.

(c) The design and location of the facility includes all reasonable planning to minimize the potential for injury or interference to the public in the use of the municipal street or sidewalk.

(3) Additional bus shelter elements may be required to be installed and maintained by the Transit System Operator. These may include but shall not be limited to:

- (a) A concrete pad on which to locate the shelter and accompanying street furniture.**
- (b) Pedestrian scaled street lighting meeting the requirements of Chapter 176 of the Unified Development Code of the City of Fayetteville (Outdoor Lighting Ordinance).**
- (c) An integrated or detached "wayfinding totem" to identify location and bus routes.**

(4) Signage. Only signage denoting the bus stop location, or language associated with city wayfinding shall be allowed on bus shelter structures.

EXHIBIT "D"

To be inserted in Chapter 171 Use Units:

171.01 Miscellaneous Provisions

(E) *Taxi Stands.* Taxi stand shall mean such portion or portions of the public street or highway designated by the City Council of the City of Fayetteville as a place in which taxis may stand or park.

(1) No unattended parking allowed. A taxi must remain attended by its driver and ready for service while located within a taxi stand.

(2) City Council Establishment of Taxi Stands:

(a) The City Council may establish taxi stands on portions of public streets or facilities or private areas if permitted by the owner.

(b) The establishment, enlargement, or removal of a taxi stand shall be by City Council Resolution after a public hearing. Adjoining property owners within the block of the street or abutting the parking lot in which the taxi stand is proposed shall be notified by mail by the Planning Division and a planning notification sign shall be placed near the taxi stand location two weeks before the public hearing at City Council.

EXHIBIT "E"

To be inserted in Chapter 174 - Signs:

174.13 Downtown Master Plan Area

The purpose of this policy is to create a comprehensive system of consumer information points in order to foster and enhance the unique characteristics of the Downtown Master Plan Area. Wayfinding and special event signage shall be:

1. Of high quality, durable materials appropriate to an urban setting.
2. Consistent with any and all objectives of the Downtown Master Plan.

Because of its unique and historical entertainment character and for tourist information and traffic safety, the Downtown Master Plan Area may include a limited number of Kiosks and across the street banners to be installed solely by the City and containing no advertising or commercial content.

(A) Informational Kiosks with a map of the Downtown Master Plan Area may be placed upon city right-of-way by the City. The Kiosks shall contain only a map and/or description of the Downtown Entertainment Zone, public buildings and facilities, parking areas, and entertainment facilities within or near this zone.

(B) Decorative Banners Placed on Light Poles

- (1) Light pole banners shall be administered by the City of Fayetteville and/or its designated representatives.
- (2) All applications shall include a sign plan containing a visual representation of the sign's

construction, type of lettering, colors, area and height of graphics.

- (3) Any future light poles within the Downtown Master Plan will fall within the purview of this amendment.
- (4) It is the intent of this ordinance to support the City's public institutions such as the Walton Arts Center and the Blair Library with space dedicated for their uses.

(C) Special Event Banners – Cross Street Banners

(1) The City of Fayetteville may install cross street banners no larger than 30 feet by 3 feet at the following three locations;

(a) Across Dickson Street and St. Charles Avenue intersection;

(b) Across Dickson Street at Arkansas Avenue intersection;

(c) Across East Avenue at Spring Street intersection.

(2) Banners shall only be used to notify motorists of City sanctioned festivals or events that will result in City street closures for the festival or event for at least six hours. These banners shall meet all the requirements of Section 174.03 (J)(1) as to when they can be displayed prior to a festival or event.

EXHIBIT "F"

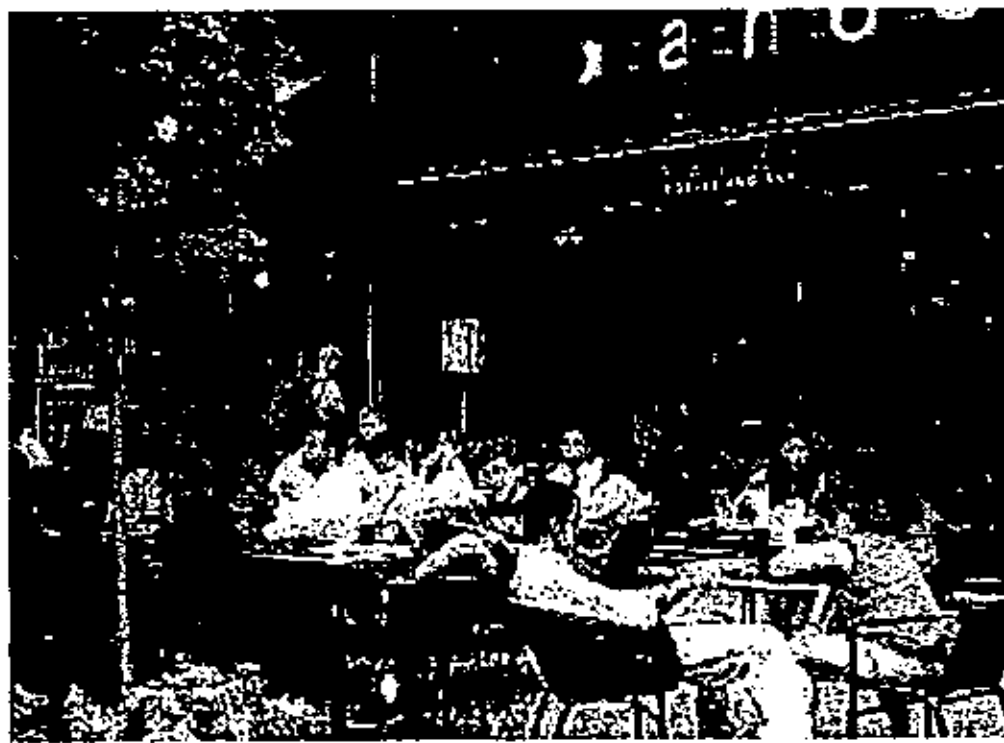
Chapter 178 – Sidewalk Cafes:

178.01 Purpose

Public right-of-ways are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that the Downtown Entertainment District is unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This policy is designed to encourage and promote outdoor dining in the Downtown Entertainment District in order to encourage pedestrian activity and make the urban environment more attractive.

178.02 Definition

A sidewalk café is an outdoor dining area not enclosed by a fence or other visual barriers in excess of 36 inches in height, is placed on a public right-of-way and contains removable tables, chairs, planters or other appurtenances and is abutting/contiguous to a restaurant that performs food preparation, sanitation, and related services for the sidewalk café.



178.03 Authorization

The Planning Commission may issue a conditional use permit establishing and maintaining a sidewalk café on a part of a sidewalk.

The City of Fayetteville shall issue conditional use permit criteria and requirements under this chapter including:

Those necessary to protect public use of a street or a public utility company.

A requirement that the owner provide the City with a cash or surety bond sufficient to cover the cost to the City or a public utility to remove the sidewalk café, if necessary.

A requirement that the owner pay the cost to relocate a City or public utility facility or improvement in a public street in connection with the installation of the sidewalk café.

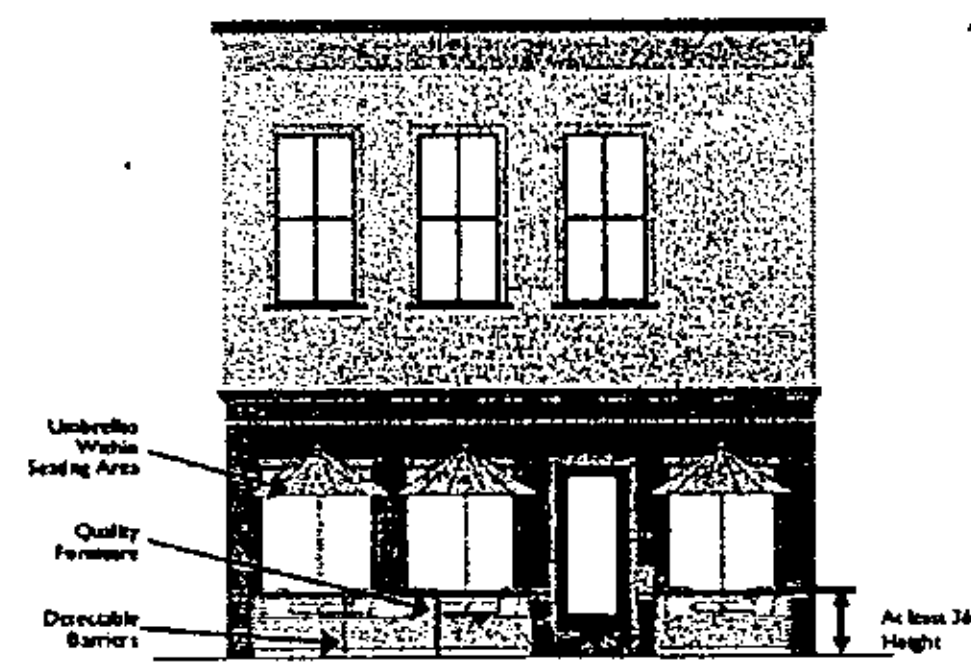
Authorization for the City or a public utility to remove, without liability, part of the sidewalk café if necessary to obtain access to a City or public utility facility or improvement.

178.04 Requirements

Sidewalk cafés shall meet the following requirements as well as all conditions of approval which may limit hours and dates of operation, whether or not smoking will be permitted, and any additional conditions reasonably appropriate:

Applicants requesting a conditional use permit must provide a detailed site plan illustrating the location and dimensions of all furniture to be placed in the public right-of-way. Sidewalk cafes may not be enclosed by walls or permanent structures.

Elements of a Quality Outdoor Seating Area



Temporary barrier fence.



Sidewalk cafes must be open to the air, except that an awning or canopy conforming to requirements established by the Planning and Zoning department may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance umbrellas must have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.



Property shall be kept clean and free of refuse with no trash containers placed on the premises.

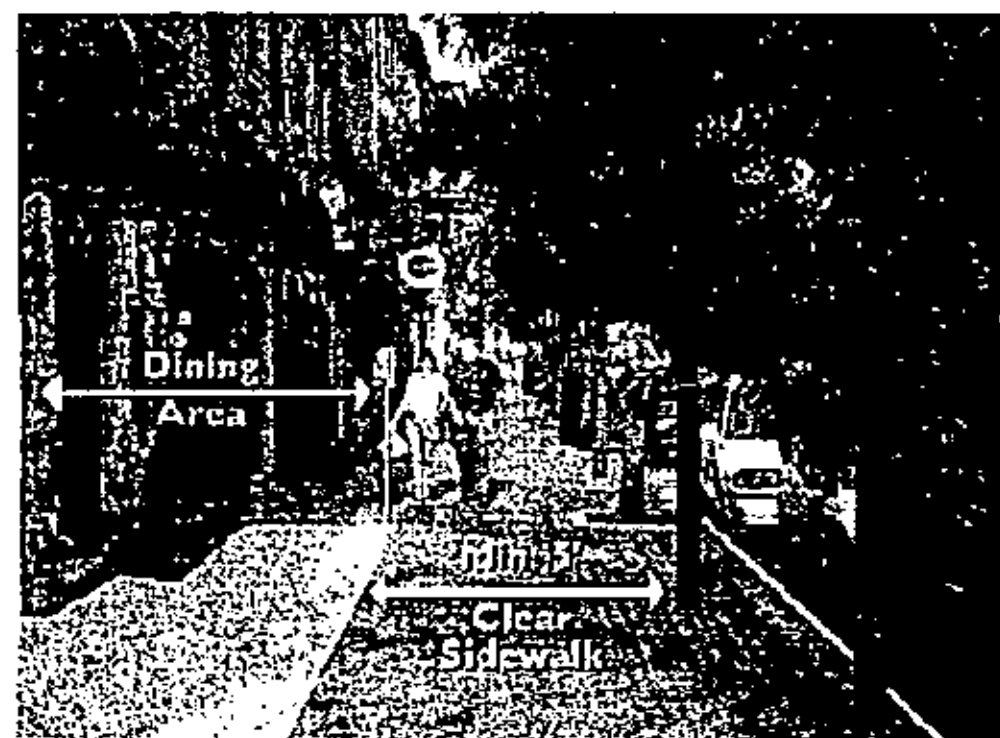
All furnishings and fixtures must be of a temporary nature, capable of being brought in at closing time, and shall be brought in and stored during non-operational times.



For sidewalk cafes using City right-of-way for operation, there shall be minimum of five feet or 50% of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement, such measurement being made from the outermost point of the café to the unobstructed inner edge of the curb.



The actual amount of clearance space needed will be based upon the location and the volume of pedestrian traffic. A larger pedestrian right-of-way may be required based on the proposed location and the volume of pedestrian traffic experienced there.



CITY ATTORNEY AGENDA REQUEST

D. 5
Real Estate Sales Contract
with Habitat for Humanity
Page 1 of 18

FOR: COUNCIL MEETING OF NOVEMBER 7, 2006

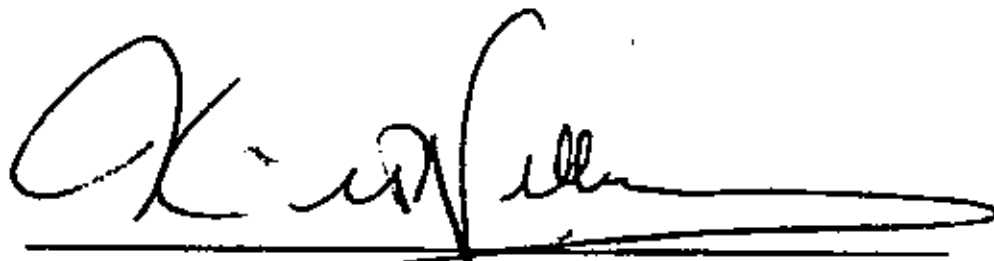
FROM:

KIT WILLIAMS, CITY ATTORNEY

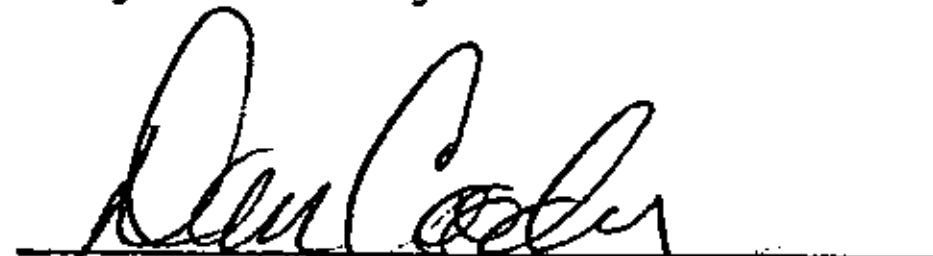
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance Waiving The Requirements Of §34.27, Code Of Fayetteville And Approving A Real Estate Sales Contract With Habitat For Humanity In The Amount Of \$152,000 For The Purchase Of Eight Acres South Of Huntsville Road And Seven Hills Transitional Housing; And Designating A Portion Of The Remaining Acreage South And East Of This Parcel As Passive Greenspace Or Parkland

APPROVED FOR AGENDA:


City Attorney

10-16-06
Date


Mayor

10/16/06
Date


Gary Dumas

10-16-06
Date


Tim Conklin

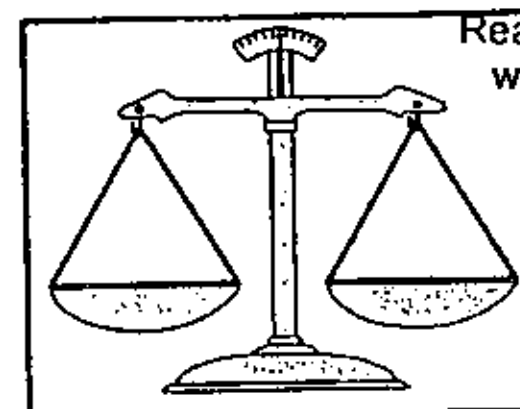
10-16-06
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

D. 5
Real Estate Sales Contract
with Habitat for Humanity
Page 2 of 18

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

CC: **Tim Conklin, Planning & Development Management Director**
Ron Petrie, City Engineer
Gary Dumas, Director of Operations
Paul Becker, Finance Director

FROM: **Kit Williams, City Attorney**

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

DATE: **October 16, 2006**

RE: **Sale of 8 acres of city-owned property south of Huntsville Road to Habitat For Humanity**

Mayor Coody and Tim Conklin have been working with Patsy Brewer and Jim Culberson of Habitat For Humanity in an attempt to create an innovatively designed, ecologically friendly, affordable housing development in Fayetteville. The Fayetteville City Council has always been a strong supporter of Habitat For Humanity and its work to provide truly affordable housing for those willing to invest their own "sweat equity" in their house.

The University of Arkansas Community Design Center is now partnering with Habitat in an effort to provide a demonstration project for innovative stormwater management techniques and creative home designs. Aaron Gabriel is the Project Director and will be applying for grants to help maintain the truly affordable nature of this Habitat development.

On January 16, 2001, the City of Fayetteville purchased about 19 acres of land south of Huntsville Road to save money the City would otherwise need to spend on drainage and stormwater management problems.

This land had been appraised by Mark Risk for \$158,000.00. The City purchased it for \$151,000.00.

As you remember, the City has entered into a 99 year lease with Seven Hills Homeless Center for about 3.5 acres of this property. That transitional housing development is about to occur although the private drive from Huntsville Road to the Seven Hills' property probably needs to be upgraded to city street standards to access the remaining city property (including the 2.2 acres leased to Sage House).

Although the City purchased this property for about \$8,000.00 per acre in 2001, property values have increased dramatically in the ensuing five and a half years. The City must legally obtain fair value for its taxpayers from the sale of any of its property. However, the City Council is granted wide discretion by the Court to determine this fair value.

We sold more desirable land to the Peace at Home Shelter for \$30,000.00 per acre a year or so ago. We also sold more valuable land south of Persimmon to private developers for about \$31,000.00 per acre on October 18, 2005. The parkland ordinance has set the city-wide money in lieu of land cost at \$40,000.00 per acre. However, we continue to sell industrial parkland for only \$20,000.00 per acre.

The U of A and Habitat need to be the contractual owners of this property by early November in order to apply for a large grant to finance their design work for this proposed development. We could not get a new appraisal done nearly quickly enough to allow the U of A to apply for this grant.

Since the City Council may reasonably determine the fair value of city property without formal appraisal, I suggest the value of the eight (8) acres sought by Habitat For Humanity should be set at \$19,000.00 per acre. Although this is considerably less than our recent sales to other entities and the \$40,000.00 average value agreed upon for money in lieu of dedicated parkland, it is close to the price of the nearby industrial parkland and constitutes an increase of 137% over what we paid per acre less than six years ago. Computing out this figure makes the total sale price for eight acres to be \$152,000.00 which is \$1,000.00 more than what the City paid for all nineteen acres in 2001. I believe this figure is very fair to Habitat and

will help them provide affordable housing while also ensuring our taxpayers receive their legally required fair value for their property.

Attached is Ed Connell's memo of January 5, 2001, recommending the 19 acre purchase for \$151,000.00. Mr. Connell notes this 19 acres could have many valuable purposes for the City including:

"1. Future park land 3. Lands for affordable residential development ... (Habitat For Humanity) or 5. The City could sell the land ... and recover a portion or all of the cost"

All three of these anticipated purposes for this 19 acres could be accomplished by this sale to Habitat and dedication of at least the most southern remaining portion as a neighborhood park. This is in addition to the Seven Hills and Sage House leased parcels for transitional housing and an area east of the leased parcels for possible additional development or parkland.

Attached is a map which shows the leased parcels. The eight acres needed by Habitat all lies south of the Sage House leased parcel. Also attached is the proposed ordinance and Real Estate Sales Contract with Habitat For Humanity.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.27, CODE OF FAYETTEVILLE AND APPROVING A REAL ESTATE SALES CONTRACT WITH HABITAT FOR HUMANITY OF WASHINGTON COUNTY, INC. IN THE AMOUNT OF \$152,000 FOR THE PURCHASE OF EIGHT ACRES SOUTH OF HUNTSVILLE ROAD AND SEVEN HILLS TRANSITIONAL HOUSING; AND DESIGNATING A PORTION OF THE REMAINING ACREAGE SOUTH AND EAST OF THIS PARCEL AS PASSIVE GREENSPACE OR PARKLAND

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 requirements of § 34.27, Code of Fayetteville, and approves a Real Estate Sales Contract with Habitat For Humanity Of Washington County, Inc. in the amount of \$152,000.00 for the purchase of eight acres south of Huntsville Road and Seven Hills Transitional Housing. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof. The Engineering and Planning Divisions may authorize credits to Habitat against the purchase price for the fair value of storm water management features in excess of normal code requirements and educational demonstration projects to spur innovation and increased efficiency for other developers in the storm water management area.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby designates a portion of the remaining acreage south and east of this parcel as passive greenspace or parkland to be developed after consultation among Habitat For Humanity Of Washington County, Inc., the City Parks Department and the Parks and Recreation Board. A portion of the consideration to purchase the eight acres may include design and development of this parkland by Habitat and its development partner.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said contract with Habitat For Humanity Of Washington County, Inc.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

REAL ESTATE SALES CONTRACT

1. The City of Fayetteville, Arkansas offers to sell and Habitat For Humanity Of Washington County, Inc. (hereinafter Habitat For Humanity) offers to buy, subject to terms and conditions set forth in this contract, approximately eight (8) acres more particularly described in Exhibit "1" attached hereto and made a part hereof.

SEE ATTACHED EXHIBIT "1" FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, Habitat For Humanity shall pay for the property One Hundred Fifty-Two Thousand Dollars (\$152,000.00). One Hundred Thousand Dollars (\$100,000.00) shall be due at closing. The remaining Fifty-Two Thousand Dollars (\$52,000.00) shall be subject to credits authorized by the City Engineer and the Planning and Development Management Director and shall be due prior to the issuance of the first building permit for any lot developed upon this property.
3. Conveyance will be made Habitat For Humanity by General Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property.
4. No title insurance shall be required of the City of Fayetteville for this sale and conveyance. Habitat For Humanity may request and pay for title insurance at its option.
5. The City of Fayetteville agrees to allow Habitat For Humanity, at Habitat For Humanity's expense, to survey the property.
6. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. General taxes, ad valorem taxes and special assessments shall be prorated as of closing.
7. The closing date shall be within one hundred eighty (180) days after approval of this Real Estate Contract by the City Council, which can be extended by agreement of the Mayor for an additional sixty (60) days. If such date of closing falls on a weekend or holiday, it will be held the following working day.
8. Possession of the property shall be delivered to Habitat For Humanity on the date of closing.
9. The City of Fayetteville hereby grants permission for Habitat For Humanity or its designees to enter the above described property and improvements for the purpose of inspection and/or surveying.
10. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.
11. The City of Fayetteville shall disclose to Habitat For Humanity any and all environmental hazards of which the City of Fayetteville has actual knowledge.

12. Habitat For Humanity Of Washington County, Inc. agrees to develop this parcel into at least twenty (20) lots to be used for its affordable housing projects in conjunction with the University of Arkansas Community Design Center. Habitat For Humanity further agrees to assist the U of A in applying for and complying with grants to make this project more affordable for the future homeowners. Habitat For Humanity shall employ advanced ecological storm water management development techniques and require its homeowners to properly maintain all such facilities pursuant to non-amendable restrictive covenants.
13. Habitat For Humanity Of Washington County, Inc. agrees to develop this eight acre parcel as a Planned Zoning District so that the Planning Commission and City Council can review and approve the design of the subdivision and the proposed innovative designs of the houses.
14. The City of Fayetteville and Habitat For Humanity agree that the benefits to the City of Fayetteville of the advanced stormwater management techniques employed on this site (both for control of stormwater and drainage and as demonstration projects for the benefit and education of other developers) should form a portion of the compensation for this purchase and designate the City Engineer and the Planning and Development Management Director to ascertain and determine the fair market value of these services which shall reduce the amount owed on the purchase price of this eight acre parcel.
15. This agreement shall be governed by the laws of the State of Arkansas.
16. This agreement, when executed by both Habitat For Humanity and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

CITY OF FAYETTEVILLE
A Municipal Corporation

**HABITAT FOR HUMANITY OF
WASHINGTON COUNTY, INC.**

By: _____
DAN COODY
Mayor

By: *Patsy S Brewer*
PATSY BREWER
Executive Director

Date: _____

Date: 10-25-06

Attest:

Agent or Witness:

Sondra Smith, City Clerk

Date: _____

Date: _____

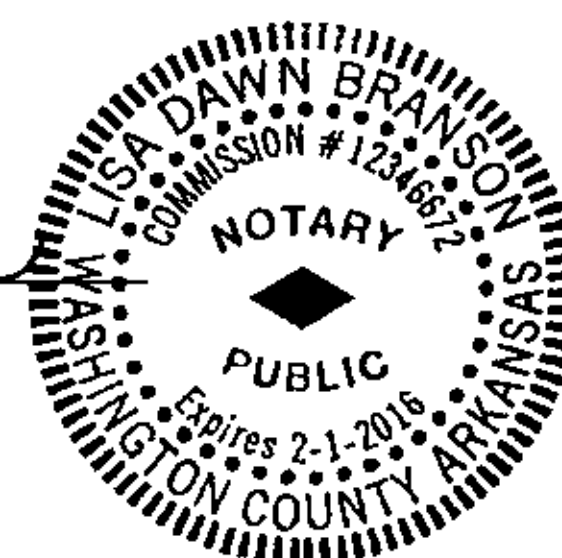
ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Patsy Brewer** to me well known as the person who executed the foregoing document, and who stated and acknowledged that she is the Executive Director of Habitat For Humanity Of Washington County, Inc. and is duly authorized in her respective capacity to execute the foregoing instrument for and in the name and behalf of the corporation, and further stated and acknowledged that she had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 25th day of October, 2006.

Lisa Dawn Branson
Notary Public



My Commission Expires:

2-1-2016

ACKNOWLEDGMENT

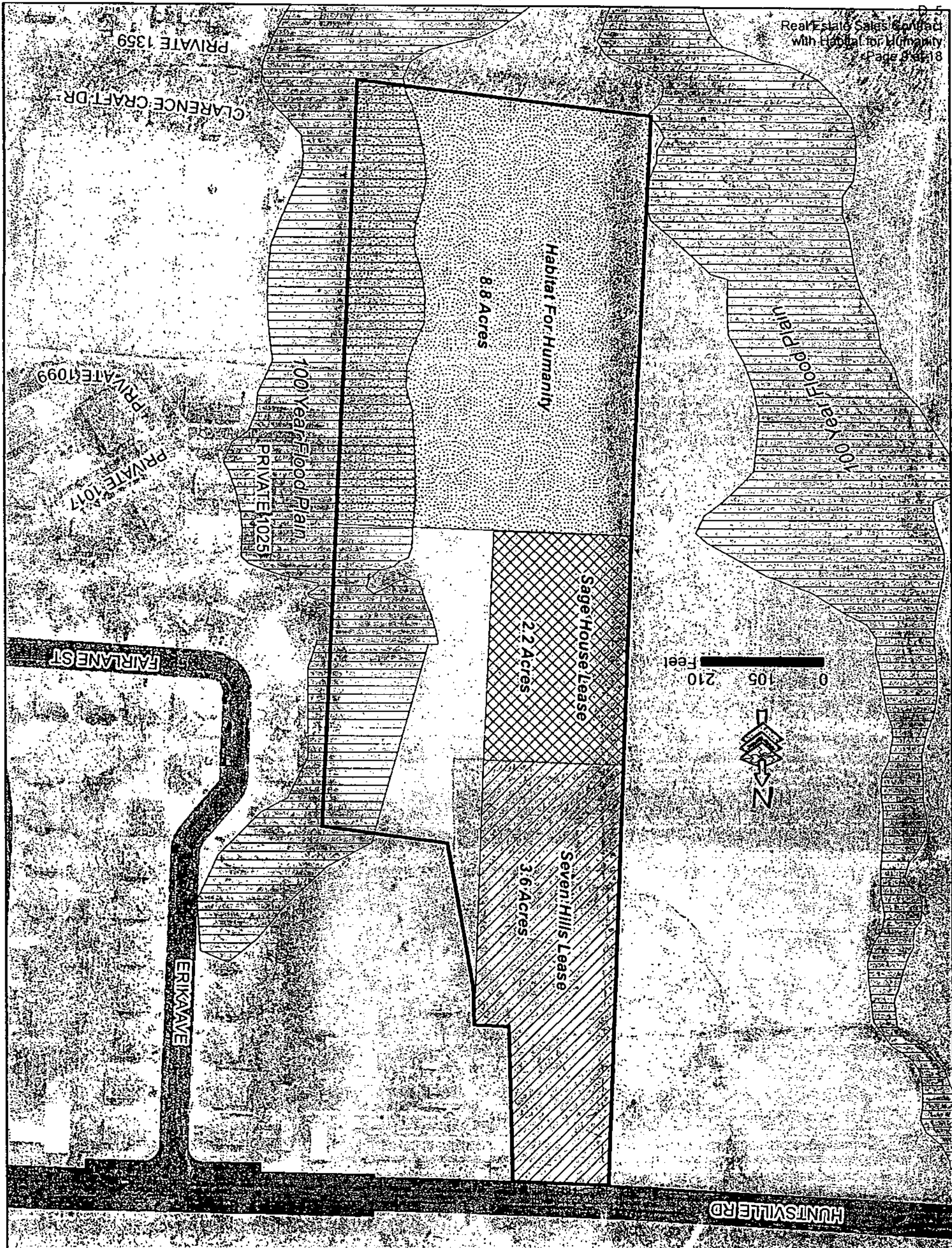
STATE OF ARKANSAS
COUNTY OF WASHINGTON

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

WITNESS my hand and seal on this _____ day of October, 2006.

Notary Public

My Commission Expires:



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

DATE: January 5, 2001

TO: Fayetteville City Council

THRU: Dan Coody, Mayor
John McGuire, Administrative Services Director
Don Bunn, Acting Public Works Director *DBB*
Jim Beavers, City Engineer *JB*

FROM: Ed Connell, Land Agent *EC*

RE: 18.88 Acre Barker Property Purchase
Huntsville Road, Fayetteville
Pt. E $\frac{1}{2}$ -NW $\frac{1}{4}$ -22-16-30

Over the past two-three years, the city has undertaken a major drainage project for controlling storm water from the SE side of Mt. Sequoyah, between Huntsville Road and 15th Street. The project included drainage resolution across portions of properties owned by William H. Barker (his heirs at the current time) and Charles Combs. The initial project envisioned open ditch over the northern portion of the project and pipe along the southern portion. Anticipated cost of the initial project was approximately \$180,000 to \$200,000.

While Mr. Combs was willing and did provide the city with easements to construct the system along his property, the heirs of William H. Barker were not satisfied with the plans to pull open ditch along a major portion of their property. They further claimed that the city's approval of a subdivision development to the east discharged additional waters on their property which caused irreparable damages in the southern part of that property. They claim that they were never notified, until after the fact, that a subdivision (Cedar Point S/D) was being considered adjacent to their property. They further claim that had they known of the development, they would have made their presence known to ensure adequate and proper handling of storm drainage. They blame the city for their property damage and have, on occasion, threatened to file suit. Their solution was to run pipe 36"- 48" all the way north to the outlet pipe of the subdivision. It is estimated that to do the project as they desired would cost an additional \$200,000. *ME*

This project made little or no progress over the next year as the city was unwilling to commit to the additional expenditure and the Barker heirs were unwilling to provide the city with easements. When Mr. Barker passed in 1999, the heirs decided to sell the property (18.88 acres). An offer and acceptance was signed with a third party for \$151,000 or \$8,000/ acre. When this transaction did not materialize to a final stage, the property came back on the market. As noted from the above discussion, the additional cost of the drainage project exceeded the cost of the land and it was prudent that the city consider the purchase thereof.

Fayetteville City Council
Barker Property Purchase
Agenda Memo
Page 2 of 2

The city can purchase the almost 19 acres for less money than would be spent to install the piping along the east line of this property. By purchasing the property, the city can implement the open ditch system that the city engineers believe adequate for this drainage system now or in the future and at the same time eliminate the possibility of a law suit. If the property is sold to a third party, that party is going to expect the drainage situation to be resolved by the city just as if the Barker heirs still own same. The city has offered \$151,000 for the property and the owners have accepted this offer (see attached O & A contract). The city has had the property appraised by Mark Risk: \$158,000 was his estimated market value. This represents almost 19 acres of reasonable to good land within the city limits, with water and sewer available, for a value of less than \$10,000 per acre, which is a good deal for almost anything within the city limits.

If the city were to acquire the land;

- (1) The city could eliminate the need to spend about \$200,000 or ½ the cost of the drainage project.
- (2) The drainage project itself could be forestalled to some future date when city departments could be in a position to do the work itself at a much lower cost to the city.
- (3) Once the project is completed, there would be a considerable savings in the cost of the project and the city would have 19 acres of prime land for any and all kinds of purposes, i.e.,
 1. Future park land for soccer or ball fields.
 2. Land for growing trees,
 3. Lands for affordable residential development on the north side of said property (Habitat for Humanity).
 4. Lands for future city divisions locations,or
 5. The city could sell the land within a couple of years and recover a portion or all of the cost of the drainage project.
- (4). This property is zoned R-1 residential and has access to/from Huntsville Road. Parks & Recreation have considered the possible purchase of the American Legion baseball field off of Curtis Ave. This 5 acre tract, while being used for baseball purposes, could also provide an access route to the south part of the subject property. This other acquisition can be incorporated as required and/or finances are available.

It is the recommendation of the staff that it makes sense for the city to take advantage and acquire the subject property at this time.

**THE
REAL ESTATE
CONSULTANTS**

118 N. East Ave.
P.O. Box 726
Fayetteville, AR 72702

• REALTORS • APPRAISERS • CONSULTANTS •

Phone (501) 442-0762

November 20, 2000

Mr. Ed Connell
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: Appraisal Services - Barker Property
1033 E. Huntsville Rd., Fayetteville, AR
Appx. 18.61 Acres

Dear Mr. Connell:

In compliance with your request, and for the purpose of estimating the Market Value of the above captioned property, I hereby certify that I have personally inspected the property and made a survey of matters pertinent to the estimation of its value. The intended use of this appraisal is for **purchase evaluation purposes of the City of Fayetteville.**

I further certify that I have no interest, present or contemplated, in the property under appraisement, and that the fee was not contingent upon the value estimate reported, nor based upon a percentage of the appraised value.

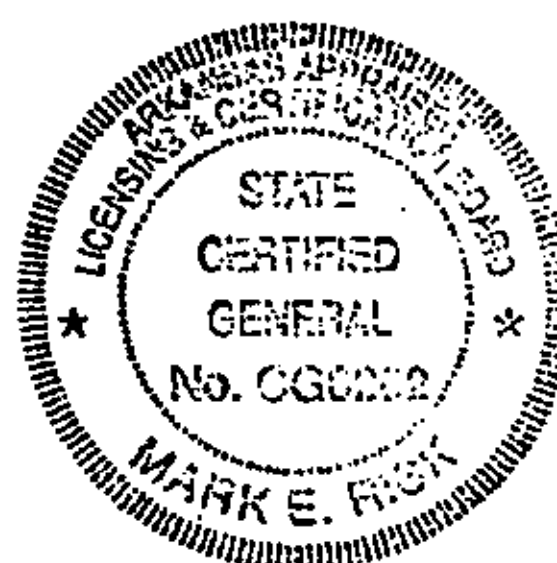
The following narrative appraisal report contains the data gathered in the investigation, and shows the method of appraisal in detail. The report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Foundation. This is considered a **Complete Summary** appraisal report.

Based upon the inspection of the subject property and the investigation and analysis carried out in this report, it is the considered opinion of the appraiser that the Market Value of the property as of **October 27, 2000** and subject to the assumptions and limiting conditions set forth within the body of this report, is as follows:

**ONE HUNDRED FIFTY EIGHT THOUSAND DOLLARS
(\$158,000)**

Respectfully Submitted,

Mark E. Risk, GAA
State Certified General Appraiser #CG0202



RESOLUTION NO. 5-01

SCANNED

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND ROSIE DORSEY, ROWIE HOWARD, WILLIAM BARKER AND ALICE McCLELLAND FOR THE PURCHASE OF 18.88 ACRES OF LAND OFF HUNTSVILLE ROAD IN THE AMOUNT OF \$151,000 PLUS ASSOCIATED CLOSING COSTS WHERE APPLICABLE.

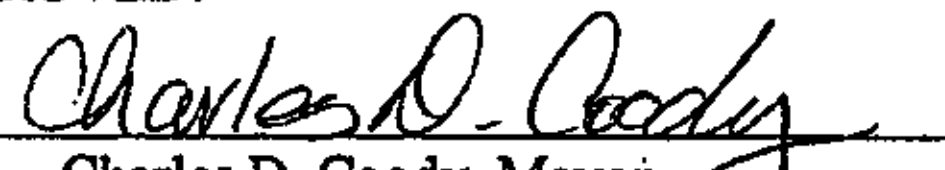
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council hereby approves an Offer and Acceptance Contract between the City of Fayetteville and Rosie Dorsey, Rowie Howard, William Barker and Alice McClelland for the purchase of 18.88 acres of land off Huntsville Road in the amount of \$151,000 plus associated closing costs where applicable. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

PASSED AND APPROVED this 16th day of January, 2001.

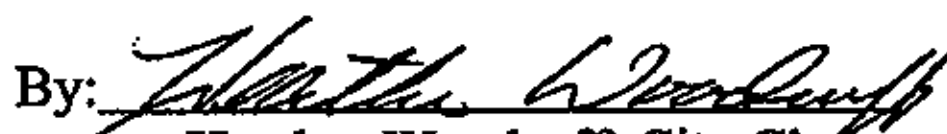
APPROVED:

By:


Charles D. Coody, Mayor

ATTEST:

By:


Heather Woodruff, City Clerk





Habitat
for Humanity®
of Washington County

*Building
houses,
building
hope*

EXECUTIVE DIRECTOR
Patsy S. Brewer

BOARD OF TRUSTEES

J.R. Ball
Keith Dixon
Ed Frentress
Mike Johnson
Jan Judy
Doug Kuntz
Tommy Lewis
Tommi Perkins
Ellen Roberts
Fred Sheltz
Jess Smith
Joel Tittel
Tom Verdery
Mike Walker

ADVISORY BOARD

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Joan Johnson
Rev Lewis
John Lewis
Joanna Newman
Kim O'Dell
Johnny Quinn
Bill Ramsey
Neil Shipley
Larry Simpson
Barbara Taylor
Jim Taylor
Fred Vorsanger
Perry Webb
John White

October 4, 2006

To: Tim Conklin
From: Habitat for Humanity of Washington County
Contact: Patsy Brewer, Executive Director
479-575-9696

Project:

Plan and develop a green neighborhood demonstrating urban low impact technologies that protect streams from pollutions from urban development.

Habitat agrees to show this demonstration project to other area developers.

The environmental project that will also include a 20-24 residential development.

The project is in collaboration with the University of Arkansas Community Design Center and the Ecological Engineering Group. The project will be similar to the award winning environmental project CDC designed for Habitat for Humanity of Benton County (the first ecological Habitat build site in the United States).

Proposal: to swap services.

HFH-WC will provide engineering, design and water quality management in trade for a portion of the city owned property on Huntsville Road.

Funding: \$600,000

\$350,000 Environmental grant (design and infrastructure)

\$250,000 Private donations/grants

Arvest Bank is the interim financial source

The project has the full support and endorsement of the Habitat for Humanity of Washington County Board of Trustees

Bringing families and communities in need together

with volunteers and resources to build decent, affordable housing

419 W Rock #2
PO Box 1863
Fayetteville, AR 72702-1863
(479) 575.9696
(479) 575.0065
www.habitatwashcoar.org

104 North East Avenue
Fayetteville, AR 72701
phone 479-575-5772
fax 479-575-7045

<http://uacdc.uark.edu>

outreach center of the
school of architecture

October 4, 2006

Patsy Brewer
Executive Director
Habitat for Humanity of Washington County
Fayetteville, AR

**Habitat for Humanity of Washington County: Arkansas Natural Resources
Commission Demonstration Project**

The University of Arkansas Community Design Center in association with the university's Ecological Engineering Group is applying for a \$350,000 grant to plan and design a demonstration Low Impact Development (LID) for Habitat for Humanity of Washington County. The Arkansas Natural Resources Commission is accepting grant application for nonpoint source (NPS) pollution demonstration projects, due November 17, 2006. The primary purpose of the grant is to plan a green neighborhood demonstrating urban LID technologies that protect streams from NPS impact from urban development. The model development will showcase new technologies in stormwater management that enhances affordability while improving environmental functioning.

Project planning for this 8-acre residential development will provide model templates consisting of green streets, retention meadows, bioswale systems, pervious surface parking, natural-scaped yards, and other stormwater facilities as a contiguous neighborhood infrastructure. We will also develop a project publication illustrating new techniques in urban LID technologies. Our proposal for green street implementation will parallel the successful local Green Street program developed in Portland and the Street Edge Alternative (S.E.A. Streets) program pioneered in Seattle. The project publication will illustrate: 1) principles of green streets and related urban LID technologies, 2) implementation procedures, and 3) LID applications in the Fayetteville Habitat for Humanity project.

Should our grant application with the Arkansas Natural Resources Commission not prove successful, we will pursue other grant programs.

Sincerely,



Stephen Luoni, Director



Arkansas Natural Resources Commission

D. 5
Real Estate Sales Contract
with Habitat for Humanity
Page 18



J. Randy Young, PE
Executive Director

101 East Capitol, Suite 350
Little Rock, Arkansas 72201
<http://www.anrc.arkansas.gov/>

Phone: (501) 682-1611
Fax: (501) 682-3991
E-mail: anrc@arkansas.gov

Mike Huckabee
Governor

Memorandum

To: Nonpoint Source Support Group and Other Interested Parties
From: Tony Ramick 
Supervisor, NPS Program
Date: August 22, 2006
Re: Request for FY 07 Section 319(h) Grant Applications

CEIVED
AUG 28 2006
FINANCIAL SERVICES

The Arkansas Natural Resources Commission (ANRC) will be accepting Grant Applications for nonpoint source pollution (NPS) management projects until the close of business, Friday, November 17, 2006.

**If you are not the individual responsible for making grant requests,
please forward this to the proper individual in your organization.**

Projects for consideration will be those that fulfill milestones as stated in the "Arkansas Nonpoint Source Management Program, 2005 – 2010 Draft". Priority will be given to projects that implement BMPs that have a direct impact on reducing nonpoint source pollution in the state's eight priority watersheds (see attached map) and/or in a watershed in which a nonpoint source TMDL (excluding Mercury) that has been prepared by the ADEQ. In addition to these requirements, projects are to be proposed on the 12-digit Hydrologic Unit Code (HUC) scale, address land adjacent to a nonpoint source-related 303(d) listed waterbody, and have a monitoring component. Education/Outreach projects will not be considered as a priority for the FY 2007 grant cycle.

Only complete Grant Applications will be accepted. Furthermore, all Grant Applications must identify a cause(s) and source(s) of nonpoint source pollution within the respective watershed's project area. Load reduction modeling information should be included in the project workplan. Please contact the NPS staff for modeling requirements and modeling assistance no later than October 2, 2006. Those applicants who fail to contact the NPS staff after October 2nd will receive the lowest modeling assistance priority.

Applying for a grant does not guarantee funding of the request.

At this time the EPA Final Guidance for the FY 07 grant cycle has not been received. Changes from the procedures of past years are anticipated. Any changes will be sent immediately to those who have contacted the NPS staff.

An Equal Opportunity Employer

A Grant Application at a minimum will consist of the following:

- a fully developed, approvable workplan with specific targets defined, a tracking mechanism to quantify results, specific timeline in which task or activities are to be completed,
- estimated cost per task, complete budgets, justifications and financial audit requirements
- model, and/or methodology for estimating NPS pollution reduction, control or abatement

Grant Applications must be submitted by the close of business, November 17, 2006.

Starting September 5, 2006, the NPS staff will be available to work with and advise applicants in the preparation of their Grant Applications.

Applicants are required to contact the NPS staff no later than October 2, 2006. Applicants that fail to contact the NPS staff may receive the lowest funding priority.

Demonstration projects must include a technology transfer element that will result in extensive implementation of conservation practices or best management practices. Research is not eligible.

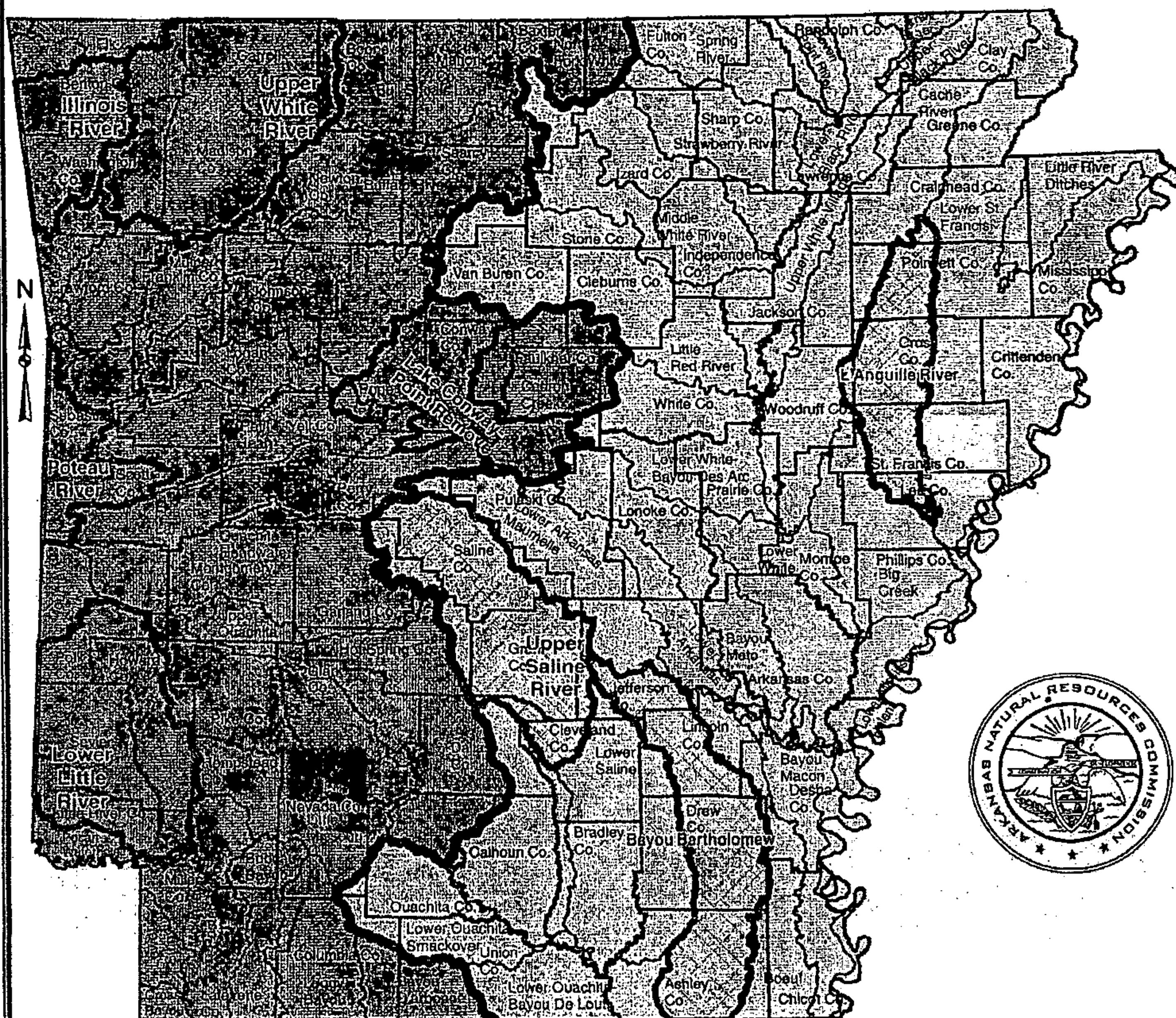
Applications are available from the NPS staff or by calling (501) 682-3901. Electronic submittal will be accepted provided such application is submitted in MS Office (2000 or later) format. If the submitted file is not compatible with the ANRC's software, it will be the applicant's responsibility to provide a suitable format. Applications received by the ANRC after the close of business November 17, 2006 will not be considered for the FY 07 grant cycle.

- The ANRC requires that section 319(h) grant recipients provide non-federal match in the amount of 43% of the entire project costs. In other words, for a project with a total cost of \$100,000, the recipient will be required to provide \$43,000 in non-federal funds or in-kind services. The amount of federal funds available for our example grant would be \$57,000. Funds and services used as match shall not be utilized as match for any other federal grant program and shall not in any way be paid by federal funds.

Should you have questions or need additional information contact the NPS staff or your Land Resource Specialist.

Cc: J. Randy Young, P.E.
Earl Smith, P.E.
Kara Alexander, USEPA

Attachments: NPS Priority Watersheds/Project Officer Regions Map



Legend



Jason Boyd.....(501) 682-3916

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

11/7/2006

City Council Meeting Date

Paul A Becker

Submitted By

Finance

Division

Finance Department

Department

Action Required:

Approval of an ordinance transferring the remaining balance of the proceeds from the sale of the Cato Springs Road properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance. This will amend Ordinance 4787 adopted on November 1, 2005. The transferred amount would be used to help fund the construction of a Police and Court Facility.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # 4787

Department Director

Date

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody and Fayetteville City Council

From: Paul Becker, Finance Director

Date: October 20, 2006

Subject: Funding for Police Judicial Facility

Recommendation

Staff recommends approval of two resolutions and one ordinance which would provide for the transfer of the remaining balance of designated funds in the General Fund to the Sales Tax Capital Fund and designate those funds for the construction of a Police and Court Facility. Staff also recommends the proceeds of any future sale of parcel 20W in the South Industrial Park and the Tyson Site be deposited in the Sales Tax Capital Fund and designated for that purpose.

Discussion

The funds in the current General Fund Designated Fund balance represent the remaining balances of the proceeds from the sales of Wilson Springs and Cato Springs properties. This amounts to \$3,262,124 at this time. If monies from a potential sale of the Tyson Site and parcel 20W in the South Industrial Park (which is estimated at a combined total of \$1,100,000) could be dedicated to the Police and Court Facility a total of \$4,362,124 would be provided for this project. This would fund approximately 50% of the estimated project cost.

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 2 OF ORDINANCE No. 4787; DESIGNATING THE REMAINING BALANCE OF THE PROCEEDS FROM THE SALE OF THE CATO SPRINGS ROAD PROPERTIES FROM GENERAL FUND DESIGNATED FUND BALANCE TO SALES TAX DESIGNATED FUND BALANCE TO FUND A PORTION OF THE CONSTRUCTION COSTS OF A POLICE AND COURT FACILITY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby repeals Section 2 of Ordinance No. 4787.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the remaining balance of the proceeds from the sale of the Cato Springs Road properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

ORDINANCE NO. 4787

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.27, CODE OF FAYETTEVILLE AND APPROVING A REAL ESTATE SALES CONTRACT WITH BIOBASED TECHNOLOGIES IN THE AMOUNT OF \$940,000.00 FOR THE PURCHASE OF THE WATER & SEWER OPERATIONS CENTER ON CATO SPRINGS ROAD; DESIGNATING THE PROCEEDS FOR ECONOMIC DEVELOPMENT PURPOSES; AND APPROVING A BUDGET ADJUSTMENT IMPLEMENTING THE DESIGNATION.

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

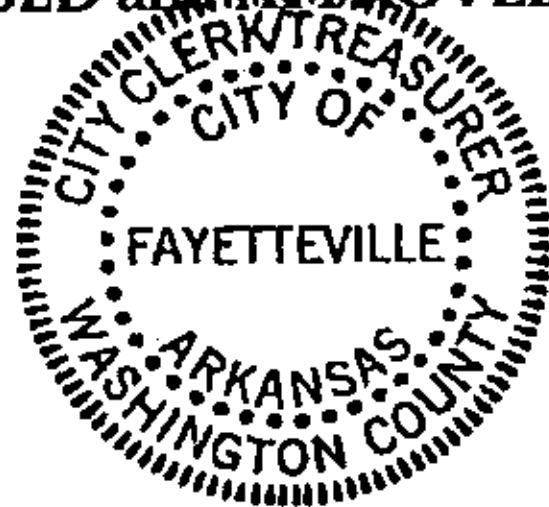
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of § 34.27, Code of Fayetteville, and approves a Real Estate Sales Contract with BioBased Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the proceeds of this sale for Economic Development purposes.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment implementing said designation of proceeds.

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said contract with BioBased Technologies.

PASSED and APPROVED this 1st day of November, 2005.



ATTEST:

By: Sandra Smith
SONDRA SMITH, City Clerk

APPROVED:

By: Dan Coody
DAN COODY, Mayor



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

11/7/2006
City Council Meeting Date

Paul A Becker
Submitted By

Finance
Division

Finance Department
Department

Action Required:

Approval of a resolution transferring the remaining balance of the proceeds from the sale of the Wilson Springs properties from General Fund Designated Fund Balance to Sales Tax Designated Fund Balance. This will replace resolution 185-04 adopted on November 16, 2004. The transferred amount would be used to help fund the construction of a Police and Court Facility.

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

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # 185-04

Department Director _____ Date _____

D. J. Whit 10/20/06
City Attorney _____ Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becker 10-19-2006
Finance and Internal Service Director _____ Date

Received in City Clerk's Office
ENTERED 10/19/06

Don Coady 10/23/06
Mayor _____ Date

Received in Mayor's Office
ENTERED 10/20/06 BOP

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody and Fayetteville City Council

From: Paul Becker, Finance Director

Date: October 20, 2006

Subject: Funding for Police Judicial Facility

Recommendation

Staff recommends approval of two resolutions and one ordinance which would provide for the transfer of the remaining balance of designated funds in the General Fund to the Sales Tax Capital Fund and designate those funds for the construction of a Police and Court Facility. Staff also recommends the proceeds of any future sale of parcel 20W in the South Industrial Park and the Tyson Site be deposited in the Sales Tax Capital Fund and designated for that purpose.

Discussion

The funds in the current General Fund Designated Fund balance represent the remaining balances of the proceeds from the sales of Wilson Springs and Cato Springs properties. This amounts to \$3,262,124 at this time. If monies from a potential sale of the Tyson Site and parcel 20W in the South Industrial Park (which is estimated at a combined total of \$1,100,000) could be dedicated to the Police and Court Facility a total of \$4,362,124 would be provided for this project. This would fund approximately 50% of the estimated project cost.

RESOLUTION NO. _____

A RESOLUTION TRANSFERRING THE REMAINING BALANCE OF THE PROCEEDS FROM THE SALE OF THE WILSON SPRINGS PROPERTY FROM GENERAL FUND DESIGNATED FUND BALANCE TO THE SALES TAX DESIGNATED FUND BALANCE TO FUND A PORTION OF THE CONSTRUCTION COSTS OF A POLICE AND COURT FACILITY.

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 directs that the remaining balance of the proceeds from the sale of the Wilson Springs Property be transferred to the Sales Tax Designated Fund Balance to fund a portion of the construction costs of a police and court facility.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

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

11/7/2006

City Council Meeting Date

Paul A Becker

Submitted By

Finance

Division

Finance Department

Department

Action Required:

Approval of a resolution directing the proceeds of any future sale of parcel 20w in South Industrial Park and the Tyson Site be deposited in the Sales Tax Capital Fund and designated for the construction of a Police and Court Facility.

N/A

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Mayor Dan Coody and Fayetteville City Council

From: Paul Becker, Finance Director

Date: October 20, 2006

Subject: Funding for Police Judicial Facility

Recommendation

Staff recommends approval of two resolutions and one ordinance which would provide for the transfer of the remaining balance of designated funds in the General Fund to the Sales Tax Capital Fund and designate those funds for the construction of a Police and Court Facility. Staff also recommends the proceeds of any future sale of parcel 20W in the South Industrial Park and the Tyson Site be deposited in the Sales Tax Capital Fund and designated for that purpose.

Discussion

The funds in the current General Fund Designated Fund balance represent the remaining balances of the proceeds from the sales of Wilson Springs and Cato Springs properties. This amounts to \$3,262,124 at this time. If monies from a potential sale of the Tyson Site and parcel 20W in the South Industrial Park (which is estimated at a combined total of \$1,100,000) could be dedicated to the Police and Court Facility a total of \$4,362,124 would be provided for this project. This would fund approximately 50% of the estimated project cost.

RESOLUTION NO. _____

A RESOLUTION DIRECTING THE PROCEEDS FROM ANY FUTURE SALE OF PARCEL 20W IN SOUTH INDUSTRIAL PARK AND THE TYSON SITE TO THE SALES TAX CAPITAL FUND TO FUND A PORTION OF THE CONSTRUCTION COSTS OF A POLICE AND COURT FACILITY.

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 directs that the proceeds from any future sale of Parcel 20W in South Industrial Park and the Tyson site to the Sales Tax Capital Fund to fund a portion of the construction costs of a police and court facility.

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: _____

DAN GOODY Mayor

ATTEST:

By: _____

SONDRA SMITH City Clerk

DRAFT

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

11/7/2005
City Council Meeting Date

Susan Thomas
Submitted By

Public Information
Division

General Government
Department

Action Required:

A resolution approving a contract amendment not to exceed \$458,661 with Wilson Estes Police Architects for design and construction services and approving up to \$30,000 in reimbursable expenses.

\$ 488,661.00 Cost of this request	\$ 400,000.00 Category / Project Budget	Police/Courts Facility Expansion Program Category / Project Name
4470 9470 5314 03 Account Number	\$ 3,000.00 Funds Used to Date	Police Improvements Program / Project Category Name
04008 Project Number	\$ 397,000.00 Remaining Balance	Sales Tax Capital Improvement Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☒


Department Director

10/25/06
Date


City Attorney

10/25/06
Date


Finance and Internal Service Director

10-25-06
Date

Mayor

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office

Received in Mayor's Office

Comments:



City Council Memo

TO: Mayor Coody and City Council

FROM: Susan B. Thomas, Ph.D., Public Information & Policy Advisor *SBT*

DATE: October 20, 2006

SUBJECT: Design Contract for Police and Courts Facility

Recommendation: Approval of the attached contract with Wilson Estes Police Architects for design and construction services for a new Police and Courts facility.

Background: On May 2, 2005, the Architect Selection Committee met to reach consensus regarding the selection of an architectural firm to design a new police and court facility and conduct an analysis of current space needs for certain city services. On June 21, 2005 Council approved a contract with Wilson Estes Police Architects to conduct a space needs assessment and analyze location and placement options for the new facility. The product of that work, a report titled "Public Safety Center and City Services: Facility Need Assessment," was presented to you during the February 7, 2006 City Council Agenda Session. The report documented current and future space needs for a variety of City services.¹ In summary the District Court, City Prosecutor and Police Department space needs are outlined below.²

	Current Allocation	2005 Space Needs	2025 Space Needs
Police	22,229	42,906	54,683
Prosecutor	1,965	3,687	4,326
Court	2,848	8,825	9,943
Total	27,042	55,418	68,952

On May 16, 2006 staff requested direction from the City Council in regards to the preferred

1 The Wilson Estes report projected future space needs to 2025. However, Council should note that this projection is based on population and personnel. These future space needs are designed to serve a population of approximately 100,000 and a staff of 266 (Police, Court, and Prosecutor). Depending on future growth rates and changes in service provision, actual space needs may vary.

2 On page 1.2 in the Wilson Estes report, current and future space needs are presented. The police space needs documented in that report included current and future Fire Administration space needs. However, the square footage needs listed above do not include Fire Administration needs. This explains the minor variation in space needs presented here versus those outlined in the Wilson Estes report.

location of the new Police & Courts facility. City Council responded to that request by unanimously passing Resolution No. 94-06 supporting a downtown location for the new facility. Since that time, a committee (including representatives from the District Court, City Prosecutor's office, Police Department, City Administration, and City Council) has been diligently working to create a program that not only adequately addresses current and future space needs but one that is also sensitive to the City's current financial position and budgetary constraints.

Discussion: The total future space needs outlined above total 68,952 square feet, and during a previous discussion, Council was presented with cost estimates associated with a project of that magnitude. However, after much discussion and debate, members of the committee have agreed to substantially reduce the scope of this project and now propose a facility that will meet immediate space needs for the Police Department, District Court and Prosecutor's office.

If the Police Department continues to use the space that is currently allocated to them and they acquire the current court space, their immediate space need is reduced to 17,829 sq ft.³ The immediate space need for the District Court and City Prosecutor's office are 8,825 sq ft and 3,687 sq ft respectively. The total immediate space need for Police, Prosecutor and District Court collectively is 30,341 sq ft.

Staff has negotiated a not to exceed contract price of \$458,661 plus reimbursable expenses up to \$30,000 with Wilson Estes Police Architects for design and construction services for a new Police and Courts facility sized to approximately 30,000 sq ft to be located on the northeast corner of Church Ave. and Rock St.

Budget Impact: There is \$397,000 previously allocated in the CIP for design services for this project. A budget adjustment will be required.

³ Police currently occupy 22,229 sq ft and District Court currently occupies 2,848. The Police Department's immediate space needs are 42,906. If we reduce that amount by their current space plus the space acquired from courts, their remaining immediate space need is 17,829 sq ft.

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

D. 9
Wilson Estes Police Architects
Page 4 of 34

Budget Year 2006	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 10/19/2006	Adjustment Number
-------------------------	---	----------------------------------	-------------------

Project or Item Added/Increased: \$100,000 is requested in the Police/Courts Facility Expansion capital project.	Project or Item Deleted/Reduced: None. To recognize \$100,000 in additional revenue in the Gain/Loss of the sale of assets revenue account.
--	---

Justification of this Increase: The additional funding is needed to enter into a contract for architectural services in the amount of \$458,661 plus up to \$35,000 in reimbursable.	Justification of this Decrease: \$175,387.58 in additional revenue was received in 2006 that was not budgeted due to the sale of the Shakes Building on the corner of Hollywood and 6th Street.
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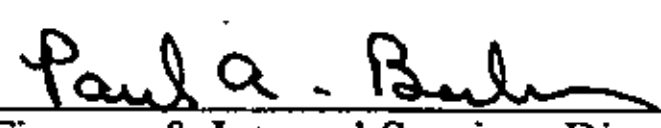
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Architectural services	4470	9470	5314	03	100,000	04008	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Gain/loss-sale of assets	4470	0947	4881	02	100,000		

Approval Signatures

	10-23-06
Requested By	Date
	10-23-06
Budget Manager	Date
Department Director	Date
	10-23-2006
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

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A CONTRACT IN THE
AMOUNT OF \$458,661.00 WITH WILSON ESTES POLICE
ARCHITECTS, PLUS UP TO \$30,000.00 FOR REIMBURSABLE
EXPENSES AND TO APPROVE A BUDGET ADJUSTMENT OF
\$100,000.00**

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the contract with Wilson Estes Police Architects attached as Exhibit "A" in the amount of \$458,661.00, plus up to \$30,000.00 for reimbursable expenses.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the budget adjustment in the amount of \$100,000.00 attached as Exhibit "B".

PASSED and APPROVED this 7th day of November, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Wilson Estes Police Architects

5799 Broadmoor
Suite 520
Mission, Kansas 66202
www.policearchitects.com

October 19, 2006

Att: Coy Hurd
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Coy,

In accordance with all other terms and conditions of the current agreement with the City of Fayetteville under the AIA Standard Form of Architect's Services, and based upon Owner directed program reductions of June 18, 2006, pertaining to the Facilities Needs Assessment dated December 15, 2005, Wilson Estes Police Architects propose to provide the following Scope of Services, under a standard Design-Bid-Award delivery method:

For a new Public Safety Center housing Police, District Court, and the Prosecutor, approximating 30,000 square feet, located on the site currently occupied by the former jail, the Architects shall review the Need Assessment program, dated December 15, 2005, and make space reductions in cooperation with the Police Department, District Court, and Prosecutor, and provide design and construction administration services, including the plans for the demolition of the existing jail facility.

For Basic Architectural Services related to the design and construction of the above, including all related engineering, including mechanical, electrical, structural, and civil; though not including interior design services related to furnishings and equipment, or civil engineering related to the relocation of utilities on or around the site, we propose a Guaranteed Fee of \$458,661, plus reimbursable expenses.

Estimated Reimbursable Expenses:

Printing (less Bid Documents)	\$ 4,500
Shipping	\$ 1,500
Site Visit Travel.....	\$ 12,000
Bid Documents	\$ 12,000
	\$ 30,000

Architect:

City:

James Estes, Vice- President
Wilson Estes Police Architects

Dan Coody, Mayor

Attest

Sondra Smith, City Clerk

AIA Document B727™ – 1988

Standard Form of Agreement Between Owner and Architect for Special Services

AGREEMENT made as of the 23rd day of June in the year of two thousand and five

BETWEEN the Owner:
(Name and address)

City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

and the Architect:
(Name and address)

Wilson Estes Police Architects, Subchapter S Corporation
5799 Broadmoor
Suite 520
Mission, Kansas 66202

For the following Project:
(Include detailed description of Project, location, address and scope.)

Fayetteville Public Safety Center and miscellaneous facilities.

The City and the Architect agree as set forth below.

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.

ARTICLE 1 ARCHITECT'S SERVICES

(Here list those services to be provided by the Architect under the Terms and Conditions of this Agreement. Note under each service listed the method and means of compensation to be used, if applicable, as provided in Article 8.)

Service to be provided	Method and means of compensation
Needs Assessment Study	Guaranteed Lump Sum

General Description:

A comprehensive Needs Assessment Study that determines current and future facility needs for all Divisions of the Fayetteville Police Department, including evidence; District Court; Prosecutor; Fire Station No. 3, including Fire Administration and Fire Marshall; Fire Training Center; and Development Services, including Planning, Engineering, Building Safety, Code Enforcement, and Building Services. The Assessment will include an evaluation of the existing space at 1851 East Huntsville Road, known as the Tyson complex, to support the public safety departments identified above, and the ability of the current Police and Court buildings located at 100 West Rock Road to serve other city departments listed above. Additionally, as an alternative to reuse of the Tyson building, demolition of all, or part of the Tyson complex, will be evaluated to support the development of new facilities for Public Safety on the Huntsville Road Site. Cost models will be developed to allow a comparative evaluation of probable development scenarios.

Task #1: Inventory Current Space

- 1.1 The work in this phase will be to determine the physical properties of the existing building space. The primary goal shall be to discover exactly how much space exists to support the requirements developed in the programming phase of the work (discussed in Task #2), whether or not new building additions will be required to expand the current space, and to what extent various portions of the existing space would have to be reconstructed to achieve a satisfactory end result. In addition, a cursory review shall be given to the finishes and systems in the existing building for consideration in evaluating the potential costs of a development option that involves renovation.

Task #2: Programming

- 2.1 On-Site Information Gathering: The Architects will lead meetings with a group representing a cross-section of the above identified departments. At a minimum, these groups should consist of key department managers. Primary goals of these interactive meetings will be to understand specific details about the community and the operations of the departments, evaluate potential growth in the staffing of the departments, and determine and catalog all individual functional elements and their relationship to each other. (Functional elements are comprised of personnel, activities, and accessory support spaces. The list includes each distinct function, which in the design phase will become a room or space).
- 2.2 Growth Analysis: Estimate facility needs out to 2025 through the forecasting of department personnel for the planning horizon. Projections shall be developed by applying the city's anticipated percentage population increase for the period (from city accepted figures) to the current year departmental personnel count. Additional personnel adjustments will be made in response to projected changes in policing trends (if the appropriate data is available).
- 2.3 Work Station Standards Development: One component factored into the determination of space assigned to a specific functional element (sub-task 2.4) is the use of planning standards. This can come in many forms, but is primarily related to the size of a workstation, seating, locker, or table requirement to perform a task, or multiple tasks within the functional element. It can also be a standard for a room size based on the area required to perform a known set of tasks. We will utilize our database of national averages for municipal facilities to tailor planning standards for Fayetteville.
- 2.4 Square Footage Development: Utilizing specific data obtained in the on-site group meetings, and the development of planning standards, we will apply our database of national averages for area required for municipal facilities.
- 2.5 Establish interactive relationships between all functional elements.

Task #3: Development Options Analysis

- 3.1** Following the determination of the functional elements in the programming task and the space required for those elements, including circulation space, walls, and all other space that composes the gross square footage of the building; determine the following:
- 3.1.1** Evaluate the available space in the existing facility for sufficiency to meet the programmed space needs. If sufficient space does not exist, establish the area required for a new addition. For the existing space, make a determination as to the extent of reconstruction necessary to support the services operating in the space.
- 3.1.2** For new construction establish the most probable floor level that any specific functional element, or group of functional elements may likely occupy, and the resulting number of floors and area of each floor. From this establish the probable building footprint.
- 3.1.3** Site Masterplanning: After determining probable footprints for each possible development scenario (both renovation and new construction), make a determination of parking spaces needed and other site requirements, provide site diagrams for each scenario indicating the building footprint, public and staff parking, access points to the buildings, and the relationship of each of these.
- 3.1.4** Cost Estimate: Utilizing our database for facilities built around the country over a lengthy time period, we will apply typical facility construction costs adjusted for the region and a projected bid date. (We analyze the accuracy of the database by comparing the local construction market through telephone surveys of regional contractors having recent experience in similar facility types). For space to be renovated, we will apply percentages of adjusted costs corresponding to the extent of the renovated space. For each development scenario cost estimate, provide an estimate of probable costs for "other" project costs, such as furnishings, AB fees, phones and data, security and access, and landscaping and irrigation.
- 3.1.5** Findings: Evaluate the probable development scenarios and identify the strengths and weaknesses of each. Primary factors for consideration will be the degree of anticipated project success as defined by the functionality of a proposed scenario, probability of longterm adequacy of proposed facilities, relative cost, and the degree of difficulty associated with phasing construction.

Task #4: Documentation

- 4.1** Develop a written report documenting the study process, findings, and recommendations for further project development. Submit four copies of the draft report for review and follow-up meetings between the Architect and city personnel.

OPTIONAL NEEDS ASSESSMENT SERVICES:

The following optional services will be provided at the City's discretion for the additional services fees stated in Article 8.5. The Architect shall provide these services only if authorized in writing by the Owner.

5.1. Structural Analysis:

1. From existing plan documents and a walk-through of the buildings, provide a structural analysis of the existing structure and assist the Architect in determining cost implications and feasibility related to building design alterations.

5.2 Mechanical/Electrical Systems Analysis:

1. From existing plan documents and a walk-through of the building, provide a cursory evaluation of the existing mechanical systems with regard to the age and efficiency of the primary heating/ cooling equipment and the cost impact associated with replacement. Provide recommendations pertaining to the most efficient development of mechanical systems to support existing and expanded building space.

2. From existing plan documents and a walk-through of the building, provide a cursory evaluation of the existing electrical systems with regard to the current capacity to support power requirements in a renovated facility as well as an assessment of code compliance and adherence to fire and life safety issues.

5.3. Conceptual Plans:

1. Utilizing the information in the primary need assessment services, develop a conceptual floor plan for each of the following: 1) Tyson building developed as a Public Safety Center; 2) new public safety facilities located on the Tyson complex site utilizing none, or part of, the existing Tyson building; and 3) reuse of the West Rock Road buildings to serve the City departments identified above, not related to public safety.

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 The City shall provide full information regarding requirements for the Project. The City shall furnish required information as expeditiously as necessary for the orderly progress of the Work, and the Architect shall be entitled to rely on the accuracy and completeness thereof.

§ 2.2 The City shall designate a representative authorized to act on the City's behalf with respect to the Project. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

ARTICLE 3 USE OF ARCHITECT'S DOCUMENTS

§ 3.1 The documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The City shall be permitted to retain copies, including reproducible copies, of the Architect's documents for the City's information, reference and use in connection with the Project. The Architect's documents shall not be used by the Owner or others on other projects.

(Paragraphs deleted)

ARTICLE 5 TERMINATION OR SUSPENSION

§ 5.1 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 5.2 If the City fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the City, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension of services.

§ 5.3 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 5.4.

§ 5.4 Termination Expenses shall be computed as a percentage of the compensation earned to the time of termination, as follows:

1. For services provided on the basis of a multiple of Direct Personnel Expense, 20 percent of the total Direct Personnel Expense incurred to the time of termination; and
2. For services provided on the basis of a stipulated sum, 10 percent of the stipulated sum earned to the time of termination.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 Unless otherwise provided, this Agreement shall be governed by the law of the State of Arkansas.

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User Notes: (2645302675)

§ 6.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date payment is due the Architect pursuant to Section 8.4.

§ 6.3 The City and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither City nor Architect shall assign this Agreement without the written consent of the other.

§ 6.4 This Agreement represents the entire and integrated agreement between the City and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both City and Architect.

§ 6.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Architect.

§ 6.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

ARTICLE 7 - PAYMENTS TO THE ARCHITECT

§ 7.1 DIRECT PERSONNEL EXPENSE

§ 7.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

§ 7.2 REIMBURSABLE EXPENSES

§ 7.2.1 Reimbursable Expenses are in addition to the Architect's compensation and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project for:

- 1 expense of transportation and living expenses in connection with out-of-town travel authorized by the City;

(Paragraph deleted)

- 3 fees paid for securing approval of authorities having jurisdiction over the Project;
- 4 reproductions;
- 5 postage and handling of documents;
- 6 expense of overtime work requiring higher than regular rates, if authorized by the City;
- 7 renderings and models requested by the City;
- 8 expense of additional coverage or limits, including professional liability insurance, requested by the City in excess of that normally carried by the Architect and the Architect's consultants; and

(Paragraph deleted)

§ 7.3 PAYMENTS ON ACCOUNT OF THE ARCHITECT'S SERVICES

§ 7.3.1 Payments on account of the Architect's services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or as otherwise provided in this Agreement.

§ 7.3.2 An initial payment as set forth in Section 8.1 is the minimum payment under this Agreement.

§ 7.4 ARCHITECT'S ACCOUNTING RECORDS

§ 7.4.1 Records of Reimbursable Expenses and expenses pertaining to services performed on the basis of a multiple of Direct Personnel Expense shall be available to the City or the City's authorized representative at mutually convenient times.

ARTICLE 8 BASIS OF COMPENSATION

The City shall compensate the Architect as follows:

§ 8.1 AN INITIAL PAYMENT OF zero (\$ 0.00).

§ 8.2 COMPENSATION FOR THE ARCHITECT'S SERVICES, as described in Article 1, Architect's Services, shall be computed as follows:

(Insert basis of compensation, including stipulated sums multiples or percentages, and identify the services to which particular methods of compensation apply, if necessary.)

8.2.1 For Core Services identified in Article 1.1., a Guaranteed Lump Sum of \$48,625 plus reimbursable expenses. (Refer to attached Exhibit B, detailed cost itemization).

8.2.2.1 For Additional Services identified in Article 1-5.1 as Structural Analysis, an Hourly Rate Against a Maximum Fee of \$5,000 plus reimbursable expenses. Hourly rates are as follows:

Structural Engineer, Principal: \$125 per hour

Structural Engineer: \$95 per hour

8.2.2.2 For Additional Services identified in Article 1-5.2 as Mechanical/ Electrical Systems Analysis an Hourly Rate Against a Maximum Fee of \$4,000 plus reimbursable expenses. Hourly rates are as follows:

Vice-President, Principal: \$120 per hour

Sr. Project Manager: \$90 per hour

Engineer II: \$70 per hour

8.2.2.3 For Additional Services identified in Article 1-5.2 as Conceptual Plans, a Guaranteed Lump Sum of \$23,000 plus reimbursable expenses.

§ 8.3 FOR REIMBURSABLE EXPENSES, as described in Article 7, and any other items included in Article 9 as Reimbursable Expenses, a multiple of one-point-one (1.1) times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project.

§ 8.4 Payments are due and payable thirty (30) days from the date of the Architect's invoice.

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

§ 8.5 IF THE SCOPE of the Project or of the Architect's services is changed materially, the amounts of compensation shall be equitably adjusted.

ARTICLE 9 OTHER CONDITIONS

This Agreement entered into as of the day and year first written above.

CITY

(Signature)

Don Coody, Mayor

(Printed name and title)

ARCHITECT

(Signature)

James Estes, Principal

(Printed name and title)

Dondra Smith
Sandra Smith City Clerk / Treasurer

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User Notes:

(2645302675)

AIA Document B141™ – 1997 Part 1

Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services

TABLE OF ARTICLES

- 1.1 INITIAL INFORMATION**
- 1.2 RESPONSIBILITIES OF THE PARTIES**
- 1.3 TERMS AND CONDITIONS**
- 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS**
- 1.5 COMPENSATION**

AGREEMENT made as of the 23rd day of June in the year Two-thousand,
five.

(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the City:
(Name, address and other information)

City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

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

Wilson Estes Police Architects, PA
5799 Broadmoor
Suite 520
Mission, Kansas 66202
Telephone Number: (913) 384-1115
Fax Number: (913) 384-2292

For the following Project:
(Include detailed description of Project)

Fayetteville Public Safety Center and miscellaneous facilities.

The City and Architect 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.

ARTICLE 1.1 INITIAL INFORMATION

§ 1.1.1 This Agreement is based on the following information and assumptions.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

§ 1.1.2 PROJECT PARAMETERS

§ 1.1.2.1 The objective or use is:

(Identify or describe, if appropriate, proposed use or goals.)

Needs assessment, design, and construction services for the purpose of facility development for the following city departments: Police, including evidence; District Court; Prosecutor; Fire Station No. 3, including Fire Administration; Fire Training Center; and Development Services, including Planning, Engineering, Building Safety, Code Enforcement, and Building Services.

§ 1.1.2.2 The physical parameters are:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports about the site.)

Renovation and/or new construction at 1851 East Huntsville Road, and 100 West Rock Road, with the specific construction approach to be determined in the need assessment included as a part of this contract.

§ 1.1.2.3 The City's Program is:

(Identify documentation or state the manner in which the program will be developed.)

A needs assessment developed in accordance with document B727, and included as a part of this agreement.

§ 1.1.2.4 The legal parameters are:

(Identify pertinent legal information, including, if appropriate, land surveys and legal descriptions and restrictions of the site.)

Unknown at time of execution.

§ 1.1.2.5 The financial parameters are as follows.

1. Amount of the City's overall budget for the Project, including the Architect's compensation, is: unknown at time of execution of this agreement
2. Amount of the City's budget for the Cost of the Work, excluding the Architect's compensation, is: to be determined through the Needs Assessment Study accepted by the City.

§ 1.1.2.6 The time parameters are:

(Identify, if appropriate, milestone dates, durations or fast track scheduling.)

90 days for needs assessment services stipulated in document B727. Unknown at time of execution of this agreement for design and construction services stipulated in B141, Part 2.

§ 1.1.2.7 The proposed procurement or delivery method for the Project is:

(Identify method such as competitive bid, negotiated contract, or construction management.)

Unknown at time of execution of this agreement.

§ 1.1.2.8 Other parameters are:

(Identify special characteristics or needs of the Project such as energy, environmental or historic preservation requirements.)

Not applicable.

§ 1.1.3 PROJECT TEAM

§ 1.1.3.1 The City's Designated Representative is:

(List name, address and other information.)

Coy Hurd, Ph.D.
113.W. Mountain
Fayetteville, Arkansas 72701
Telephone Number: 479-575-8361
Mobile Number: 479-263-0301
churd@ci.fayetteville.ar.us

§ 1.1.3.2 The persons or entities, in addition to the City's Designated Representative, who are required to review the Architect's submittals to the City are:
(List name, address and other information.)

§ 1.1.3.3 The City's other consultants and contractors are:
(List discipline and, if known, identify them by name and address.)

Consultants anticipated are Land Surveyor, Geotechnical Engineer, construction testing lab, furnishings consultant or supplier.

§ 1.1.3.4 The Architect's Designated Representative is:
(List name, address and other information.)

James Estes
5799 Broadmoor
Suite 520
Mission, Kansas 66202
Telephone Number: (913) 384-1115
Fax Number: (913) 384-2292
jamese@policearchitects.com

§ 1.1.3.5 The consultants retained at the Architect's expense are:
(List discipline and, if known, identify them by name and address.)

Mechanical Engineer.....Gibbens, Drake, Scott
Electrical Engineer.....Gibbens, Drake, Scott
Structural Engineer.....A.T. Renczarski & Co., Inc.
Civil Engineering.....To be determined
Landscape Design.....To be determined

§ 1.1.4 Other important initial information is:

Security and access control design and specifications provided by Wilson Estes Police Architects. Space and power provisions shall be made in planned facilities development for use of existing communications/ 911 equipment. Services provided under this agreement do not cover design and specifications for new communications/ 911 equipment.

§ 1.1.5 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201 current as of the date of this Agreement, or as follows:

§ 1.1.6 The information contained in this Article 1.1 may be reasonably relied upon by the City and Architect in determining the Architect's compensation. Both parties, however, recognize that such information may change and,

in that event, the City and the Architect shall negotiate appropriate adjustments in schedule, compensation and Change in Services in accordance with Section 1.3.3.

ARTICLE 1.2 RESPONSIBILITIES OF THE PARTIES

§ 1.2.1 The City and the Architect shall cooperate with one another to fulfill their respective obligations under this Agreement. Both parties shall endeavor to maintain good working relationships among all members of the Project team.

§ 1.2.2 CITY

§ 1.2.2.1 Unless otherwise provided under this Agreement, the City shall provide full information in a timely manner regarding requirements for and limitations on the Project. The City shall furnish to the Architect, within 15 days after receipt of a written request, information necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 1.2.2.2 The City shall periodically update the budget for the Project, including that portion allocated for the Cost of the Work. The City shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of the Architect to a corresponding change in the Project scope and quality.

§ 1.2.2.3 The City's Designated Representative identified in Section 1.1.3 shall be authorized to act on the City's behalf with respect to the Project. The City or the City's Designated Representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 1.2.2.4 The City shall furnish the services of consultants other than those designated in Section 1.1.3 or authorize the Architect to furnish them as a Change in Services when such services are requested by the Architect and are reasonably required by the scope of the Project.

§ 1.2.2.5 Unless otherwise provided in this Agreement, the City shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 1.2.2.6 The City shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the City's needs and interests.

§ 1.2.2.7 The City shall provide prompt written notice to the Architect if the City becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 1.2.3 ARCHITECT

§ 1.2.3.1 The services performed by the Architect, Architect's employees and Architect's consultants shall be as enumerated in Article 1.4.

§ 1.2.3.2 The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Architect shall submit for the City's approval a schedule for the performance of the Architect's services which initially shall be consistent with the time periods established in Section 1.1.2.6 and which shall be adjusted, if necessary, as the Project proceeds. This schedule shall include allowances for periods of time required for the City's review, for the performance of the City's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the City shall not, except for reasonable cause, be exceeded by the Architect or City.

§ 1.2.3.3 The Architect's Designated Representative identified in Section 1.1.3 shall be authorized to act on the Architect's behalf with respect to the Project.

§ 1.2.3.4 The Architect shall maintain the confidentiality of information specifically designated as confidential by the City, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require

of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the City.

§ 1.2.3.5 Except with the City's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.2.3.6 The Architect shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

§ 1.2.3.7 The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the City. The Architect shall provide prompt written notice to the City if the Architect becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 1.3 TERMS AND CONDITIONS

§ 1.3.1 COST OF THE WORK

§ 1.3.1.1 The Cost of the Work shall be the total cost or, to the extent the Project is not completed, the estimated cost to the City of all elements of the Project designed or specified by the Architect.

§ 1.3.1.2 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the City and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work.

§ 1.3.1.3 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the City.

§ 1.3.2 INSTRUMENTS OF SERVICE

§ 1.3.2.1 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. The Architect and the Architect's consultants shall be deemed the authors and City of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.

§ 1.3.2.2 Upon execution of this Agreement, the Architect grants to the City a nonexclusive license to reproduce the Architect's Instruments of Service solely for purposes of constructing, using and maintaining the Project, provided that the City shall comply with all obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the Project shall terminate this license. Upon such termination, the City shall refrain from making further reproductions of Instruments of Service and shall return to the Architect within seven days of termination all originals and reproductions in the City's possession or control. If and upon the date the Architect is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the City to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project.

§ 1.3.2.3 Except for the licenses granted in Section 1.3.2.2, no other license or right shall be deemed granted or implied under this Agreement. The City shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. However, the City shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work by license granted in Section 1.3.2.2. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. The City shall not use the Instruments of Service for future additions or alterations to this Project or for other projects, unless the City obtains the prior written agreement of the Architect and the Architect's consultants. Any unauthorized use of the

Instruments of Service shall be at the City's sole risk and without liability to the Architect and the Architect's consultants.

§ 1.3.2.4 Prior to the Architect providing to the City any Instruments of Service in electronic form or the City providing to the Architect any electronic data for incorporation into the Instruments of Service, the City and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

§ 1.3.3 CHANGE IN SERVICES

§ 1.3.3.1 Change in Services of the Architect, including services required of the Architect's consultants, may be accomplished after execution of this Agreement, without invalidating the Agreement. Changes, modifications, or amendments in scope, price or fees to this agreement shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees. CityCityCity Except for a change due to the fault of the Architect, Change in Services of the Architect shall entitle the Architect to an adjustment in compensation pursuant to Section 1.5.2, and to any Reimbursable Expenses described in Section 1.3.9.2 and Section 1.5.5.

§ 1.3.3.2 If any of the following circumstances affect the Architect's services for the Project, the Architect shall be entitled to an appropriate adjustment in the Architect's schedule and compensation:

1. change in the instructions or approvals given by the City that necessitate revisions in Instruments of Service;
2. enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared Instruments of Service;
3. decisions of the City not rendered in a timely manner;
4. significant change in the Project including, but not limited to, size, quality, complexity, the City's schedule or budget, or procurement method;
5. failure of performance on the part of the City or the City's consultants or contractors;
6. preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding, except where the Architect is party thereto;
7. change in the information contained in Article 1.1.

(Paragraphs deleted)

§ 1.3.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Architect and the City waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Section 1.3.8.

§ 1.3.7 MISCELLANEOUS PROVISIONS

§ 1.3.7.1 This Agreement shall be governed by the law of the State of Arkansas, unless otherwise provided in Section 1.4.2.

§ 1.3.7.2 Terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement.

§ 1.3.7.3 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion. In no event shall such statutes of limitations commence to run any later than the date when the Architect's services are substantially completed.

§ 1.3.7.4 To the extent damages are covered by property insurance during construction, the City and the Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. The City or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 1.3.7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Architect.

§ 1.3.7.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site.

§ 1.3.7.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the City's confidential or proprietary information if the City has previously advised the Architect in writing of the specific information considered by the City to be confidential or proprietary. The City shall provide professional credit for the Architect in the City's promotional materials for the Project.

§ 1.3.7.8 If the City requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 1.3.7.9 The City and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the City nor the Architect shall assign this Agreement without the written consent of the other, except that the City may assign this Agreement to an institutional lender providing financing for the Project. In such event, the lender shall assume the City's rights and obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

§ 1.3.8 TERMINATION OR SUSPENSION

§ 1.3.8.1 If the City fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, prior to suspension of services, the Architect shall give seven days' written notice to the City. In the event of a suspension of services, the Architect shall have no liability to the City for delay or damage caused the City because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 1.3.8.2 If the Project is suspended by the City for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 1.3.8.3 If the Project is suspended or the Architect's services are suspended for more than 90 consecutive days, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 1.3.8.4 This Agreement may be terminated by either party upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 1.3.8.5 This Agreement may be terminated by the City upon not less than seven days' written notice to the Architect for the City's convenience and without cause.

§ 1.3.8.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 1.3.8.7.

§ 1.3.8.7 Termination Expenses are in addition to compensation for the services of the Agreement and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 1.3.9 PAYMENTS TO THE ARCHITECT

§ 1.3.9.1 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services. No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractors, or on account of the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

1.3.9.1.1 Monthly invoicing for Needs Assessment services shall be based upon the percentage of completion for the work stipulated in Document B727.

1.3.9.1.2 Monthly invoicing for services stipulated in Documents B141 shall be determined in accordance with the percentage of work completed for each phase of the work, where the percentage of each phase as it relates to the total service is as follows:

Schematic Design Phase.....	Fifteen percent (15%)
Design Development Phase.....	Twenty percent (20%)
Construction Documents Phase.....	Forty percent (40%)
Bidding Phase.....	Five percent (5%)
Construction Contract Administration Phase.....	Twenty percent (20%)

§ 1.3.9.2 Reimbursable Expenses are in addition to compensation for the Architect's services and include expenses incurred by the Architect and Architect's employees and consultants directly related to the Project, as identified in the following Clauses:

- 1 transportation in connection with the Project, authorized out-of-town travel and subsistence, and electronic communications;
- 2 fees paid for securing approval of authorities having jurisdiction over the Project;
- 3 reproductions, plots, standard form documents, postage, handling and delivery of Instruments of Service;
- 4 expense of overtime work requiring higher than regular rates if authorized in advance by the City;
- 5 renderings, models and mock-ups requested by the City;
- 6 expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the City in excess of that normally carried by the Architect and the Architect's consultants;
- 7 reimbursable expenses as designated in Section 1.5.5;
- 8 other similar direct Project-related expenditures.

§ 1.3.9.3 Records of Reimbursable Expenses, of expenses pertaining to a Change in Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be available to the City or the City's authorized representative at mutually convenient times.

§ 1.3.9.4 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ARTICLE 1.4 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

§ 1.4.1 Enumeration of Parts of the Agreement. This Agreement represents the entire and integrated agreement between the City and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both City and Architect. This Agreement comprises the documents listed below.

§ 1.4.1.1 Standard Form of Agreement Between City and Architect, AIA Document B141-1997.

§ 1.4.1.2 Standard Form of Architect's Services: Design and Contract Administration, AIA Document B141-1997, or as follows:

(List other documents, if any, delineating Architect's scope of services.)

§ 1.4.1.3 Other documents as follows:

(List other documents, if any, forming part of the Agreement.)

AIA Document B727, Standard Form of Agreement Between Owner and Architect for Special Services.

§ 1.4.2 Special Terms and Conditions. Special terms and conditions that modify this Agreement are as follows:

1.4.2.1 Architects shall maintain the following insurance amounts, generally stated as follows:

Professional Liability	\$1,000,000;
Commercial Liability, including Automobile:	\$1,000,000;
Workers' Compensation	Statutory

1.4.2.2 "Freedom of Information Act". City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, WEPA will do everything possible to provide the document in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

ARTICLE 1.5 COMPENSATION

§ 1.5.1 For the Architect's services as described under Article 1.4, compensation shall be computed as follows:

1.5.1.1 For Needs Assessment Study, as stipulated in Document B727.

1.5.1.2 For Design and Construction Contract Administration Services stipulated in Document B141, a percentage of construction cost of the work* plus reimbursables, whereby cost of the work is utilized to determine the percentage of fee in accordance with attached Exhibit A, and whereby Police and Court facilities are considered as "Group 2", and all other Departments for consideration are considered "Group 3".

** Construction Cost of the Work will be developed in the Needs Assessment Study for each separately identified construction project as a Statement of Probable Construction Cost, including contingencies, and shall be agreed upon by the City of Fayetteville.*

§ 1.5.2 If the services of the Architect are changed as described in Section 1.3.3.1, the Architect's compensation shall be adjusted. Such adjustment shall be calculated as described below or, if no method of adjustment is indicated in this Section 1.5.2, in an equitable manner.

(Insert basis of compensation, including rates and multiples of Direct Personnel Expense for Principals and employees, and identify Principals and classify employees, if required. Identify specific services to which particular methods of compensation apply.)

The basis of compensation will be equitably determined by mutual agreement between the City and Architect at the time of any change in services occurring after the initiation of design services for any specific construction project

identified through the Needs Assessment Study. The basis shall be the value of the work multiplied by the corresponding fee percentage stated in Exhibit A, or hourly at the rates listed below:

Principals	\$105.00
Project Manager	\$ 80.00
Technical Staff	\$ 55.00
Administrative	---\$ 55.00

Designated principals are James Estes and Cliff Wilson.

§ 1.5.3 For a Change in Services of the Architect's consultants, compensation shall be computed as a multiple of one-point-one (1.1) times the amounts billed to the Architect for such services.

§ 1.5.4 For Reimbursable Expenses as described in Section 1.3.9.2, and any other items included in Section 1.5.5 as Reimbursable Expenses, the compensation shall be computed as a multiple of one-point-one (1.1) times the expenses incurred by the Architect, and the Architect's employees and consultants.

§ 1.5.5 Other Reimbursable Expenses, if any, are as follows:

Not applicable.

§ 1.5.6 The rates and multiples for services of the Architect and the Architect's consultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices, subject to approval by the City Council, if occurring before the initiation of design and construction services on any specific construction project.

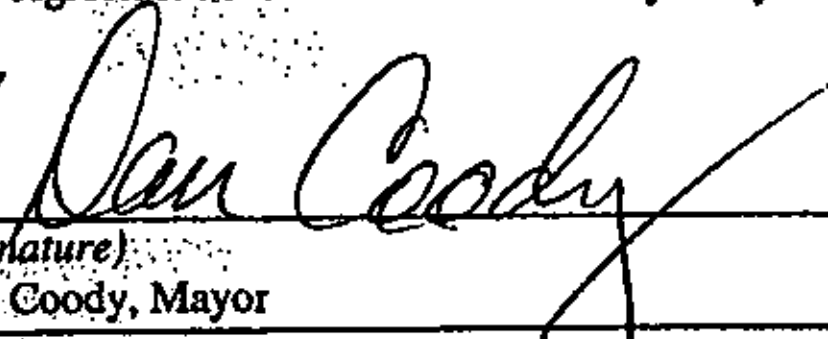
§ 1.5.7 An initial payment of zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the City's account at final payment. Subsequent payments for services shall be made monthly, and where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.

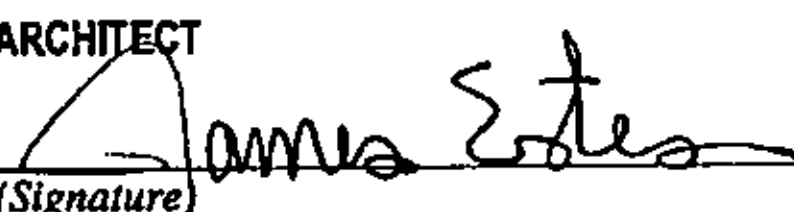
§ 1.5.8 Payments are due and payable thirty (30) days from the date of the Architect's invoice..
(Insert rate of interest agreed upon.)

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

§ 1.5.9 If the services covered by this Agreement have not been completed within a time to be determined at the outset of any specific construction project, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Section 1.5.2.

This Agreement entered into as of the day and year first written above.

CITY

(Signature)
Dan Coody, Mayor
(Printed name and title)

ARCHITECT

(Signature)
James Estes, Principal
(Printed name and title)


Sondra Smith
City Clerk/Treasurer
(Printed name and title)

Sondra Smith, City Clerk

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User Notes:

(1787882360)

AIA® Document B141™ – 1997 Part 2

Standard Form of Architect's Services: Design and Contract Administration

TABLE OF ARTICLES

- 2.1 PROJECT ADMINISTRATION SERVICES**
- 2.2 SUPPORTING SERVICES**
- 2.3 EVALUATION AND PLANNING SERVICES**
- 2.4 DESIGN SERVICES**
- 2.5 CONSTRUCTION PROCUREMENT SERVICES**
- 2.6 CONTRACT ADMINISTRATION SERVICES**
- 2.7 FACILITY OPERATION SERVICES**
- 2.8 SCHEDULE OF SERVICES**
- 2.9 MODIFICATIONS**

ARTICLE 2.1. PROJECT ADMINISTRATION SERVICES

§ 2.1.1 The Architect shall manage the Architect's services and administer the Project. The Architect shall consult with the City, research applicable design criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the City and the City's consultants. •

§ 2.1.2 When Project requirements have been sufficiently identified, the Architect shall prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the City, design services furnished by the Architect, completion of documentation provided by the Architect, commencement of construction and Substantial Completion of the Work.

§ 2.1.3 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program, budget and aesthetics in developing the design for the Project.

§ 2.1.4 Upon request of the City, the Architect shall make a presentation to explain the design of the Project to representatives of the City.

§ 2.1.5 The Architect shall submit design documents to the City at intervals appropriate to the design process for purposes of evaluation and approval by the City. The Architect shall be entitled to rely on approvals received from the City in the further development of the design.

§ 2.1.6 The Architect shall assist the City in connection with the City's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

ADDITIONS AND DELETIONS:

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

§ 2.1.7 EVALUATION OF BUDGET AND COST OF THE WORK

§ 2.1.7.1 Through the Needs Assessment Study defined in Document B727, the Architect shall prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the City of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the City's budget, the Architect shall make appropriate recommendations to the City to adjust the Project's size, quality or budget, and the City shall cooperate with the Architect in making such adjustments.

§ 2.1.7.2 Evaluations of the City's budget for the Project, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect represent the Architect's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the City has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the City's budget for the Project or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 2.1.7.3 In preparing estimates of the Cost of the Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the City's budget for the Cost of the Work. If an increase in the Contract Sum occurring after execution of the Contract between the City and the Contractor causes the budget for the Cost of the Work to be exceeded, that budget shall be increased accordingly.

§ 2.1.7.4 If bidding or negotiation has not commenced within 90 days after the Architect submits the Construction Documents to the City, the budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the construction industry.

§ 2.1.7.5 If the budget for the Cost of the Work is exceeded by the lowest bona fide bid or negotiated proposal, the City shall:

- 1 give written approval of an increase in the budget for the Cost of the Work;
- 2 authorize rebidding or renegotiating of the Project within a reasonable time;
- 3 terminate in accordance with Section 1.3.8.5; or
- 4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

§ 2.1.7.6 If the City chooses to proceed under Section 2.1.7.5.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility under this Section 2.1.7. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

ARTICLE 2.2 SUPPORTING SERVICES

§ 2.2.1 Unless specifically designated in Section 2.8.3, the services in this Article 2.2 shall be provided by the City or the City's consultants and contractors.

§ 2.2.1.1 The Needs Assessment Study defined in Document B727, City shall furnish a program setting forth the City's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

§ 2.2.1.2 The City shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and

information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 2.2.1.3 The City shall furnish services of geotechnical engineers which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations.

ARTICLE 2.3 EVALUATION AND PLANNING SERVICES

§ 2.3.1 The Architect shall provide a preliminary evaluation of the information furnished by the City under this Agreement, including the City's program and schedule requirements and budget for the Cost of the Work, each in terms of the other. The Architect shall review such information to ascertain that it is consistent with the requirements of the Project and shall notify the City of any other information or consultant services that may be reasonably needed for the Project.

§ 2.3.2 The Architect shall provide a preliminary evaluation of the City's site for the Project based on the information provided by the City of site conditions, and the City's program, schedule and budget for the Cost of the Work.

§ 2.3.3 The Architect shall review the City's proposed method of contracting for construction services and shall notify the City of anticipated impacts that such method may have on the City's program, financial and time requirements, and the scope of the Project.

ARTICLE 2.4 DESIGN SERVICES

§ 2.4.1 The Architect's design services shall include normal structural, mechanical and electrical engineering services.

§ 2.4.2 SCHEMATIC DESIGN DOCUMENTS

§ 2.4.2.1 The Architect shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of the Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. At the Architect's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.4.3 DESIGN DEVELOPMENT DOCUMENTS

§ 2.4.3.1 The Architect shall provide Design Development Documents based on the approved Schematic Design Documents and updated budget for the Cost of the Work. The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections and elevations, typical construction details, and equipment layouts. The Design Development Documents shall include specifications that identify major materials and systems and establish in general their quality levels.

§ 2.4.4 CONSTRUCTION DOCUMENTS

§ 2.4.4.1 The Architect shall provide Construction Documents based on the approved Design Development Documents and updated budget for the Cost of the Work. The Construction Documents shall set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project.

§ 2.4.4.2 During the development of the Construction Documents, the Architect shall assist the City in the development and preparation of: (1) bidding and procurement information which describes the time, place and conditions of bidding; bidding or proposal forms; and the form of agreement between the City and the Contractor; and (2) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect also shall compile the Project Manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

ARTICLE 2.5 CONSTRUCTION PROCUREMENT SERVICES

§ 2.5.1 The Architect shall assist the City in obtaining either competitive bids or negotiated proposals and shall assist the City in awarding and preparing contracts for construction.

§ 2.5.2 The Architect shall assist the City in establishing a list of prospective bidders or contractors.

§ 2.5.3 The Architect shall assist the City in bid validation or proposal evaluation and determination of the successful bid or proposal, if any. If requested by the City, the Architect shall notify all prospective bidders or contractors of the bid or proposal results.

§ 2.5.4 COMPETITIVE BIDDING

§ 2.5.4.1 Bidding Documents shall consist of bidding requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

§ 2.5.4.2 If requested by the City, the Architect shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. The City shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

§ 2.5.4.3 If requested by the City, the Architect shall distribute the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The Architect shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders.

§ 2.5.4.4 The Architect shall consider requests for substitutions, if permitted by the Bidding Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 2.5.4.5 The Architect shall participate in or, at the City's direction, shall organize and conduct a pre-bid conference for prospective bidders.

§ 2.5.4.6 The Architect shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda.

§ 2.5.4.7 The Architect shall participate in or, at the City's direction, shall organize and conduct the opening of the bids. The Architect shall subsequently document and distribute the bidding results, as directed by the City.

§ 2.5.5 NEGOTIATED PROPOSALS

§ 2.5.5.1 Proposal Documents shall consist of proposal requirements, proposed contract forms, General Conditions and Supplementary Conditions, Specifications and Drawings.

§ 2.5.5.2 If requested by the City, the Architect shall arrange for procuring the reproduction of Proposal Documents for distribution to prospective contractors. The City shall pay directly for the cost of reproduction or shall reimburse the Architect for such expenses.

§ 2.5.5.3 If requested by the City, the Architect shall organize and participate in selection interviews with prospective contractors.

§ 2.5.5.4 The Architect shall consider requests for substitutions, if permitted by the Proposal Documents, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 2.5.5.5 If requested by the City, the Architect shall assist the City during negotiations with prospective contractors. The Architect shall subsequently prepare a summary report of the negotiation results, as directed by the City.

ARTICLE 2.6 CONTRACT ADMINISTRATION SERVICES

§ 2.6.1 GENERAL ADMINISTRATION

§ 2.6.1.1 The Architect shall provide administration of the Contract between the City and the Contractor as set forth below and in the edition of AIA Document A201, General Conditions of the Contract for Construction, current as of the date of this Agreement. Modifications made to the General Conditions, when adopted as part of the Contract

Documents, shall be enforceable under this Agreement only to the extent that they are consistent with this Agreement or approved in writing by the Architect.

§ 2.6.1.2 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates at the issuance to the City of the final Certificate for Payment. However, the Architect shall be entitled to a Change in Services in accordance with Section 2.8.2 when Contract Administration Services extend 60 days after the date of Substantial Completion of the Work.

§ 2.6.1.3 The Architect shall be a representative of and shall advise and consult with the City during the provision of the Contract Administration Services. The Architect shall have authority to act on behalf of the City only to the extent provided in this Agreement unless otherwise modified by written amendment.

§ 2.6.1.4 Duties, responsibilities and limitations of authority of the Architect under this Article 2.6 shall not be restricted, modified or extended without written agreement of the City and Architect with consent of the Contractor, which consent will not be unreasonably withheld.

§ 2.6.1.5 The Architect shall review properly prepared, timely requests by the Contractor for additional information about the Contract Documents. A properly prepared request for additional information about the Contract Documents shall be in a form prepared or approved by the Architect and shall include a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested.

§ 2.6.1.6 If deemed appropriate by the Architect, the Architect shall on the City's behalf prepare, reproduce and distribute supplemental Drawings and Specifications in response to requests for information by the Contractor.

§ 2.6.1.7 The Architect shall interpret and decide matters concerning performance of the City and Contractor under, and requirements of, the Contract Documents on written request of either the City or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 2.6.1.8 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect shall endeavor to secure faithful performance by both City and Contractor, shall not show partiality to either, and shall not be liable for the results of interpretations or decisions so rendered in good faith.

§ 2.6.1.9 The Architect shall render initial decisions on claims, disputes or other matters in question between the City and Contractor as provided in the Contract Documents. However, the Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.2 EVALUATIONS OF THE WORK

§ 2.6.2.1 The Architect, as a representative of the City, shall visit the site at intervals appropriate to the stage of the Contractor's operations, or as otherwise agreed by the City and the Architect in Article 2.8, (1) to become generally familiar with and to keep the City informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the City against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 2.6.2.2 The Architect shall report to the City known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor. However, the Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or

charge of and shall not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work.

§ 2.6.2.3 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

§ 2.6.2.4 Except as otherwise provided in this Agreement or when direct communications have been specially authorized, the City shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

§ 2.6.2.5 The Architect shall have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 2.6.3 CERTIFICATION OF PAYMENTS TO CONTRACTOR

§ 2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue Certificates for Payment in such amounts. The Architect's certification for payment shall constitute a representation to the City, based on the Architect's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 2.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the City to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 2.6.3.3 The Architect shall maintain a record of the Contractor's Applications for Payment.

§ 2.6.4 SUBMITTALS

§ 2.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the City, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 2.6.4.2 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 2.6.4.3 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Architect shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals

related to the Work designed or certified by the design professional retained by the Contractor shall bear such professional's written approval when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 2.6.5 CHANGES IN THE WORK

§ 2.6.5.1 The Architect shall prepare Change Orders and Construction Change Directives for the City's approval and execution in accordance with the Contract Documents. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 2.8.2.

§ 2.6.5.2 The Architect shall review properly prepared, timely requests by the City or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to the City that the requested change be denied.

§ 2.6.5.3 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the City, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect. With the City's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the City's execution or negotiation with the Contractor.

§ 2.6.5.4 The Architect shall maintain records relative to changes in the Work.

§ 2.6.6 PROJECT COMPLETION

§ 2.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, shall receive from the Contractor and forward to the City, for the City's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor, and shall issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 2.6.6.2 The Architect's inspection shall be conducted with the City's Designated Representative to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 2.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the City about the balance of the Contract Sum remaining to be paid the Contractor, including any amounts needed to pay for final completion or correction of the Work.

§ 2.6.6.4 The Architect shall receive from the Contractor and forward to the City: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment and (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the City against liens.

ARTICLE 2.7 FACILITY OPERATION SERVICES

§ 2.7.1 The Architect shall meet with the City or the City's Designated Representative promptly after Substantial Completion to review the need for facility operation services.

§ 2.7.2 Upon request of the City, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall conduct a meeting with the City and the City's Designated Representative to review the facility operations and performance and to make appropriate recommendations to the City.

ARTICLE 2.8 SCHEDULE OF SERVICES

§ 2.8.1 Design and Contract Administration Services beyond the following limits shall be provided by the Architect as a Change in Services in accordance with Section 1.3.3:

- 1 up to three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.
- 2 up to four visits each month to the site by the Architect over the duration of the Project(s) during construction.
- 3 up to three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.
- 4 up to three (3) inspections for any portion of the Work to determine final completion.

§ 2.8.2 The following Design and Contract Administration Services shall be provided by the Architect as a Change in Services in accordance with Section 1.3.3:

- 1 review of a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- 2 responses to the Contractor's requests for information where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other City-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- 3 Change Orders and Construction Change Directives requiring evaluation of proposals, including the preparation or revision of Instruments of Service;
- 4 providing consultation concerning replacement of Work resulting from fire or other cause during construction;
- 5 evaluation of an extensive number of claims submitted by the City's consultants, the Contractor or others in connection with the Work;
- 6 evaluation of substitutions proposed by the City's consultants or contractors and making subsequent revisions to Instruments of Service resulting therefrom;
- 7 preparation of design and documentation for alternate bid or proposal requests proposed by the City; or
- 8 Contract Administration Services provided 60 days after the date of Substantial Completion of the Work.

§ 2.8.3 The Architect shall furnish or provide the following services only if specifically designated:

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
1 Programming	— Architect	— Document B727*
2 Land Survey Services		
3 Geotechnical Services		
4 Space Schematics/Flow Diagrams		
5 Existing Facilities Surveys	— Architect	— Document B727*
6 Economic Feasibility Studies		
7 Site Analysis and Selection	— Architect	— Document B727*
8 Environmental Studies and Reports		
9 Owner-Supplied Data Coordination		
10 Schedule Development and Monitoring		
11 Civil Design	— Architect	— B141, Article 1.1.3.5
12 Landscape Design	— Architect	— B141, Article 1.1.3.5
13 Interior Design		
14 Special Bidding or Negotiation		
15 Value Analysis		
16 Detailed Cost Estimating		
17 On-Site Project Representation		
18 Construction Management		

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description
.19 Start-up Assistance		
.20 Record Drawings		
.21 Post-Contract Evaluation		
.22 Tenant-Related Services		
.23		
.24		
.25		

Description of Services.
(Insert descriptions of the services designated.)

*Scope of Services is defined in Document B727.

ARTICLE 2.9 MODIFICATIONS

§ 2.9.1 Modifications to this Standard Form of Architect's Services: Design and Contract Administration, if any, are as follows:

Not Applicable.

By its execution, this Standard Form of Architect's Services: Design and Contract Administration and modifications hereto are incorporated into the Standard Form of Agreement Between the City and Architect, AIA Document B141-1997, that was entered into by the parties as of the date:

CITY

(Signature)

Dan Coody, Mayor

(Printed name and title)

ARCHITECT

(Signature)

James Estes, Principal

(Printed name and title)

Attest:

Sondra Smith, City Clerk

Sondra Smith

City Clerk/Treasurer



Exhibit A

Standard Architectural/Engineering (A/E) Fee Schedule

The fee percentages on this schedule are based upon the basic standard services described in the American Institute of Architects (AIA) Document B141-1997.

"Facility Cost" refers to the Construction Cost of the work as defined in Article 1.3.1 of the AIA Document B141 Standard Form of Agreement Between Owner and Architect

Projects involving renovation:

For projects involving renovation, the fee percentages below shall be increased 1.5% for the portion of the Work involving renovation.

Facility Cost	Group 1	Group 2	Group 3		Facility Cost	Group 1	Group 2	Group 3
\$1,000,000	10.92%	9.51%	8.10%		\$3,800,000	9.61%	8.28%	6.95%
\$1,100,000	10.84%	9.43%	8.02%		\$3,900,000	9.58%	8.26%	6.93%
\$1,200,000	10.76%	9.36%	7.95%		\$4,000,000	9.56%	8.23%	6.91%
\$1,300,000	10.69%	9.29%	7.88%		\$4,100,000	9.53%	8.21%	6.88%
\$1,400,000	10.62%	9.23%	7.82%		\$4,200,000	9.50%	8.18%	6.86%
\$1,500,000	10.56%	9.16%	7.76%		\$4,300,000	9.48%	8.16%	6.84%
\$1,600,000	10.50%	9.10%	7.71%		\$4,400,000	9.45%	8.14%	6.82%
\$1,700,000	10.44%	9.05%	7.65%		\$4,500,000	9.42%	8.11%	6.80%
\$1,800,000	10.39%	9.00%	7.61%		\$4,600,000	9.40%	8.09%	6.78%
\$1,900,000	10.33%	8.95%	7.56%		\$4,700,000	9.38%	8.07%	6.76%
\$2,000,000	10.28%	8.90%	7.51%		\$4,800,000	9.35%	8.05%	6.74%
\$2,100,000	10.23%	8.85%	7.47%		\$4,900,000	9.33%	8.03%	6.73%
\$2,200,000	10.19%	8.81%	7.43%		\$5,000,000	9.31%	8.01%	6.71%
\$2,300,000	10.14%	8.77%	7.39%		\$5,100,000	9.28%	7.99%	6.69%
\$2,400,000	10.10%	8.73%	7.36%		\$5,200,000	9.26%	7.97%	6.67%
\$2,500,000	10.06%	8.69%	7.32%		\$5,300,000	9.24%	7.95%	6.65%
\$2,600,000	10.02%	8.65%	7.29%		\$5,400,000	9.22%	7.93%	6.64%
\$2,700,000	9.98%	8.62%	7.25%		\$5,500,000	9.20%	7.91%	6.62%
\$2,800,000	9.94%	8.58%	7.22%		\$5,600,000	9.18%	7.89%	6.61%
\$2,900,000	9.90%	8.55%	7.19%		\$5,700,000	9.16%	7.87%	6.59%
\$3,000,000	9.87%	8.51%	7.16%		\$5,800,000	9.14%	7.85%	6.57%
\$3,100,000	9.83%	8.48%	7.13%		\$5,900,000	9.12%	7.84%	6.56%
\$3,200,000	9.80%	8.45%	7.10%		\$6,000,000	9.10%	7.82%	6.54%
\$3,300,000	9.77%	8.42%	7.08%		\$6,100,000	9.08%	7.80%	6.53%
\$3,400,000	9.73%	8.39%	7.05%		\$6,200,000	9.06%	7.79%	6.51%
\$3,500,000	9.70%	8.36%	7.03%		\$6,300,000	9.04%	7.77%	6.50%
\$3,600,000	9.67%	8.34%	7.00%		\$6,400,000	9.02%	7.75%	6.48%
\$3,700,000	9.64%	8.31%	6.98%		\$6,500,000	9.00%	7.74%	6.47%

Facility Cost	Group 1	Group 2	Group 3		Facility Cost	Group 1	Group 2	Group 3
\$6,600,000	8.99%	7.72%	6.46%		\$8,900,000	8.63%	7.41%	6.19%
\$6,700,000	8.97%	7.71%	6.44%		\$9,000,000	8.61%	7.40%	6.18%
\$6,800,000	8.95%	7.69%	6.43%		\$9,100,000	8.60%	7.38%	6.17%
\$6,900,000	8.93%	7.68%	6.42%		\$9,200,000	8.59%	7.37%	6.16%
\$7,000,000	8.92%	7.66%	6.40%		\$9,300,000	8.58%	7.36%	6.15%
\$7,100,000	8.90%	7.65%	6.39%		\$9,400,000	8.56%	7.35%	6.14%
\$7,200,000	8.88%	7.63%	6.38%		\$9,500,000	8.55%	7.34%	6.13%
\$7,300,000	8.87%	7.62%	6.37%		\$9,600,000	8.54%	7.33%	6.12%
\$7,400,000	8.85%	7.60%	6.35%		\$9,700,000	8.53%	7.32%	6.11%
\$7,500,000	8.83%	7.59%	6.34%		\$9,800,000	8.51%	7.31%	6.10%
\$7,600,000	8.82%	7.57%	6.33%		\$9,900,000	8.50%	7.30%	6.09%
\$7,700,000	8.80%	7.56%	6.32%		\$10,000,000	8.49%	7.28%	6.08%
\$7,800,000	8.79%	7.55%	6.31%		\$10,100,000	8.48%	7.27%	6.07%
\$7,900,000	8.77%	7.53%	6.29%		\$10,200,000	8.47%	7.26%	6.06%
\$8,000,000	8.76%	7.52%	6.28%		\$10,300,000	8.45%	7.25%	6.05%
\$8,100,000	8.74%	7.51%	6.27%		\$10,400,000	8.44%	7.24%	6.04%
\$8,200,000	8.73%	7.49%	6.26%		\$10,500,000	8.43%	7.23%	6.03%
\$8,300,000	8.71%	7.48%	6.25%		\$10,600,000	8.42%	7.22%	6.02%
\$8,400,000	8.70%	7.47%	6.24%		\$10,700,000	8.41%	7.21%	6.01%
\$8,500,000	8.69%	7.46%	6.23%		\$10,800,000	8.40%	7.20%	6.00%
\$8,600,000	8.67%	7.44%	6.22%		\$10,900,000	8.38%	7.19%	5.99%
\$8,700,000	8.66%	7.43%	6.21%		\$11,000,000	8.37%	7.18%	5.98%
\$8,800,000	8.64%	7.42%	6.20%					

"Group 1" facilities are those of *more than the average* degree of Design Difficulty. Examples are as follows:

Art Galleries, Auditoriums, College Building with Special Facilities, Communications Building, Complex Engineering Projects, Courthouses, Developmental Centers, Extended Care Facilities, Historical Monuments, Hospitals, Laboratories (Prod. & Research), Maximum Security Correctional Facilities, Medical Office Facilities and Clinics, Museums, Residences – Institutional, Schools for the Blind, Schools for Hearing Impaired, Sewage Treatment Plants, Theaters (performing), Power Plants, Veterinary Hospitals, Veterans Hospitals, and Water Treatment Plants.

"Group 2" facilities are those with an *average degree* of Design Difficulty. Examples are as follows:

College Classroom Facilities, Convention Facilities, Dietary Facilities/Restaurants, Dining Halls (Institutional), Dormitories, Gymnasiums, Laundry Facilities, Medium and Minimum Security Correctional Facilities, Office Buildings, Park/Playground and Recreational Facilities, Police Stations, Schools (Elementary and Secondary), Science Labs (Teaching), Stadiums, Theatres, Transportation Terminals, Complex Electrical Distribution, Fire Stations/Power Plants, Vocational Schools, Computer Rooms, and Libraries.

"Group 3" facilities are those of *less than the average degree* of Design Difficulty. Examples are as follows:

Apartments, Armories, Cold Storage Facilities, Farm Structures, Hangars, Industrial Buildings, Parking Structures and Repetitive Garages, Shop & Maintenance Buildings, Simple Industrial Buildings, Warehouses, Fences, Guard Towers, and Site Work (Water/Sewer/Roads, etc.). 2001

EXHIBIT B

FEE PROPOSAL ITEMIZATION

Task 1: Current Space (This task will actually occur after the on-site information gathering that occurs in Task 2).

Sub-task	Personnel	Rate	Hours	Cost
1.1 On-site inventory of current space	Proj. Manager	\$80	20	\$1,600
	Technical	\$55	20	\$1,100
1.2 As-built drawings	Proj. Manager	\$80	3	\$ 240
	Technical	\$55	24	\$1,320
				<u>\$ 4,260</u>

Task 2: Programming

Sub-task	Personnel	Rate	Hours	Cost
2.1 On-Site Information Gathering	Principals	\$105	68	\$ 7,140
2.2 Growth Analysis	Principal	\$105	16	\$ 1,680
	Ad. Assist.	\$ 55	6	\$ 330
2.3 Work Station Standards Development	Principal	\$105	24	\$ 2,520
	Technical	\$ 55	18	\$ 990
2.4 Square Footage Development	Principal	\$105	60	\$ 6,300
	Ad. Assist.	\$ 55	20	\$ 1,100
2.5 Adjacency Relationship diagramming	Principal	\$ 95	3	\$ 285
	Ad. Assist.	\$ 55	12	\$ 660
				<u>\$21,005</u>

Task 3: Development Options

Sub-task	Personnel	Rate	Hours	Cost
3.1 Renovation Analysis	Principal	\$105	32	\$ 3,360
	Proj. Manager	\$ 80	16	\$ 1,280
	Technical	\$ 55	16	\$ 880
3.2 New Construction Analysis	Principal	\$105	8	\$ 840
3.3 Site Master planning	Principal	\$105	32	\$ 3,360
	Proj. Manager	\$ 80	32	\$ 2,560
	Technical	\$ 55	24	\$ 1,320
3.4 Cost Estimates	Principal	\$105	24	\$ 2,520
3.5 Comparative Analysis, New vs. Renovation	Principal	\$105	32	\$ 3,360
				<u>\$19,480</u>

Task 4: Documentation

Sub-task	Personnel	Rate	Hours	Cost
4.1 Synthesize Study Process and Findings in a Formal Report	Principal	\$105	16	\$ 1,680
	Ad. Assist.	\$ 55	40	\$ 2,200
				<u>\$ 3,880</u>

Total Fee.....\$48,625

Fayetteville City Council,

This Letter is to inform the city council that Jim and Linda Mayes would like to appeal the Planning Commission decision to deny our Tandem lot split on Canvas Mt. Road (LSP06-2200). Our lot is in the planning area east of Fayetteville and we felt that the commission made their decision on incorrect information that 3 of my neighbors gave. We also believe the commission made an emotional decision instead of a decision based on the facts. We are legal in all aspects of a tandem lot and have met with several different planners between the subdivision meeting and the actual planning commission meeting. We felt like we had satisfied all their concerns with our lot split. We have the approval of 19 of the homeowners on Canvas Mt. and we are legal with the city's requirements for a lot split and for a tandem lot therefore we are requesting to appeal this to the city council. Please put us on the next city council meeting agenda and please inform us on when that meeting will take place. Thank you for your help in this matter.

Jim and Linda Mayes
445. N. Canvas Rd
Fayetteville, AR
Phone:442-0740
E-Mail (mayesji@msn.com)

RECEIVED

SEP 29 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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: September 27, 2006

Subject: Lot Split for Mayes Appeal (LSP 06-2200)

RECOMMENDATION

Planning Staff recommends denial of a lot split for Mayes located at 445 N. Canvas Road. The request is to subdivide the 3.11-acre property into two lots of 1.78 and 1.33 acres.

BACKGROUND

The subject property is Lot 21 of the Canvas Mountain Subdivision, located east of Starr Drive, north of Wyman Road. This subdivision is located in the Planning Area. Although portions of the property are located within an area encompassed within the Hillside/Hilltop Overlay District, these regulations are not enforced in the County. A single family dwelling, pool, and garage are located on the property. All surrounding properties are within the Planning Area.

The applicant requests a lot split to subdivide the property into two lots of 1.78-acres and 1.33-acres. The 1.78-acre lot complies with the city's requirement for a 75' lot frontage; however, it does not comply with requirements for a 75' lot width. A waiver request to allow a 30' lot width on a portion of the lot was requested. It is the intent of the owner to sell the 1.78 acres for single family development, and a letter has been submitted indicating that a deed restriction would be placed on the new lot to limit development of the property to one residential home.

DISCUSSION

Staff recommended denial of the lot split, finding that the proposed lot is not compatible with the surrounding properties, particularly in size and manner in which it is being subdivided, and does not meet the minimum Unified Development Code requirements for bulk and area for a lot within the Fayetteville Planning Area. The applicant requests a waiver of Chapter 166.08 (F) *Design Standards* of the Unified Development Code, for less than the required lot width. On September 25, 2006, the Planning Commission voted 8-0-0 to deny the proposed lot split.

Public opposition and support has been expressed in the form of letters, petitions, etc. by the adjacent property owners and the applicant (see attached materials). Three adjacent property owners were present at the meeting to discuss concerns regarding this proposed lot split.

BUDGET IMPACT

None.



PC Meeting of September 25, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: September 20, 2006

LSP 06-2200: Lot Split (LINDA MAYES, 491): Submitted by BLEW, BATES & ASSOC. for property located at 445 N. CANVAS RD. The property is in the PLANNING AREA and contains approximately 3.11 acres. The request is to divide the subject property into two tracts of 1.78 and 1.33 acres. Planner: Suzanne Morgan

Findings:

Property: The subject property is Lot 21 of the Canvas Mountain Subdivision, located east of Starr Drive, north of Wyman Road. This subdivision is located in the Planning Area. Although portions of the property are located within the Hillside/Hilltop Overlay District, these regulations cannot be enforced in the County. A single family dwelling, pool, and garage are located on the property. All surrounding properties are within the Planning Area.

Proposal: The applicant requests a lot split to subdivide the property into two lots of 1.78-acres and 1.33-acres. It is the intent of the owner to sell the 1.78 acres for single family development. A letter has been submitted by the owner indicating that a deed restriction would be placed on the 1.78-acre tract limiting development of this property to one residential home.

Background: On August 17, 2006, the Subdivision Committee reviewed a site plan proposing to create a 1.5-acre tandem lot with 0' lot frontage on Canvas Mountain Road. Chapter 166.08 F1 of the Unified Development Code requires a lot in the Planning Area to have a minimum 75' of lot frontage on an improved street. The applicant requested a waiver of this requirement. The Subdivision Committee forwarded the plat to the Planning Commission with a recommendation for denial. The applicant recently submitted revised plans providing Lot 21-B with a 75' lot frontage and a 30' lot width in a portion of the lot, which negates the need for lot frontage, but requires a waiver for minimum lot width, also required at 75 feet.

Lot Width Requirements: City regulations for lots within the Planning Area require a 75' lot frontage on a public street and a 75' lot width. The applicant has provided the 75' lot width for a majority of the lot; however, the lot width narrows from 75' to 30' due to the location of the existing single family dwelling and accessory structures on Lot 21-A. The applicant has requested a waiver from the 75' lot width.

The Canvas Mountain Subdivision is platted with a variety of lot shapes and sizes. The lots north and south of this property are of similar size and shape. The Unified Development Code states, "*When a tract of land is subdivided into larger than normal lots, such lots shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision of the lots, with provisions for adequate utility connections for such resubdivision*" (See Ch. 166.08F). It is apparent that the lots west of Canvas Mountain Road were platted larger than normal lots; however, the lots were not arranged as to permit the logical location and opening of future streets and resubdivision. Any subdivision of a 3-acre similar to the applicant's property will result in flag lots. Staff finds that the proposed lot is not compatible with the surrounding properties, particularly in size and manner in which it is being subdivided.

Adjacent Master Street Plan Streets: North Canvas Road (Unclassified). No additional right-of-way is required on this street.

Water/Septic Systems: The 1.78-acre lot would have frontage on a public street and access to a public water main. A private water line would be extended down the 30' lot width to serve development on the 1.33-acre lot.

During the initial review of the project, the proposed lots were 1.5 acres or greater, therefore not requiring septic system permits. The revised site plan includes a 1.33-acre lot which will require Arkansas Department of Health approval for the septic system. Since there is already an operational system on this lot, the applicant will need to provide proof from the Health Department to ensure that there is sufficient room for an alternative system and the soils are adequate. Written approval from the Health Department for the creation of the proposed 1.33-acre lot will be required prior to recordation of the lot split, should it be approved.

Subdivision Covenants: The City does not regulate or enforce subdivision covenants. Recommendations and evaluations of development, including lot splits, are based on the requirements of the Unified Development Code.

Public Comment: The Planning Division has received a petition signed by nearby lot owners within the subdivision in opposition to the lot split, a letter from the attorney of an adjacent owner with several concerns regarding the proposal, and information from the lot owner to the west regarding the drainage and concerns that additional development will magnify the drainage problems. The Planning Division has also received a petition in support of the lot split. (See attached materials.)

Recommendation: Staff recommends denial of LSP 06-2200 finding that the subdivision of land proposed is inconsistent with the surrounding lots north and south of the property within the platted subdivision. Should the Planning Commission find in favor of the proposal and recommend approval, staff recommends the following conditions:

Conditions of Approval:

1. Planning Commission determination of a waiver request for lot width requirements to create a lot with 75' lot frontage on a public street with a 30' lot width. *Of the two site plans proposed by the applicant for approval, the first being a 1.50 acre lot with a 0' lot width and the site plan with a 1.78-acre lot with 75' lot width on Canvas Road, staff*

recommends approval of the former lot layout. Although this layout would require extension of a public water main, it would not create a flag lot which could be further subdivided in the future if a street were extended.

2. A letter has been submitted by the owner indicating that a deed restriction would be placed on the 1.78-acre tract limiting development of this property to one residential home if the lot split is approved. This requirement shall be noted on the lot split document.
3. The applicant shall provide written approval from the Arkansas Health Department for the 1.33-acre lot prior to recordation of the lot split.
4. Prior to recordation of the lot split, the city shall ensure that public water is available to each proposed lot. If a public main extension is required, this shall occur prior to recordation of the lot split.
5. Adequate access shall be provided to each lot. As shown on the revised lot split plat, each lot has frontage and access to Canvas Road. If it is the applicant's desire that Lot 21-A retain access by way of the asphalt drive along the northern property line, an access easement shall be provided over the driveway.
6. The plat shall be revised to show the location and size of the existing public waterline adjacent to the property.
7. Washington County Planning approval is required prior to recordation.

Standard Conditions of Approval:

8. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

Additional Conditions:

- a. _____
- b. _____

Planning Commission Action: ☐ Approval ☒ Denied ☐ Tabled

Motion: (to Deny) Ostner

Second: Myres

Vote: 8-0-0

Meeting Date: September 25, 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

166.08 Design Standards

(F) *Residential lots.* The use and design of lots shall conform to the provisions of zoning where zoning is in effect. When no zoning applies, the following standards shall govern unless in conflict with more stringent city or state regulations applicable to the use of individual disposal systems:

(1) *Bulk and area regulations:*

	City Limits	Planning Area
Lot area minimum	8,000 sq. ft.	10,000 sq. ft.
Lot width minimum	70 ft.	75 ft.
Side setback	10 ft.	10 ft.
Rear setback	20 ft.	20 ft.
Frontage on improved street	70 ft.	75 ft.
Provided, a suburban lot may be developed as a tandem lot in accordance with zoning, Chapters 160 through 165.		

(2) *Size.* The size and shape of the lots shall not be required to conform to any stipulated pattern, but insofar as practicable, side lot lines should be at right angles to straight street lines or radial to curved street lines. When a tract of land is subdivided into larger than normal lots, such lots shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision of the lots, with provisions for adequate utility connections for such resubdivision.

(3) *Developments outside city developed to all inside the city standards.* If the City Council grants access to the City's sewer system pursuant to § 51.113 (C) and the owner/developer agrees to petition for annexation as soon as legally possible and develop the subdivision in accordance with all inside the city development requirements including payment of all impact fees, the bulk and area requirements for this subdivision shall conform to those within the city limits rather than those within the planning area.

Appendix A

Information from the Applicant

Jim and Linda Mayes Lot Split
445 N. Canvas
Fayetteville, AR 72701
Canvas Mt. Subdivision
Planning Area

1. We are Legal with lot minimum (10,000 sq. ft): 2 lots with 1 ½ acres a piece, one with 65,347.42 sq. ft. and one with 74,444.21 sq. ft.
2. Legal with width minimum (75 ft.) Both lots have 189.94 width
3. Legal with rear setback of 10 ft. The lots we are splitting have a 20ft. setback at the back and a 50ft. setback at the front
4. Legal with the side setback of 10 ft., we have 20ft.
5. Not legal with the 75 ft. frontage which makes for a tandem lot.
 - A. We are legal with the frontage on a tandem lot, it requires a minimum of 25-ft. road frontage easement and we have 30-ft. road and utility easement
 - B. Tandem lots are required to have a paved drive with a minimum of 25ft. from the road. We have a 352.37 ft. driveway to the lot split with 160 ft. of pavement that has existed for 10 years. We have a beautiful wooded planter entryway at the street.
6. We are Legal with the utility easement. They have already signed off on the lot split.
7. We are legal with the sewer system. The lot has been approved for a septic system.
8. Legal with the covenants of Canvas Mt. Subdivision. They call for only the approval of the subdivider, which is Jim Lindsey.

We have a sign document from Jim Lindsey with his approval of the tandem lot split. The homeowners were given legal notice through the covenants. We have 19 signature of property owners on canvas Mt. who approve the lot split and 4 who don't want to get involved. *3 of the 4 are our next door neighbors*

9. We are legal with the title. Donna Stuart at Reality Title Company has approved the title work.

We are asking for the approval of this tandem lot split because we are legal by the standards set by the city for tandem lots in the planning area and for the following reasons:

- a. There are 2 tandem lots in the subdivision already. Lot 3 Block 2 (see enclosed plat) and one directly across the street from us Lot 23 split off 3 lots which their only access to the city street is through a road and utility easement. (see enclosed Easement Morrison/ Robertson Oil and Shirley Trust filed April 12th 2001)
- b. The city has already split off 2 lots in the subdivision (enclosed warranty deed Andre' Marc split his 3 acres into 2 1/12 acre lots.) and Lot 4 Block 2 split off 2 1/2 acres ~~about 8 years ago by the J.R. Arnold~~ (see attached form)
- c. 16 out of the 32 lots in the subdivision are 1 1/2 acres
- d. lot 22 which is next to us has an easement dedicated to the city for a city street (see enclosed easement Martin to City of Fayetteville) through it to a 200 acre tract of land that the road will extend to and could be developed into, at the minimum 200 houses and more likely 1000 house if the subdivider puts in the drip system for sewer. Tim Conklin told this to us.

By J.R. Arnold

To: City of Fayetteville
Att: Jeremy Pate
Re: Lot Split Request

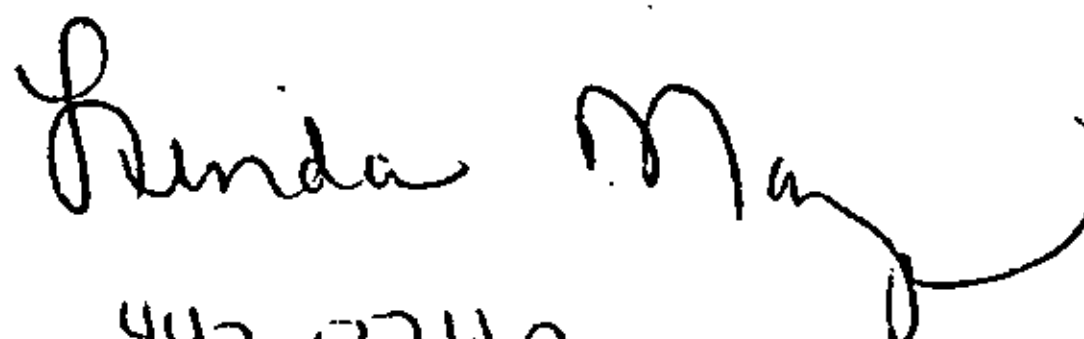
Please add as a deed restriction the following information: 445 N Canvas Rd Lot split for Jim and Linda Mayes.

The new lot owner may only build one residential home on the property and must follow canvas mountain covenants.

Please edit this to meet the city guidelines.

Sincerely,

Linda Mayes


442-0740

PROTECTIVE COVENANTS
CANVAS MOUNTAIN
A Subdivision in
Washington County, Arkansas

Covering the following described property situated in
Washington County, Arkansas, to-wit:

A part of the Fractional Southwest Quarter of the Southwest Quarter of Section 7, Township 16 North, Range 29 West, and part of the Fractional Northwest Quarter of Section 18, Township 16 North, Range 29 West, being more particularly described as follows, To-Wit: Beginning at the Northeast corner of said Fractional Northwest Quarter, and running thence S89°51'41"W 1311.08', thence N0°03'53"W 659.18', thence S89°51'41"W 528.66', thence S0°03'53"E 659.18', thence S89°51'41"W 497.17', thence South 1324.29', thence East 631.32', thence S0°03'53"E 1305.70', thence East 1343.39', thence N0°03'53"W 1305.70', thence East 372.61', thence N0°26'56"W 1329.98' to the Point of Beginning, containing 119 acres more or less.

KNOW ALL MEN BY THESE PRESENTS, that as owners, Lon R. Farrell, J. W. Gabel and Marjolene Gabel, Gordon A. Long and Jonell Long, and James E. Lindsey and Nita V. Lindsey, and James E. Lindsey as subdivider of all the lots in Canvas Mountain Subdivision in Washington County, Arkansas, hereby enter the following restrictive covenants with respect to said subdivision.

(1) All lots in said subdivision shall be residential lots, and no structures shall be erected on any of said lots other than one detached, single family dwelling to be used for residential purposes. A guest house, cabana, and/or detached garage may be allowed as long as it is in keeping with the architectural design of said residence. Any dwelling house construction upon any lot shall have at least 1400 square feet of heated area excluding porches, garages and breezeways with at least 1200 square feet on the ground floor.

(2) No vehicles may be parked in the streets of this subdivision. Lot owners shall provide sufficient off street parking to accomodate the vehicles used by their family and guests. Also, no semi-trailer trucks shall be allowed to park overnight in said subdivision, either on the streets or on a privately owned lot. ~~No abandoned automobiles or inoperable automobiles may be stored on any lot in said subdivision.~~

(3) No lot shall be ~~re-subdivided or re-platted without~~ the prior written consent of the above named subdividers ~~or~~ his successors or assigns, and approval of the applicable local or governing authorities.

(4) ~~No trade or business shall be carried on upon any lot in said subdivision, nor shall anything be done or performed thereon which may become an annoyance or nuisance to the neighborhood or detrimental to the residential value of any lot in said subdivision.~~

(5) No trailer, mobile home, tent, shack, metal building or other unsightly building or structure, temporary or permanent other than the single family dwelling, guest house, cabana, and/or detached garage, as described herein, shall be erected or used as a residence on said lots.

(6) Recreational and camping vehicles and trailers may be stored and parked on the lots. However, these vehicles and trailers shall be located behind the house, guesthouse, or fence, or in or behind the garage, or otherwise screened so that they are not readily visible from the street or adjoining lots. Screening

EASEMENT

FILED FOR RECORD

01 APR 12 AM 11 06

WASHINGTON CO AR
B. STAMPS

KNOW ALL MEN BY THESE PRESENTS:

That we, HOWARD KEITH MORRISON and LYNN C. MORRISON (by H. Keith Morrison, her attorney in fact under power of attorney recorded as instrument #200016302 of the records of Washington County, Arkansas), husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to us in hand paid by ROBERTSON OIL CO., INC., an Arkansas corporation, and THE SHIRLEY FAMILY TRUST w/t/a dated June 27, 1997, hereinafter called Grantees, do hereby grant unto said Grantees, and unto their heirs/successors or assigns, an easement for the purposes of ingress/egress and underground utilities over and across the following described land, situate in Washington County, Arkansas, to-wit:

An easement being 20 feet in width across Lot 23, Block 1, Canvas Mountain Subdivision, Washington County, Arkansas, and being 10 feet each side of the following described line; commencing at the NE corner of said Lot 23, thence South 88 degrees 28 minutes 39 seconds West 18.03 feet to the point of beginning, thence the following bearings and distances; South 43 degrees 37 minutes 24 seconds West 108.84 feet, thence South 67 degrees 22 minutes 37 seconds West 145.36 feet, thence South 77 degrees 17 minutes 44 seconds West 68.83 feet, thence South 88 degrees 50 minutes 00 seconds West 203.98 feet to the right of way of North Canvas Road.

In mutual consideration of the foregoing easement, the parties acknowledge and agree that they shall have such rights with respect to construction, operation, maintenance and repair of said easement as are recognized by the laws of the State of Arkansas.

TO HAVE AND TO HOLD the said lands thereunto belonging unto the said Grantees and their heirs/successors or assigns, forever.

Witness our hands and seals this 12 day of April 2001.

Howard Keith Morrison (seal)

HOWARD KEITH MORRISON

Lynn C. Morrison by H. Keith Morrison (seal)

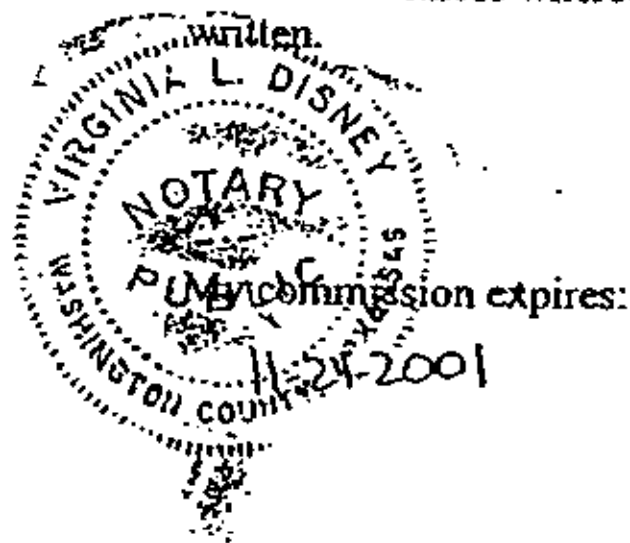
LYNN C. MORRISON by
H. KEITH MORRISON, attorney
in fact

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

On this 12 day of April, 2001, before me, a notary public, personally appeared Howard Keith Morrison and Lynn C. Morrison, by H. Keith Morrison, her attorney in fact, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal the date above



Virginia L. Disney
NOTARY PUBLIC

2001039282

KNOW ALL MEN BY THESE PRESENTS:

That we, ANDRE' E. MARC SHIRLEY A. MARC

husband and wife, hereinafter called Grantors,
for and in consideration of the sum of One Dollar (\$1.00) and other good and
valuable consideration to me in hand paid by KENNETH LEE OSBORNE and
LORI ANN OSBORNE, HUSBAND AND WIFE

hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in
WASHINGTON County, State of Arkansas, to-wit:

~~FILED FOR RECORD~~

'96 MAR 15 PM 2 44

WASHINGTON CO AR
K. HARNESS

PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION EIGHTEEN (18), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, DESCRIBED AS BEGINNING 253.5 FEET EAST OF THE SOUTHWEST CORNER OF THE SAID NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4), THENCE NORTH 300 FEET, THENCE EAST 215 FEET, THENCE SOUTH 300 FEET, THENCE WEST 215 FEET TO THE POINT OF BEGINNING, CONTAINING 1.48 ACRES, MORE OR LESS.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And we, the said Grantor, hereby covenant that we are lawfully seized of said land and premises, that the same is unencumbered, and that we will forever warrant and defend the title to the said lands against all legal claims whatever.

And we, the respective Grantors, hereby release and relinquish unto the said Grantee our respective dower/curtesy and homestead in and to said lands.

WITNESS our hands and seals on this 14th day of March, 1996

THIS INSTRUMENT PREPARED BY:

PLEASE MAIL TAX STATEMENT TO:

FRANCOKLAROMA MORTGAGE CORP.

P. O. BOX 35688

YULSA, OK 74153

ANDRE' E. MARC

SHIRLEY A. MARC

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this the 14th day of March, 1996, before me, a notary public, personally appeared ANDRE' E. MARC and SHIRLEY A. MARC

know to me (or satisfactorily proven) to be the persons whose names subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof I have signed my hand and official seal

My Commission Expires **NOTARY** 8-29-2006

CERTIFICATE OF RECORD.

STATE OF ARKANSAS

COUNTY OF

I, _____, Clerk and Ex-Officio Recorder for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the _____ day of _____ at _____ o'clock _____ M., and the same is now duly recorded with the acknowledgment and certificate thereon, in Record Book _____ at Page _____.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this _____ day of _____, 19____.

Grantee: Bronson C. Gier
 LMO # 4185 Canvas Road
Wayetewille, Arkansas
72701

Druck Clark and Co-Office Manager

96015759

KNOW ALL MEN BY THESE PRESENTS:

That we, ANDRE' E. MARC SHIRLEY A. MARC

_____ husband and wife, hereinafter called Grantors,
for and in consideration of the sum of One Dollar (\$1.00) and other good and
valuable consideration to me in hand paid by RUSTON L. COLE and MARA
D. COLE, HUSBAND AND WIFE

hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in WASHINGTON County, State of Arkansas, to-wit:

95 NOV 8 PM 4 21
WASHINGTON CO AR
K. HARNESS

PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (1/4) OF SECTION EIGHTEEN (18), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, DESCRIBED AS BEGINNING 468.5 FEET EAST OF THE SOUTHWEST CORNER OF THE SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTH 300 FEET; THENCE EAST 215 FEET; THENCE SOUTH 300 FEET; THENCE WEST 215 FEET, TO THE POINT OF BEGINNING, CONTAINING 1.48 ACRES, MORE OR LESS.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And we, the said Grantor, hereby covenant that we are lawfully seized of said land and premises, that the same is unencumbered, and that we will forever warrant and defend the title to the said lands against all legal claims whatever.

And we, the respective Grantors, hereby release and relinquish unto the said Grantee our respective dower/curtesy and homestead in and to said lands.

WITNESS our hands and seals on this 25th day of October, 1995

under penalty of sub-
poena that at least the legally
current amount of documentary stamps
have been placed on this instrument.

Grates Wheat
Address Agst

SA 40
478635
ARKANSAS
DOCUMENTARY
ST-10
0773758

Andre E. Marc (Seal)

SHIRLEY A. MARC Power Attorney
for Shirley A. Marc

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this the 25th day of October, 1995, before me, a notary public, personally appeared ANDRE' E. MARC and SHIRLEY A. MARC know to me (or satisfactorily proven) to be the persons whose names subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal.

My Commission Expires:

Official Seal
SUBAN G. POOLE
Notary Public - Arkansas
WASHINGTON COUNTY

Notary Public

CERTIFICATE OF RECORD

STATE OF ARKANSAS
COUNTY OF

I, _____ Circuit Clerk and Ex-Officio Recorder for the
County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the _____
day of _____ at _____ o'clock _____ M., and the same is now duly recorded
with the acknowledgment and certificate thereon, in Record Book, _____ at Page _____

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this _____ day of _____, 19____.

Circuit Clerk and Ex-Officio Recorder.

FILED FOR RECORD

WARRANTY DEED

99 OCT 4 PM 2:54 Husband and Wife Conveying as Tenants by
the Entirety, Jointly or In Common



WASHINGTON CO AR
KNOW ALL MEN BY THESE PRESENTS:

That we, Gene W. Arnold Jr. and Karen D. Arnold, husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid by David R. Faulkner, a single person, hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in Washington County, State of Arkansas, to-wit:

A part of Lot Numbered Four (4), Block Numbered Two (2), Canvas Mountain Subdivision, a Subdivision of Washington County, Arkansas, as per plat of said Subdivision on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows: Beginning at the Southwest corner of said Lot Four (4); thence N 00 degrees 11 minutes 57 seconds E along the West line of said Lot Four (4) 310.31 feet to a set iron; thence S 89 degrees 53 minutes 36 seconds E 335.27 feet to a set iron on the East line of said Lot Four (4); thence S 00 degrees 04 minutes 24 seconds W 310.31 feet to the Southeast corner of said Lot Four (4); thence N 89 degrees 53 minutes 36 seconds W 335.95 feet to the point of beginning, containing 2.39 acres, more or less. The above described 2.39 acre tract being subject to the Right-of-Way of Wyman Road (County Road 48) and any other Easement and/or Right-of-Way of Record.

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And we, the said Grantors, hereby covenant that we are lawfully seized of said land and premises, that the same is unencumbered, and that we will forever warrant and defend the title to the said lands against all legal claims whatever.

And we, the respective Grantors, hereby release and relinquish unto the said Grantee our respective dower/curtesy and homestead in and to said lands.

WITNESS our hands and seals on this 1st day of October, 1999.

Gene W. Arnold Jr.

Karen D. Arnold

THIS INSTRUMENT PREPARED BY:
Richard L. Miller
Attorney at Law
P. O. Box 3354
Fayetteville, Arkansas 72702

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

On this the 1st day of October, 1999, before me, a notary public, personally appeared Gene W. Arnold Jr. and Karen D. Arnold, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal.



My Commission Expires: 7-3-01

Notary Public

99090041

2560 Adrian Ave #A
Springdale, AR 72764

WARRANTY DEED

HUSBAND AND WIFE CONVEYING AS TENANTS BY THE ENTIRETY, JOINTLY OR IN COMMON

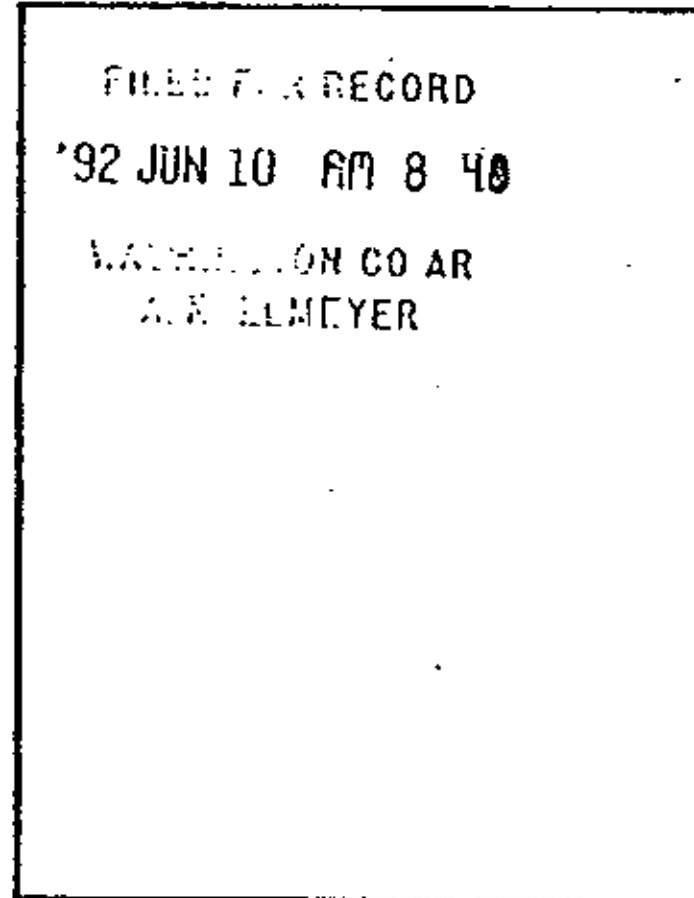
KNOW ALL MEN BY THESE PRESENTS:

That we, ROBERT E. MARTIN and JANEEN MARTIN,

husband and wife, hereinafter called Grantors, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration to us in hand paid by MICHAEL B. CARFAGNO, JR., and MELODY F. CARFAGNO, husband and wife

hereinafter called Grantee, do hereby grant, bargain and sell unto the said Grantee and Grantee's heirs and assigns, the following described land, situate in

Washington County, State of Arkansas, to-wit:



Lot Numbered Twenty-two (22), Block Numbered One (1), Canvas Mountain, a subdivision in Washington County, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, subject to all roadways, easements and restrictions of record.

41428



I certify under penalty of false swearing that at least the legally correct amount of documentary stamps has been placed on this instrument.
Witness AS
Address BAC

TO HAVE AND TO HOLD the said lands and appurtenances thereunto belonging unto the said Grantee and Grantee's heirs and assigns, forever. And we, the said Grantors, hereby covenant that we are lawfully seized of said land and premises, that the same is unencumbered, and that we will forever warrant and defend the title to the said lands against all legal claims whatever.

And we, the respective Grantors, hereby release and relinquish unto the said Grantee our respective dower/curtesy and homestead in and to said lands.

WITNESS our hands and seals on this 8th day of June, 19 92.
THIS INSTRUMENT PREPARED BY:

BAC, Fayetteville, AR

Robert E. Martin (Seal)
ROBERT E. MARTIN
Janeen Martin (Seal)
JANEEN MARTIN
(Seal)

ACKNOWLEDGMENT

STATE OF ARKANSAS

County of Washington } ss.

On this the 8th day of June, 19 92, before me, a notary public, personally appeared Robert E. Martin and Janeen Martin, husband and wife

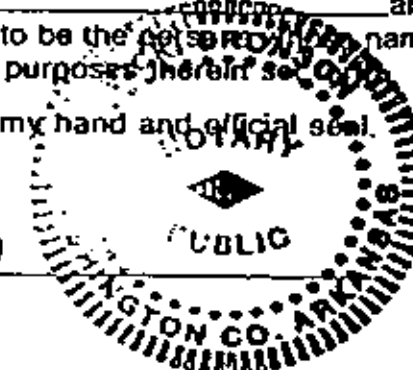
know to me (or satisfactorily proven) to be the persons whose names subscribed to the foregoing instrument and acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof I hereunto set my hand and official seal.

My Commission Expires

June 1, 1995

WDH & W



Victor Brown
Notary Public

92 28234

RIGHT OF WAY GRANT

D. 10
Mayes Lot Split Appeal
Page 18 of 76

TRACT NO. _____

STATE OF ARKANSAS
COUNTY OF WASHINGTON

} KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of _____

and other valuable considerations to the undersigned, Robert E. Martin and Janeen Martin,

Husband and Wife

paid, the receipt of which is hereby acknowledged, the said Grantor does hereby GRANT, SELL AND COVEY unto the City of Fayetteville, Arkansas, a municipal corporation (herein styled Grantee), its successors and assigns, the right of way and easement to construct, lay, remove, relay, enlarge and operate a water and/or sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described real estate, to-wit:

PROPERTY DESCRIPTION: A part of the fractional Northwest Quarter of the Southwest Quarter of Section Seven, Township Sixteen North, Range Twenty-Nine West.

EASEMENT DESCRIPTION: A permanent easement of 25 feet in width of equal and uniform width and a temporary construction easement of 50 feet of equal and uniform width. Both easements running parallel with and contiguous to the East right of way line of Joe Fred Starr Road.

FILED
JUN 29 1984
CIRCUIT CLERK

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, with ingress to and egress from the real estate first hereinabove described for the purpose of constructing, inspecting, maintaining and repairing said lines, manholes and appurtenances of Grantee above described, and the removal, renewal and enlargement of such at will, in whole or in part.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water, and to pay any damages which may arise to growing crops or fences from the construction, maintenance and operation as determined by three disinterested persons, one thereof to be appointed by the said Grantor; one by the said Grantee; and the third by the two so appointed as aforesaid, and the written award of such three persons shall be final and conclusive.

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

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

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

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

WITNESS the execution hereof this the 25th day of JUNE, 1984.

Robert E. Martin
Janeen Martin

ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

BOOK 1112 PAGE 818

RECEIVED and REMEMBERED, that on this date, before me, a Notary Public within and for said County and State, duly commissioned and acting, personally appeared Robert E. Martin and Janeen Martin, to me well known as the person(s) who executed the foregoing Right of Way Grant, and that they had executed the same for the consideration and purpose therein mentioned and set forth.

WITNESS my hand and seal on this 25th day of June, 1984.

My commission expires

Oct. 1, 1980

Ed D. Connell
Notary Public

FEB-28-00 03:07 PM LEND

TITLE - FAY

3914434256

17-93

D: 10
Mayes Lot Split Appeal
Page 19 of 76

ACKNOWLEDGMENT

STATE OF California
COUNTY OF San Bernardino

BE IT REMEMBERED, That on this day came before me, the undersigned, a Notary Public, within and for the county aforesaid, duly commissioned and acting PAUL C. WORMAN AND PATRICIA A. WORMAN,
HUSBAND AND WIFE to me well known as the grantor s in the foregoing Deed, and stated that they had executed the same for the consideration and purpose therein mentioned and set forth.

And on the same day also voluntarily appeared before me, the said PAUL C. WORMAN AND PATRICIA A. WORMAN, HUSBAND AND WIFE

to me well known and declared that they had, of their own free will, executed said Deed and signed and sealed the relinquishment of dower, curtesy and homestead in the said Deed for the consideration and purposes therein contained and set forth, without compulsion or undue influence of their spouse.

WITNESS my hand and seal as such Notary Public on this 1st day of MARCH, 20 00.

My commission expires April 18, 2003

John Hayhurst
Notary Public
JOHN HAYHURST
COMM. #1216389
NOTARY PUBLIC - CALIFORNIA
SAN BERNARDINO COUNTY
My Commission Expires April 18, 2003

2000016307

FEB-28-00 03:06 PM LEN

TITLE - FRY

3014434236

P.02

D. 10
Mayes Lot Split Appeal
Page 20 of 76



**LENDERS TITLE
COMPANY**

2013685FY

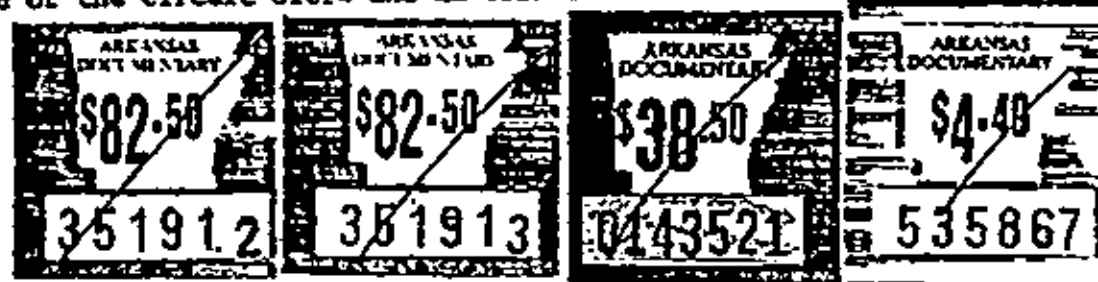
FILED FOR RECORD

00 MAR 3 AM 8 04

WASHINGTON CO AR
K. HARNESS

WARRANTY DEED

We, PAUL C. WORKMAN and PATRICIA A. WORKMAN
husband and wife, for and in consideration of the sum of Ten and 00/100
and Dollars \$ (10.00)
other valuable consideration to us in hand paid by HOWARD
HUSBAND AND WIFE, hereafter called Grantee H. KEITH MORRISON AND LYNN C. MORRISON,
do hereby grant, bargain, sell and convey unto Grantee H. KEITH MORRISON AND LYNN C. MORRISON,
the following lands in WASHINGTON County, Arkansas:
Lot Numbered Twenty-Three (23), Block Numbered One (1), Canvas Mountain, a
Subdivision in Washington County, Arkansas, as per plat of said Subdivision on
file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington
County, Arkansas.



Subject to existing easements, building lines, restrictions
and encumbrances of record, if any.

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps
have been placed on this instrument. If none shown, exempt or no consideration paid

Grantee or Agent H. Keith Morrison
Grantee's Address 1126 Washington Street, Fayetteville, AR 72701

TO HAVE AND TO HOLD the same unto Grantee H. KEITH MORRISON and unto their heirs and assigns forever,
with all appurtenances thereto belonging.

And we hereby covenant with Grantee H. KEITH MORRISON that we will forever warrant and defend the title to said lands
against all claims whatever.

And we, PAUL C. WORKMAN and PATRICIA A. WORKMAN
for the consideration recited herein, do hereby release and relinquish unto the said Grantee H. KEITH MORRISON and unto
their heirs and assigns, all of our right of dower, curtesy and homestead in and to said lands.

WITNESS our hands and seals this _____ day of _____

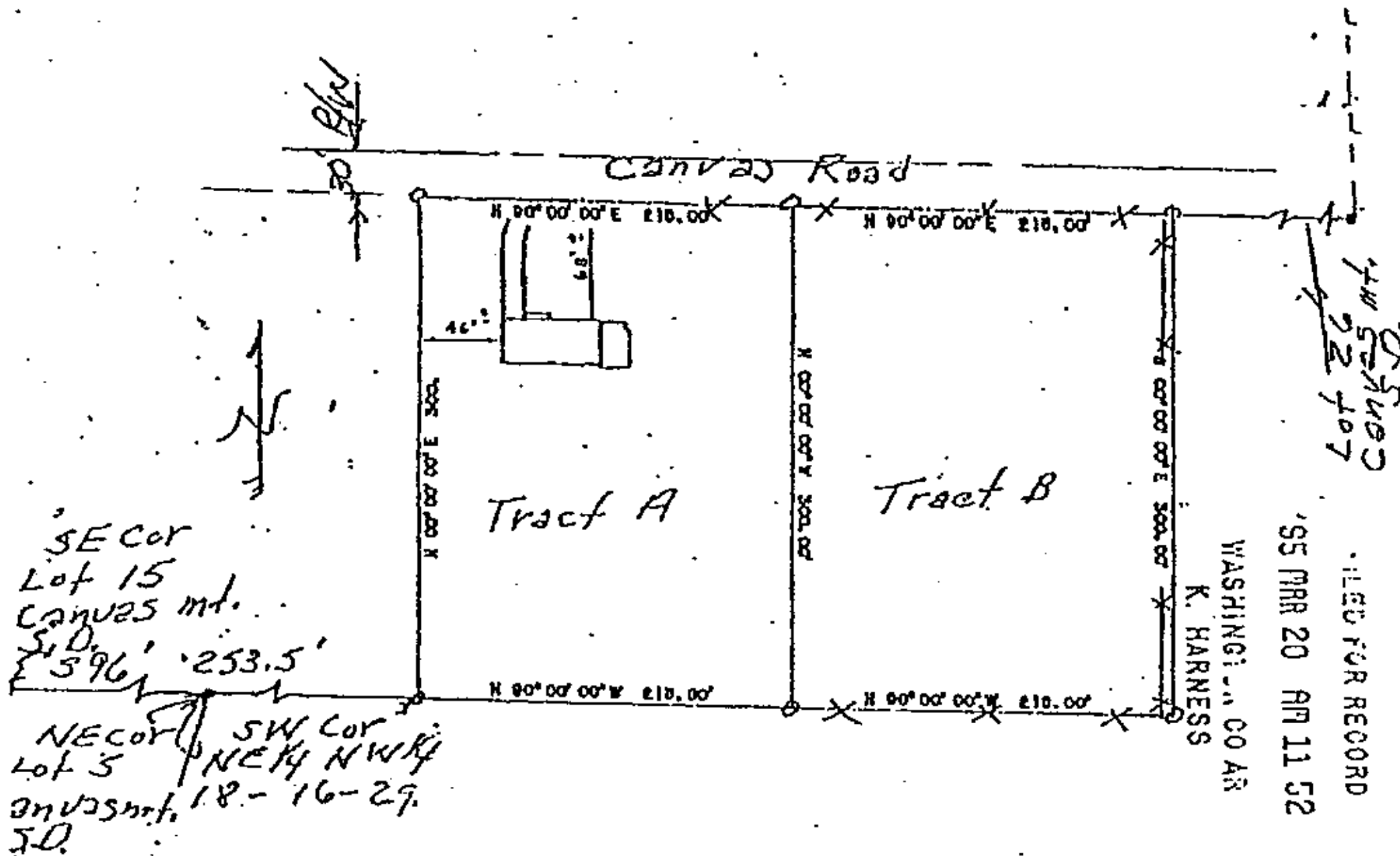
March _____, 2000.

Paul C. Workman
PAUL C. WORKMAN

Patricia A. Workman
PATRICIA A. WORKMAN

2000016306

LTC 2013685 FY - Morrison - Aug



LEGAL DESCRIPTION

TRACT A:

Part of the NE1/4 of the NW1/4, Section 18, T-16-N, R-29-W, described as beginning 253.5 ft. East of the SW corner of the said NE1/4 of the NW1/4, thence North 300 ft., thence East 215 ft., thence South 300 ft., thence West 215 ft. to the point of beginning, containing 1.48 acres, more or less.

TRACT B:

Part of the NE1/4 of the NW1/4, Section 18, T-16-N, R-29-W, described as beginning 468.5 ft. East of the SW corner of the said NE1/4 of the NW1/4, thence North 300 ft., thence East 215 ft., thence South 300 ft., thence West 215 ft. to the point of beginning, containing 1.48 acres, more or less.

SURVEYOR'S CERTIFICATE

I hereby certify that the survey plotted and described hereon was completed under my supervision, and the corner markers were set as shown, to the best of my knowledge and belief. According to Flood Map (FIRM, PHRM), Community Panel No. 05143C0115 C, effective date 1991, this property is situated in Zone X.

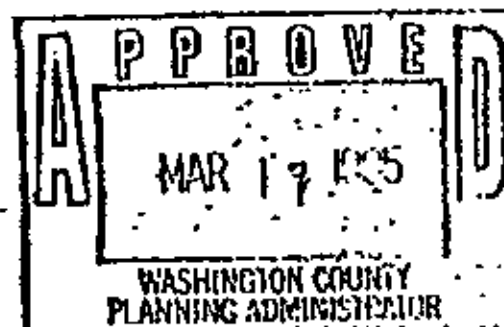
CLIENT: Andre Marc, Fayetteville, Arkansas
COUNTY: Washington Date: February 11, 1995

LEGEND

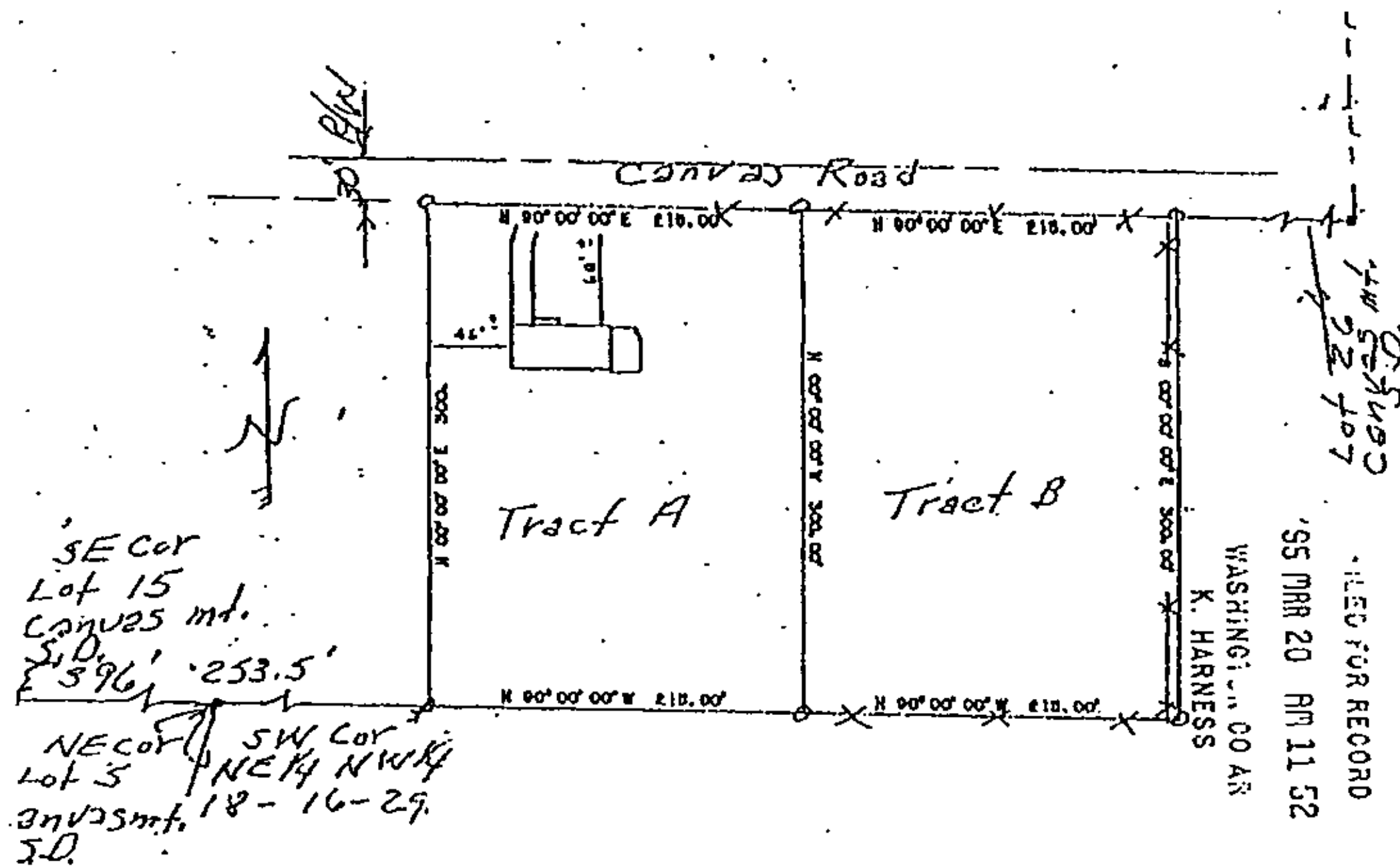
Found Stone Found Iron Pin
Found concrete monument
-x-x- Fence - - - - - Right of Way Line
Set Iron Pin - - - - - Centerline
Scale: 1 in. = 100 ft. 0 100 200



Andre + Shirley Marc
4185 Canvas Rd.
Tag



95013373



LEGAL DESCRIPTION

TRACT A:

Part of the NE1/4 of the NW1/4, Section 18, T-16-N, R-29-W, described as beginning 253.5 ft. East of the SW corner of the said NE1/4 of the NW1/4, thence North 300 ft., thence East 215 ft., thence South 300 ft., thence West 215 ft. to the point of beginning, containing 1.40 acres, more or less.

TRACT B:

Part of the NE1/4 of the NW1/4, Section 18, T-16-N, R-29-W, described as beginning 468.5 ft. East of the SW corner of the said NE1/4 of the NW1/4, thence North 300 ft., thence East 215 ft., thence South 300 ft., thence West 215 ft. to the point of beginning, containing 1.40 acres, more or less.

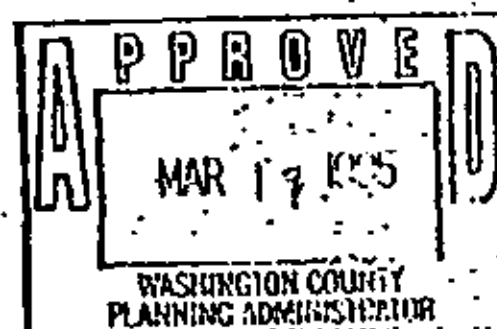
SURVEYOR'S CERTIFICATE

I hereby certify that the survey platted and described hereon was completed under my supervision, and the corner markers were set as shown, to the best of my knowledge and belief. According to Flood Map (FIRM, FIRM), Community Panel No. 05143C0115 C, effective date 1991, this property is situated in Zone X.

CLIENT: Andre Marc, Fayetteville, Arkansas
COUNTY: Washington Date: February 11, 1995

LEGEND

Found Stone Found Iron Pin
Found concrete monument
-x-x- Fence - - - Right of Way Line
Set Iron Pin - - - Centerline
Scale: 1 in. = 100 ft. 0 100 200



Andre + Shirley Marc
4185 Conrad Rd.
Jag

95013373

MINUTES TAKEN OFF YOUR WED SITE

D. 10
Mayes Lot Split Appeal
Page 23 of 76

2004 - 2006 TANDEM LOTS
THAT YOU APPROVED.

THEY HAVE THE SAME SPECS AS US.

THEY DON'T HAVE 75 FOOT FRONTAGE
AND WERE APPROVED

BEW ISRAEL LIVES DOWN THE STREET

Shackelford: Next we have CUP 04-1282 and an accompanying Lot Split as well. If we could have staff comments please.

Pate: The two items before you are currently a Conditional Use and a Lot Split. The Conditional Use is a request to create a tandem lot. As you will note on your maps on page 13.12, the majority of this property is located within our Planning Area in the county. Zoning does not apply to this area. However, the portion of the lot that the applicant is requesting to split out is within the city limits and is zoned R-A. Therefore, we are seeing a Conditional Use request because this particular lot does not have any frontage. The property is located on Rom Orchard Road and contains approximately 10.13 acres. The applicant is requesting to split the lot into two tracts of 2.6 and 7.5 acres. The property is situated such that there is a large pond. You can see that on page 13.13. Really, the only way to subdivide this piece of property and still be able to build on it and access it would be in its current configuration. Otherwise, you would have to split the pond to gain the necessary frontage. Based on that situation, staff is recommending approval of the Lot Split and the Conditional Use. You will note item 13, the Conditional use, does have several findings that are required to be made by the Planning Commission. Staff has made those findings for you and those are reflected in the conditions of approval. I would like to expand on item five. On page 13.5 you will notice there is a requirement, that says before a Certificate of Occupancy is issued for a dwelling located on a tandem lot the property owner shall either construct a turn around for sanitation vehicles or construct a masonry garbage can holder with screening for each garbage can to be used. This type of garbage can holder is not conducive to the city's solid waste collector. They have requested that this option not be allowed. It tears up those masonry holders. Essentially, as any resident in the City of Fayetteville or anyone served by the Solid Waste Division, the cart will be wheeled out to the frontage on the trash collection day and then wheeled back to their home. With that, staff is recommending approval of both the Conditional Use and Lot Split.

Planning Commission
January 9, 2006
Page 66

2
CUP 06-1861: Conditional Use Permit (HENRY JORDAN, 366 Submitted by WILLY BERCHTOLD for property located at 2150 N. LEVERETT AVENUE. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 7.67 acres. The request is for a tandem lot.

LSP 05-1777: Lot Split (JORDAN RENTALS, 366): Submitted by BRIAN SCOTT GEOMATIC CONSULTANTS, INC. for property located at 2100 LEVERETT AVE. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 7.67 acres. The request is to divide the subject property into 2 tracts of 0.93 and 6.74 acres.

CUP 06-1860: Conditional Use Permit (HENRY JORDAN, 366 Submitted by WILLY BERCHTOLD for property located at 2150 N. LEVERETT AVENUE. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 0.93 ACRES. The request is for a detached dwelling (existing) on the subject property.

Morgan: This property is located east of Leverett Avenue and extends north to the terminus of the adjacent street. To the west of this property is Leverett which is a collector street and to the north is a planned collector street on the Master Street Plan. There is an easement for access to the north of this property. It is currently developed for Multi Family Use. There are apartment buildings on this property at this time. This applicant has three requests submitted before you, the first if the conditional use; there is a lot split request to create a 0.93 acre tract which will not have frontage on a public right-of-way and therefore is a tandem lot; and there is a conditional use request to erect a detached dwelling unit on this property. These three items are being treated separately with separate recommendations; however, they do tie in together in concept. Staff recommends approval of the lot split with the approval of condition requiring a conditional use to approve the tandem lot. This property will contain a single family dwelling only. There are currently two structures on the property - one of which will be utilized for the single family dwelling; the second is currently a storage area. It used to be a laundry facility for the apartment complex. With regard to the conditional use request for the tandem lot, which is item 18 on your agenda, Staff finds that a tandem lot in this area is not an inappropriate use of the property, and recommends approval of this conditional use with all conditions of approval listed in the staff report. This action does create a non-conforming structure; however, the building setbacks for a tandem are twenty feet on each side, where not adjacent to a right-of-way. The existing structures on this property are the existing single family dwelling unit which is closer than twenty feet to that side setback. Any redevelopment or reconstruction of that structure would have to comply with that non-conforming requirements of non-conforming structures or they would need to see the Board of Adjustment for a variance of that setback. The second conditional use request is to erect a second dwelling unit on the property, not necessarily erect that second dwelling unit, but do modify the existing storage unit to a second dwelling unit. While a second

Planning Commission
February 14, 2005
Page 16

Childers:

I'm Barbara Childers, I'm the property owner. What I'm proposing to build back there is a 767 sq.ft. log cabin house nestled inside the trees back there to use for rental property. I agree with all of the conditions of the city. I don't know exactly what you want me to say about it. I would just like to have a nice little home back there. I have deer that come back there. I don't want to disturb them. I don't want to cut down anymore trees than I have to. Moving it back further off the road is to accommodate the conditions of having the lot moved back and combining the two lots together I think is an even better idea.

Ostner:

Thank you. At this point I will open it up to the public. Would anyone like to speak to this CUP 05-1364? Seeing none, I will close it to the public and bring it back to the Commission. Staff, have you heard from any neighbors in the area?

Morgan:

We have responses from three neighbors, two of which are in favor of this request. One of which had several concerns with regard to traffic and has submitted a letter, which is included in your staff report.

Clark:

How many home owners are back there?

Morgan:

At present there is one home, Ms. Childers' home, located to the south of the lot and there are no homes located to the north.

Clark:

How many folks did you notify as immediate property owners?

Morgan:

Four.

Clark:

Ok, I'm just trying to get it in perspective.

Ostner:

My question about the neighbors was going to this neighbor who was worried about traffic. Does staff feel that traffic is going to be a safe situation if the Conditional Use is processed?

Pate:

Yes. Our findings indicate that the alley and street sections that we still use today, the alley is essentially for vehicular access. This lot in effect, does not have frontage because the street in front of it has never been connected. For instance, the homes that do front onto Huntsville Avenue all use this alley for access. I believe Solid Waste also utilizes this alley to serve the residents there fronting on Huntsville Road as well. I know from another application that was processed in a nearby vicinity, the Planning Commission did tour through this alley with the bus and it was quite safe in my opinion driving the bus.

Shackelford:

I'm a little confused on condition of approval number three, a new access drive shall be paved a minimum 25' in length, is that length or width?

Planning Commission
February 14, 2005
Page 17

Morgan: That would be length. We would assure that the width of the private drive to the home would satisfy any emergency vehicle requirements in order to provide emergency service to this area.

Shackelford: It has to be built from the intersection of the drive to the intersecting right of way. It is rare that we put a minimum length figure in there when we are trying to build a road between two destination points so I was a little confused by that.

Pate: That is actually part of the findings, part of the requirements for a Conditional Use for a tandem lot so that a standard driveway will be constructed even though it does not have frontage onto a street. That is part of the standard findings within the packet.

Shackelford: I find everything to be in line with staff's findings. I will make a motion that we approve CUP 05-1364 subject to all stated conditions of approval.

Allen: Second.

Ostner: Is there further comment or discussion?

Anthes: Because we have a lengthy report in here that talks about cars blocking drives and that sort of thing, can you state for the record and for anyone watching, what the recourse people have if that is happening in their drive lanes.

Pate: I believe part of the recourse has already been taken. No parking signs have been posted in this alley so that traffic trying to move along this alley would not be impeded by parked traffic. The best way would be to call the Police Department to report it if a vehicle was impeding traffic in that location.

Ostner: Thank you. Is there further discussion? Could you call the roll please?

Roll Call: Upon the completion of roll call the motion to approve CUP 05-1364 was approved by a vote of 9-0-0.

Thomas: The motion carries.

Morgan:

If you would allow me to address this as well as the next two items, a Conditional Use for Ron Payne as well as another Lot Split for Ron Payne together. The applicant currently owns a piece of property that is 1.86 acres. It is located west of Ray Avenue. The applicant, if you address your survey which has been given to you, requests with this first Lot Split that .3 acres be subdivided from the property to the north of the tract. Additionally, they are requesting a Lot Split to create a 1.12 acre tract which will have 25' of frontage and utilize property behind the .3 acre tract to the north and a .44 acre tract to the south which currently houses an existing single family home. The second proposal for the 1.12 acre tract is to create a tandem lot, which would require the approval of a Conditional Use. Staff is in support of the two lot split proposals as well as the Conditional Use request for creation of a tandem lot. The lot in question is a very large lot with quite a bit of property to the rear and south of this lot. Staff finds that utilizing this area for development of a single family home is appropriate in this area of town. There is an existing school to the north of this property and those who develop this tract may benefit from that service provided. Additionally, as part of the Conditional Use approval we are to look at construction of sidewalk and as a condition of approval for this tandem lot staff is recommending construction of sidewalk along the 1.56 acre tract of property. That has been recommended by the Sidewalk Coordinator and would help facilitate construction of sidewalks in an area which is needing sidewalks due to the school and pedestrian traffic in that area. As I previously mentioned, we are in support of both Lot Splits as well as the Conditional Use.

Ostner:

Thank you. Is the applicant present?

Payne:

I'm Ron Payne, the property owner. I am a licensed residential contractor and plan to do the building on the site.

Ostner:

Thank you. At this point I will open it up to the public. Would anyone like to speak about these issues? We can talk about them together, we need to vote on them independently but we are talking about two Lot

*Planning Commission
December 13, 2004*

Page 6

LSP 04-1312: Lot Split (RON PAYNE #1, 526/565): Submitted by HOLLY PAYNE for property located at 689 RAY STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.86 acres. The request is to divide the subject property into 2 tracts of .30 AND 1.56 ACRES.

Ostner: The next item on our agenda is LSP 04-1312 for Ron Payne #1 if we could have the staff report please .

Morgan: If you would allow me to address this as well as the next two items, a Conditional Use for Ron Payne as well as another Lot Split for Ron Payne together. The applicant currently owns a piece of property that is 1.86 acres. It is located west of Ray Avenue. The applicant, if you address your survey which has been given to you, requests with this first Lot Split that .3 acres be subdivided from the property to the north of the tract. Additionally, they are requesting a Lot Split to create a 1.12 acre tract which will have 25' of frontage and utilize property behind the .3 acre tract to the north and a .44 acre tract to the south which currently houses an existing single family home. The second proposal for the 1.12 acre tract is to create a tandem lot, which would require the approval of a Conditional Use. Staff is in support of the two lot split proposals as well as the Conditional Use request for creation of a tandem lot. The lot in question is a very large lot with quite a bit of property to the rear and south of this lot. Staff finds that utilizing this area for development of a single family home is appropriate in this area of town. There is an existing school to the north of this property and those who develop this tract may benefit from that service provided. Additionally, as part of the Conditional Use approval we are to look at construction of sidewalk and as a condition of approval for this tandem lot staff is recommending construction of sidewalk along the 1.56 acre tract of property. That has been recommended by the Sidewalk Coordinator and would help facilitate construction of sidewalks in an area which is needing sidewalks due to the school and pedestrian traffic in that area. As I previously mentioned, we are in support of both Lot Splits as well as the Conditional Use.

Ostner: Thank you. Is the applicant present?

Payne: I'm Ron Payne, the property owner. I am a licensed residential contractor and plan to do the building on the site.

Ostner: Thank you. At this point I will open it up to the public. Would anyone like to speak about these issues? We can talk about them together, we need to vote on them independently but we are talking about two Lot Splits and a Conditional Use, LSP 04-1312, CUP 04-1313 and LSP 04-1343. We can take public comment on all three items at once. Seeing none, I will close it to public comment and bring it back to the Commission.

Hoover:

The next item on the agenda is CUP 03-32.00 for property located at 3501 Whippoorwill Court, Jeremy?

Pate:

Thank you Madam Chair. This Conditional Use was submitted by Bill Rudasill on behalf of Mr. Mark Brewer for property located on Whippoorwill Court and Whippoorwill Lane down to the southwest. The property is zoned RSF-4, Residential Single Family, four units per acre and contains approximately 4.9 acres in total. This is part of the Gaddy Acres subdivision that was platted in 1990 I believe. In your packets on pages 4.11, 4.12 and 4.13 there is sort of a dated time line of how this lot has changed from what it was platted in 1990 at 2.45 acres. In 2000 the property line was adjusted to 1.26 acres still with some 25' of frontage onto Whippoorwill Lane down to the southwest and the proposal before us tonight is to create a tandem lot of .71 acres out of Lot 17 which would allow for the property of Lot 21 to abut the right of way on Whippoorwill Lane as well as Whippoorwill Court up to the northeast. Just as a point, with the 2000 property line adjustment there was also an access easement so that the property owner of this lot, Mr. Brewer owns both of these lots, the property owner did have access, he is just adjusting the property line. Again, a property line adjustment is an administrative action and that is approved at staff level. The request tonight is to create the tandem lot. In the findings the applicant has complied with specific rules governing this individual Conditional Use request. The tandem lot will have access to a public street by way of a 20' private drive with a 25' access easement. That is within the conditions of approval that staff is recommending. The proposed access is an existing drive within an easement off of Whippoorwill Lane through Lot 21. The drive is required to be expanded to a minimum of 20' wide at the time of building permit for that Lot 17. A minimum of 25' from Whippoorwill Lane is also required to be paved. Some findings particularly with regard for Conditional Uses for tandem lots that staff is required to make, parking shall not be located on the drive at the time of development on Lot 17. All residential carts and recycling bins have to be taken out to the street. There have been some plat revisions that have been addressed here in some of these comments. The terrain in this area does change and varies significantly. With the original

 *Planning Commission*

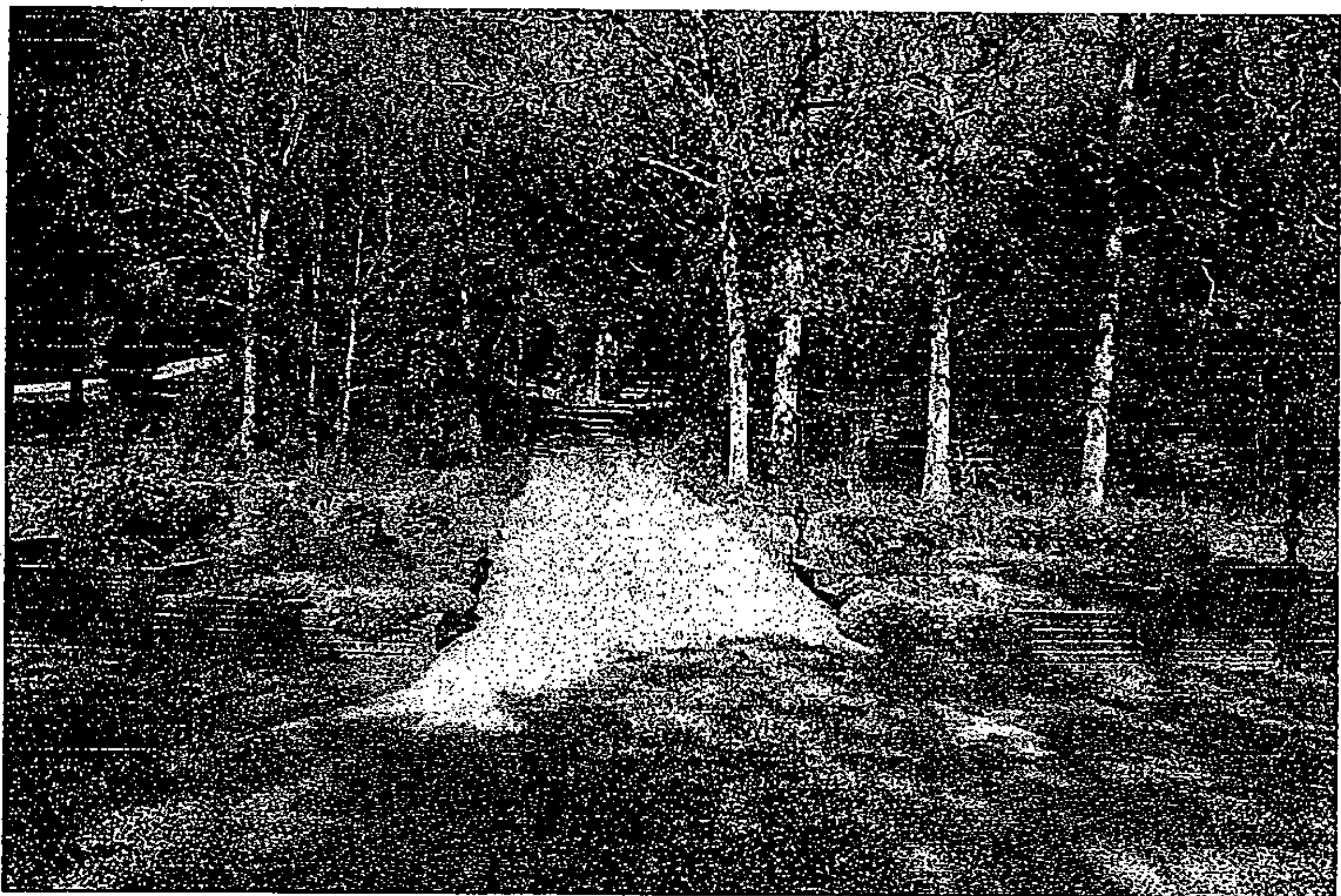
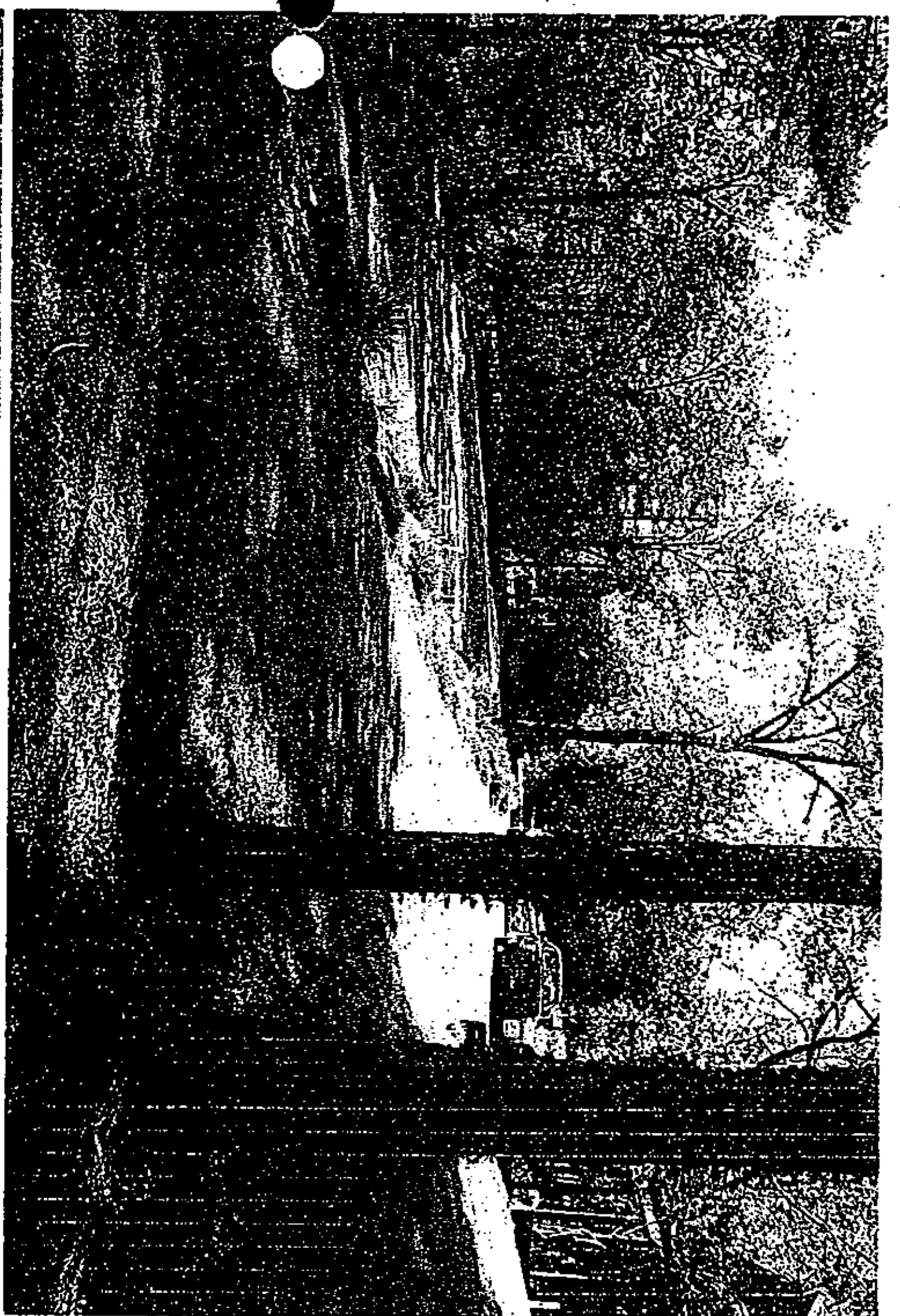
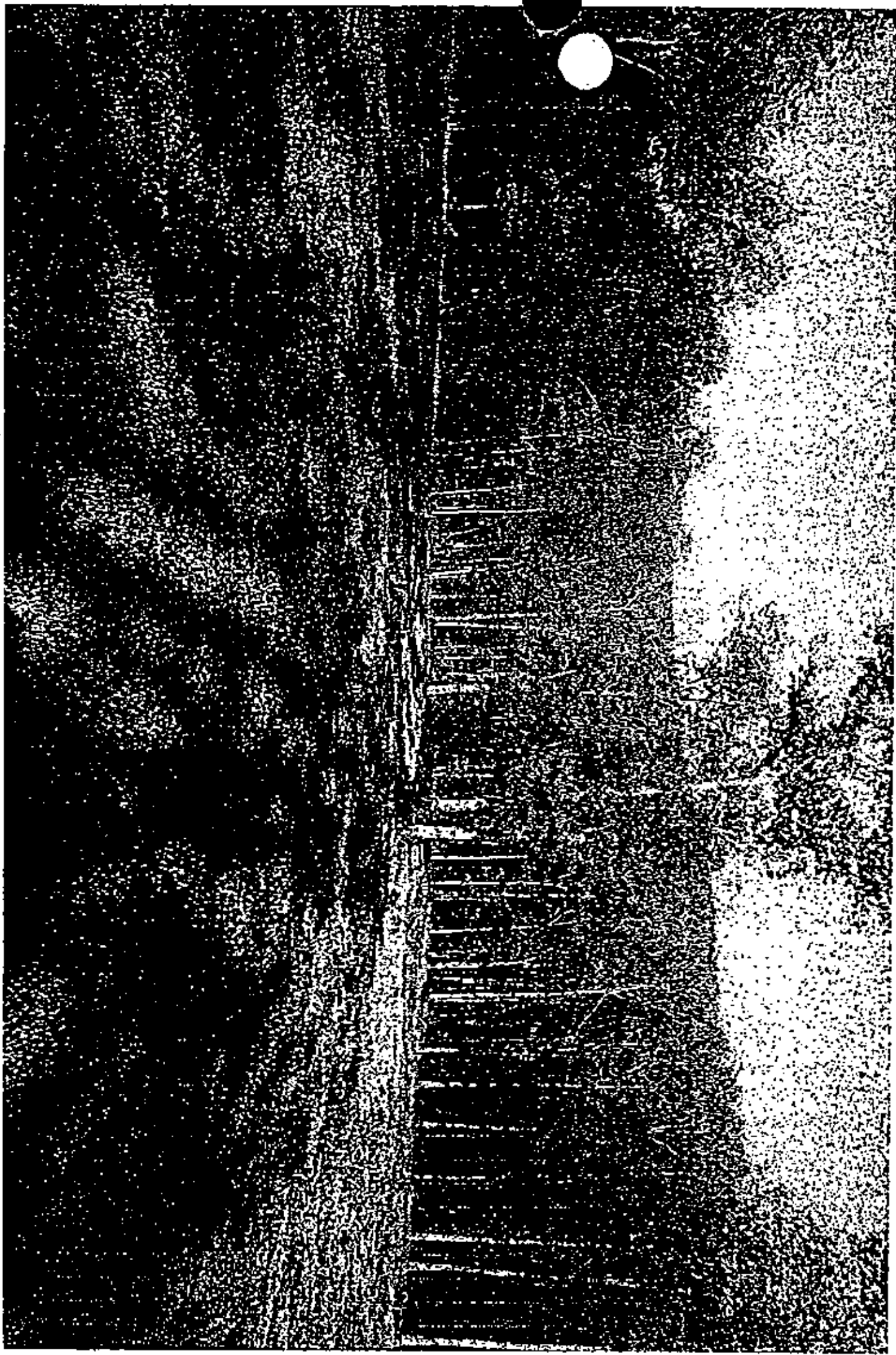
April 25, 2005

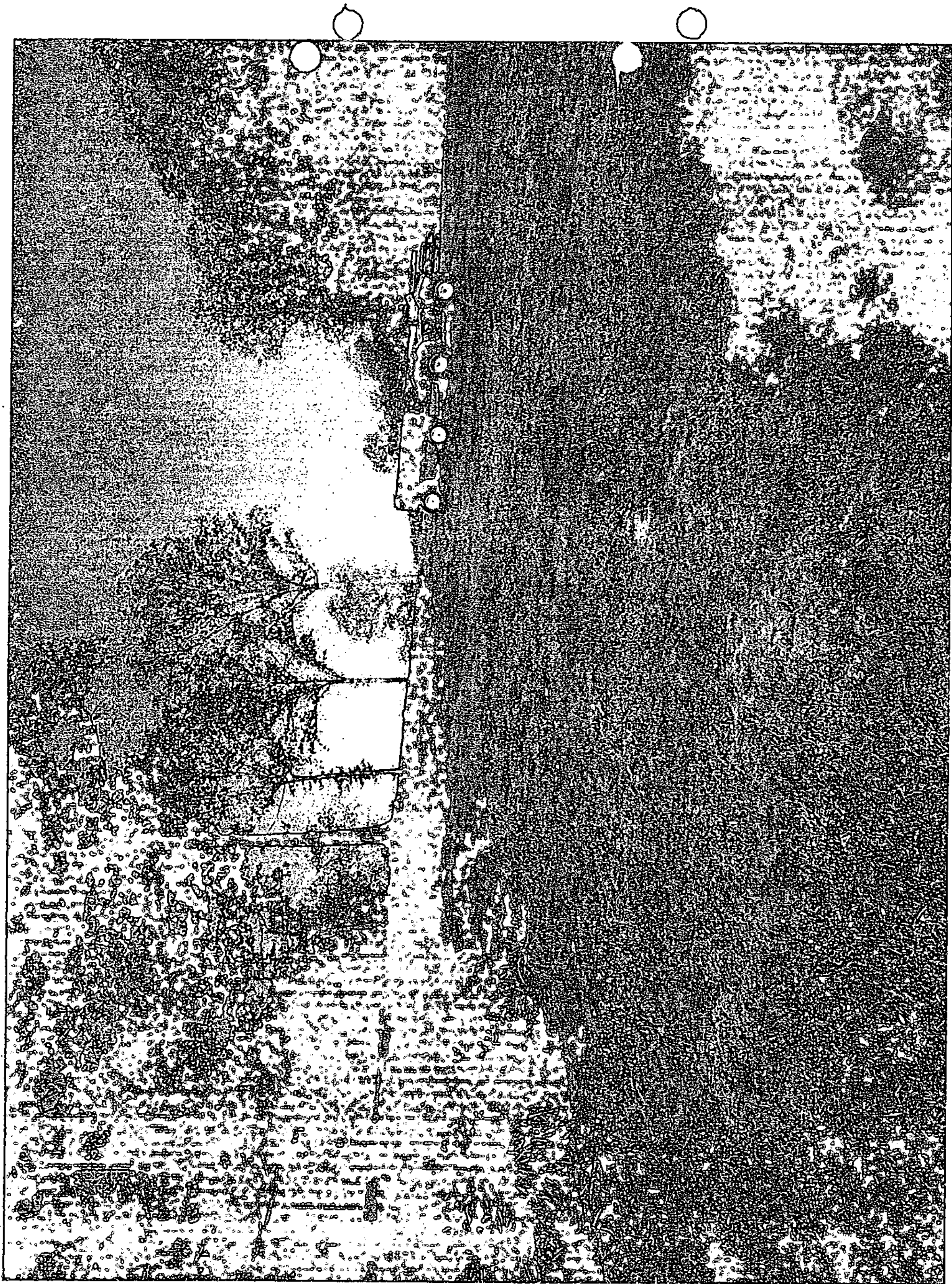
Page 6

CUP 05-1466: (ISRAEL, 451): Submitted by CLARK CONSULTING for property located on STARR DRIVE. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 30.99 acres. The request is to approve a tandem lot on the subject property.

Ostner: The next item on our agenda is CUP 05-1466 for Israel submitted by Clark Consulting for property located on Starr Drive. If we could have the staff report please?

Pate: This property is zoned both R-A, Residential Agricultural and is also located within the Planning Area. It contains approximately 31 acres. This item and the following item are in tandem. The request is to create a tandem lot. This item is a Conditional Use request to create a lot that does not have frontage onto public right of way and is instead accessed by an access easement that is filed on the lot in front of it. The larger lot, which would consist of about 28.95 acres would have that access easement as shown on the plat along the north property line for ingress and egress. It would be wide enough to accommodate emergency service vehicles. A driveway would need to be constructed in that location as well. The tandem lot would be approximately a two acre lot that would consist of one single family home and accessory structures. Staff has made findings of fact with regard to this Conditional Use request as required by ordinance on pages 6.3 through 6.7 and have recommended conditions of approval based on those findings of fact. Those are listed on the first page of your staff report. Staff is recommending approval of the Conditional Use to approve this tandem lot request as well as the following request, which is the Lot Split request that does meet ordinance requirements with the exception of frontage. There are a number of conditions. As I mentioned, one single family home is the maximum allowed on this tract of land by ordinance. On this particular tract of land a building permit will also be required for any structures because it is located within the city. Much of this property that is in front of us is located within the county. The city limits line meanders in and out in this location. Item number two, a new access drive shall be paved a minimum of 25' in length from the intersection of the drive and intersecting Starr Drive right of way. That will need to be maintained by the tandem lot owner and comply with city ordinances to provide safe and adequate emergency access. The ingress/egress easement from Starr Drive shall be 30' in width. Also, with regard to solid waste disposal, staff is recommending a cart be rolled out to the street as opposed to the more typically recommended by ordinance brick screening type facility, which is not useful for the city's purposes for handling solid waste. I'm not sure if the city actually services this area because it is part of the county but in the case that they do that would be more compatible with our type of arm system. The building setbacks shall be 20' for all property lines for the tandem lot. That is a basic ordinance requirement. Also, the developer is required because it is a Conditional





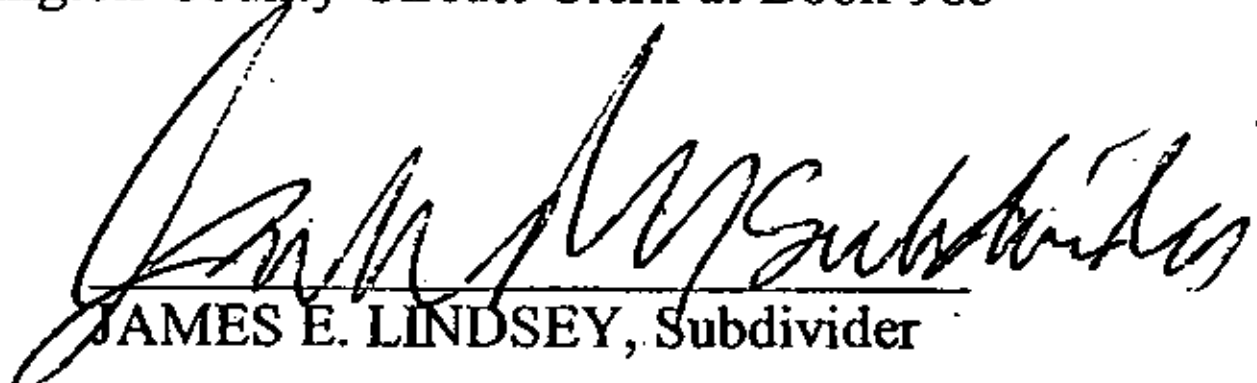
Appendix B

Public Support

Canvas Mountain
A Subdivision in Washington County Arkansas

ACKNOWLEDGMENT AND CONSENT TO TANDEM LOT SPLIT

That I, James E. Lindsey, as subdivider of all the lots in Canvas Mountain Subdivision in Washington County Arkansas, do hereby acknowledge and consent to the Tandem Lot Split (re-subdivision) submitted by James I. Mayes and Linda Broyles Mayes as reflected on the attached survey which is marked as Exhibit "A" and incorporated herein. This acknowledgment and consent is given pursuant to paragraph 5 of the Protective Covenants of Canvas Mountain, a subdivision in Washington County Arkansas and filed for record on February 15, 1979 with the Washington County Circuit Clerk at Book 983 page 746.


JAMES E. LINDSEY, Subdivider

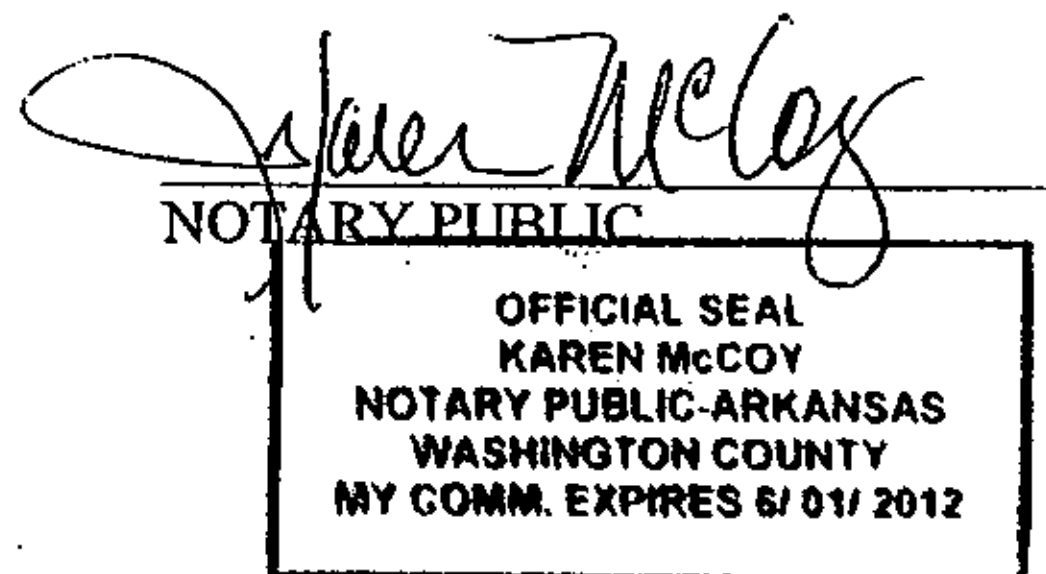
STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

Before me, the undersigned, a Notary Public in and for said County and State on this 14 day of August, 2006, personally appeared JAMES E. LINDSEY to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

My Commission Expires:

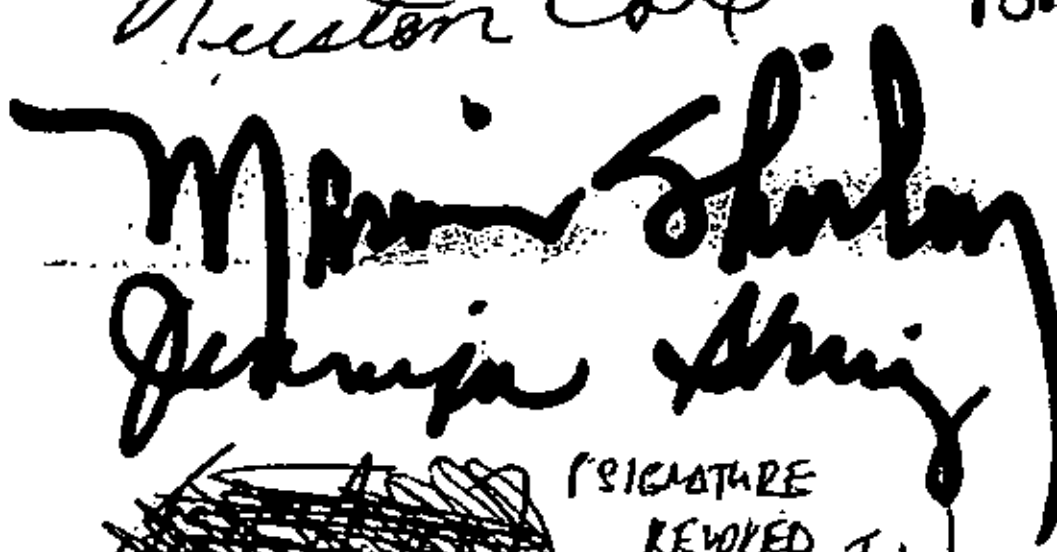
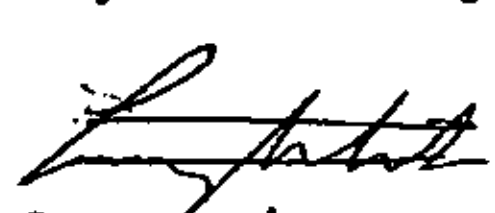
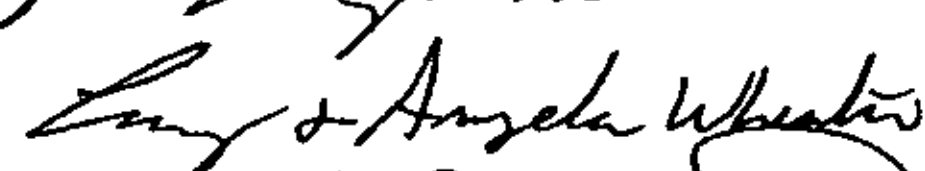
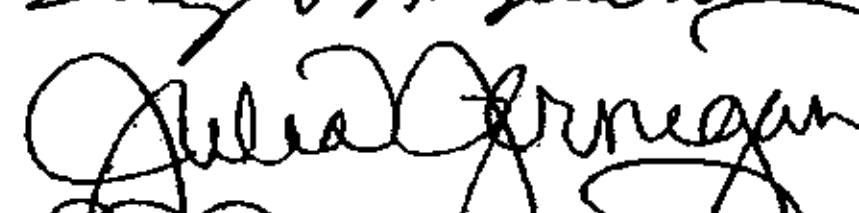
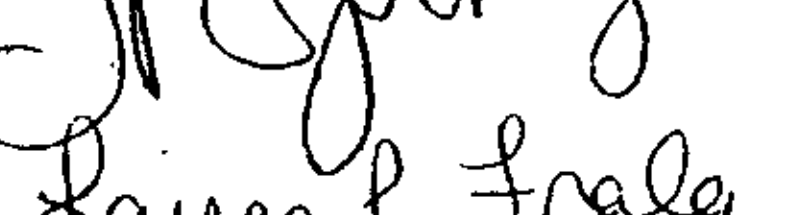
6-01-12



To The City of Fayetteville Planning commission,

We the under signed understand that Jim and Linda Mayes are splitting their 3 acre lot in to 2 — 1 ½ acre lots and we have no objections to it,

Canvas Mt. Homeowners

- ① Jim & Linda Mayes 445 N. Canvas 442-0740
- ② Jack and Lexa Otten 4190 E Canvas Rd.
- ③ Max & Cole lot 2 001-10640-001
- ④ Ruston Cole lot 1 001-10641-001 582-5926
- ⑤  } 640 - Robshire Lane
 }
(SIGNATURE REVOKED T.J.)
- ⑥  8-17-06 277 Canvas Rd.
- ⑦  8-18-06 575-1000 654 M Starr
- ⑧  PARCEL 144-00707-000 LOT 1
- ⑨  PARCEL 144-00707-000
- ⑩  PARCEL 144-00708-000 LOT 2
- ⑪  PARCEL 144-00708-000 LOT 2
- ⑫  Parcel # 144-00706-000 (8-18-06)

To The City of Fayetteville Planning commission,

We the under signed understand that Jim and Linda Mayes are splitting their 3 acre lot in to 2 --1 ½ acre lots and we have no objections to it,

Canvas Mt. Homeowners

- ⑪ Jerry Carter 4077 E. Mural 8/18/06
- ⑫ ~~Jim Mayes~~ 480 STARR DR 8/18/06
- ⑬ Richard L. Kees 4083 Bruststroke Ln 8/19/06
- ⑭  646 Robinson Lane 8/19/06
- ⑮ John Cogger 144-00685-000 mural Lane 8/19/06
- ⑯ Kaye Weathers 001-10353-003 8-21-06
- ⑰ Bud Shyftz The Bank of Fayetteville for John Hein. 144-00689-000 8/21/06
- ⑱ Susan Franklin 4380 Wymar Rd 8/21/06
- ⑲ See Attachment

To the city of Fayetteville Planning commission,

Ralph f. and Marketa L. Burns
520 Robshire Lane
Fayetteville, AR 72701
Cell 501-350-2997

We understand that Jim and Linda Mayes are
splitting their 3 acre lot into 2---1 1/2 acre lots and we
have no objection to it.

Ralph Burns

8-22-06

Sign and date

Marketa Burns

8-22-06

Sign and date

Appendix C

Public Opposition

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

58 SOUTH 6TH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
FAX (479) 782-6160

516 EAST MILLSAP ROAD, SUITE 200
FAYETTEVILLE, AR 72703
TELEPHONE (479) 582-0361
FAX (479) 251-8111

JERRY L. CANFIELD, P.A.
THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. +
C. MICHAEL DAILY +
COBY W. LOGAN

+ Also Licensed in Oklahoma

JAMES E. WEST
OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)

September 20, 2006

Ms. Suzanne Morgan
Fayetteville Planning Department
113 West Mountain Street
Fayetteville, AR 72701

VIA HAND DELIVERY

Re: LSP06-2200: Lot Split Mayes, 491

Dear Ms. Morgan:

As we discussed, I represent Mr. and Mrs. Toothaker, who own the property immediately to the West of the proposed lot split. After reviewing the survey of the revised lot split, the plat of Canvas Mountain Subdivision recorded in Book 8, Page 33, and other relevant materials, I note the following objections to the proposed lot split, and incorporate those I previously relayed to the Planning Commission in my letter to you dated August 14, 2006 (attached as Exhibit "A").

1. Approval of the proposed lot split would be contrary to the Unified Development Code purpose, which is "... to promote an appropriate mix of land uses in an orderly manner; enhance aesthetic quality, moderate street congestion, secure safety from events such as fire, flood, erosion and landslides; prevent overcrowding of land..." "The UDC provides for ... the development of land uses which protect established neighborhoods ... allows compatible infill of established areas ... protects significant environment resources; and makes a livable community." Sec. 150.02. (attached as Exhibit "B") I believe the petition signed by many of the landowners (attached as Exhibit "C") in the neighborhood in opposition of the proposed lot split illustrates clearly that approval of the proposed lot split is contrary to the UDC's stated purposes including the protection of established neighborhoods.
2. As proposed, Lot 21-B violates UDC Section 166.08 (F)(1) (attached as Exhibit "D") design standards which require a minimum lot width of 75 feet (for lots within the planning area). Over 300 feet of proposed Lot 21-B is less than 75 feet wide. Also, the same design standard requires a 10 foot set back from side

boundaries. The proposed driveway appears to violate this set back requirement.

3. The proposed location of the new driveway for Lot 21-B falls within the dedicated 15' utility easement area. In addition, the proposed new driveway encroaches on the northwest corner of proposed Lot 21-A.
4. The resulting two proposed lots are not compatible with the surrounding properties, particularly in size and shape, which is contrary to the intent of the developers of the subdivision and owners of the subdivision's lots.
5. The "Certificate of Ownership, Title Dedication" on the final plat recorded in Book 8, Page 33, for Canvas Mountain Subdivision (attached as Exhibit "E"), provides that "we do hereby further certify that the platting as filed on record cannot be changed unless vacated pursuant to applicable local and other law." Clearly the subdivision has not been vacated and any attempt to redefine the platted lots is contrary to the plat as approved by the Fayetteville Planning Commission and Washington County. Thus, absent a vacation of the platted subdivision, the Planning Commission is without jurisdiction to hear, or at least approve, the proposed lot split application.
6. The plat recorded in Book 8, Page 33, contains a "Certification of Approval of Water and Sewer Systems" (attached as Exhibit "G") based on the design of the final plat. This certification of approval does not include the impact on these utilities of the additional proposed lot, and it appears that additional approval from the Arkansas State Board of Health and the City of Fayetteville, Arkansas, has not been obtained.
7. The applicant apparently has not obtained a septic system permit for the proposed 1.33 acre lot.
8. The proposed lot split is not permitted by the recorded Protective Covenants for Canvas Mountain Subdivision (attached as Exhibit "H").
 - A. Paragraph 5 of the Protective Covenants provide that no lot shall be re-subdivided or re-platted without the prior written consent of the subdivider (James E. Lindsey), or his successor. It appears that the applicant has not secured such prior approval of the amended proposed lot split. Even if the applicant has acquired such consent, the final plat dedication described in paragraph 5 above clearly prohibits the proposed lot split without a vacating of the subdivision.
 - B. The applicants' proposed a gravel driveway to Lot 21-B. This is contrary to the paragraph 9 of the Protective Covenants for the subdivision. Even though the Planning Commission does not enforce restrictive covenants, this proposed violation of the Protective Covenants provides another example of how this lot split would be contrary to the uses of the land within the subdivision.
 - C. Paragraph 6 of the Protective Covenants provides that "... nothing shall be

done or performed ... detrimental to the residential value of any lot in the subdivision." I believe that those landowners who signed the attached petition, and my clients, believe that the proposed lot split is precisely the type of act which will reduce their privacy, devalue their land values and reduce their enjoyment of their property in the subdivision.

I previously expressed to you the specific problems my client has experienced with ground water drainage running down from the proposed Lot 21-B into their home. My client has spent over \$30,000 for the construction of a retaining wall in an attempt to divert this ground water runoff. They are naturally concerned that further reduction of ground cover and the construction of driveways, sidewalks, etc... will increase the runoff from the proposed Lot 21-B and tax, if not exceed, their retaining wall's capacity to divert groundwater.

Finally, it is my understanding that the applicants have purchased land outside of the subdivision and that they intend to relocate. The sole purpose of this proposed lot split is for them to sell both lots individually with the aim of increasing their profits. There is absolutely no benefit to the City of Fayetteville for approving this lot split. Instead, it will only harm those who have invested in making their homes in Canvas Mountain. Accordingly, on behalf of my clients, I respectfully request that this proposed lot split be denied.

Very truly yours,



Robert R. Briggs

Enclosures

cc. Mr. & Ms. Toothaker

DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

JERRY L. CANFIELD, P.A.
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JAMES E. WEST
OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)

August 14, 2006

Ms. Suzanne Morgan
Planning Commission
113 West Mountain Street
Fayetteville, AR 72701

Via Facsimile Only (479) 575-8202

Re: Proposed Lot Split of Lot 21, Canvas Mountain Subdivision

Dear Ms. Morgan:

I represent the owners of property located downhill from Lot 21 of Canvas Mountain Subdivision. At this point, those individuals wish to remain anonymous.

I am aware that other neighbors of the Applicant have signed a petition opposing lot splits in the Canvas Mountain Subdivision. My clients have not signed that petition, but are adamantly opposed to the referenced proposed lot split for the reasons set forth below.

1. My clients' home sits down hill from the proposed new lot. In 2003, the Applicants cleared the trees and undergrowth on the proposed new lot. This had the effect of creating drainage of rain water issues for the properties down hill from the Applicants' property. The approval of the proposed lot split, and subsequent construction, would clearly worsen the rain water drainage issue with reference to my clients' property because of the additional clearing required to build on the lot, the paving of a driveway, patios, sidewalks, and, of course, the construction of a structure which would repel water. In addition, because this subdivision is not connected to the City's sewer system, run off from a failed septic system would likely run into my clients' property.
2. I suspect the neighbors of Lot 21 who signed the referenced petition, moved to Canvas Mountain for the quiet and privacy Canvas Mountain offers with its large wooded lots. The proposed lot split would necessarily reduce those aspects of the

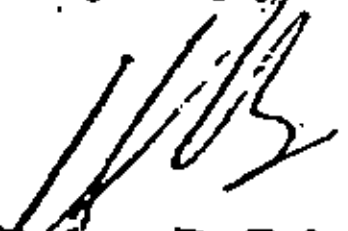
subdivision.

3. It is my belief that the proposed lot split is contrary to Fayetteville's ordinances and policy. In particular, the proposed driveway does not meet the required clearances, and the new proposed lot would not satisfy water tap location requirements. In addition, it appears that the proposed new lot is located within the proposed hillside district.
4. In addition, the proposed lot split is contrary to the covenants for the Canvas Mountain Subdivision. For example, the Applicant has proposed a gravel driveway, which is prohibited by Canvas Mountain Subdivision covenants.
5. Finally, there is no history of lot splits within the subdivision. The approval of such a split would be contrary to the established use of the subdivision and to the use intended by those who platted the subdivision, and obviously, contrary to the uses of those who have invested in purchasing, and improving property in the subdivision.

I understand that nearly all of the residents in Canvas Mountain Subdivision oppose this lot split, and are prepared to make their objections before the Planning Commission, should this proposed lot split advance to the Commission level.

I can see no benefit to the City of Fayetteville for the approval of this lot split. Instead, approval of this lot split would only serve as a detriment to the owners of Canvas Mountain Subdivision, not only in terms of environmental and ambience loss, but also economic loss to those property owners who would suffer additional economic harm because of increased drainage issues. Thus, on behalf of my clients, I respectfully request the Committee deny the referenced application for lot split.

Very truly yours,



Robert R. Briggs
aab

cc: Client

We, the undersigned property owners in the Canvas Mountain Subdivision, are opposed to any lot splits in our subdivision.

Name	Address	Phone No.
^{and Lynn} Keith Morrison	4600 N. Canvas	443-2770
Mike + Melodey Cuffagno	463 N. Canvas	443-4244
Ricky + Dolores Sinter	4185 E. Canvas Rd	444-7073
Jay + Sherry Holmes	4106 Brushstroke	582-1472
Donna Davis	4109 Brushstroke Lane	521-1384
Lordona Julie Jones	4041 Canvas Rd	444-9304
Bo + Virginia Handgraves	4010 E Canvas Rd	571-1941
David Hall	4005 E Coxen R.	582-3149
Kerry Mitchell	4005 E Coxen R.	521-0116
Shirley Mitchell	4005 E Canvas Rd.	521-0116
John Mc Larty	4189 Brushstroke Ln	443-9712
Theresa Joyce Gooden	4122 E. Canvas Rd	696-8805
Gary Wiles	391 N. Canvas Rd	409-4279
Donna Jull	4006 E Mural	466-3383
Stephen + Katie Seagoe	4003 E. Mural Dr.	521-6093
Angela Bell	4072 E Mural Dr	442-3684
Ally + John	273 Canvas	571-3353

North side of Mays lot boundary, from center west end, looking east



South side of Mays lot boundary, from center west end, looking east



Jim and Linda Mays
Lot Split Case

Canvas Road

Pictures of Mays property – their land was solid trees as seen to the north and south in these photos. They cleared this land to put their horse on it...which was prevented by covenants. Their attempt to place the horse on the property was abandoned after strong resistance from the Carfagno's (Mays' north neighbor) and other neighbors.

Center of Mays west boundary looking east



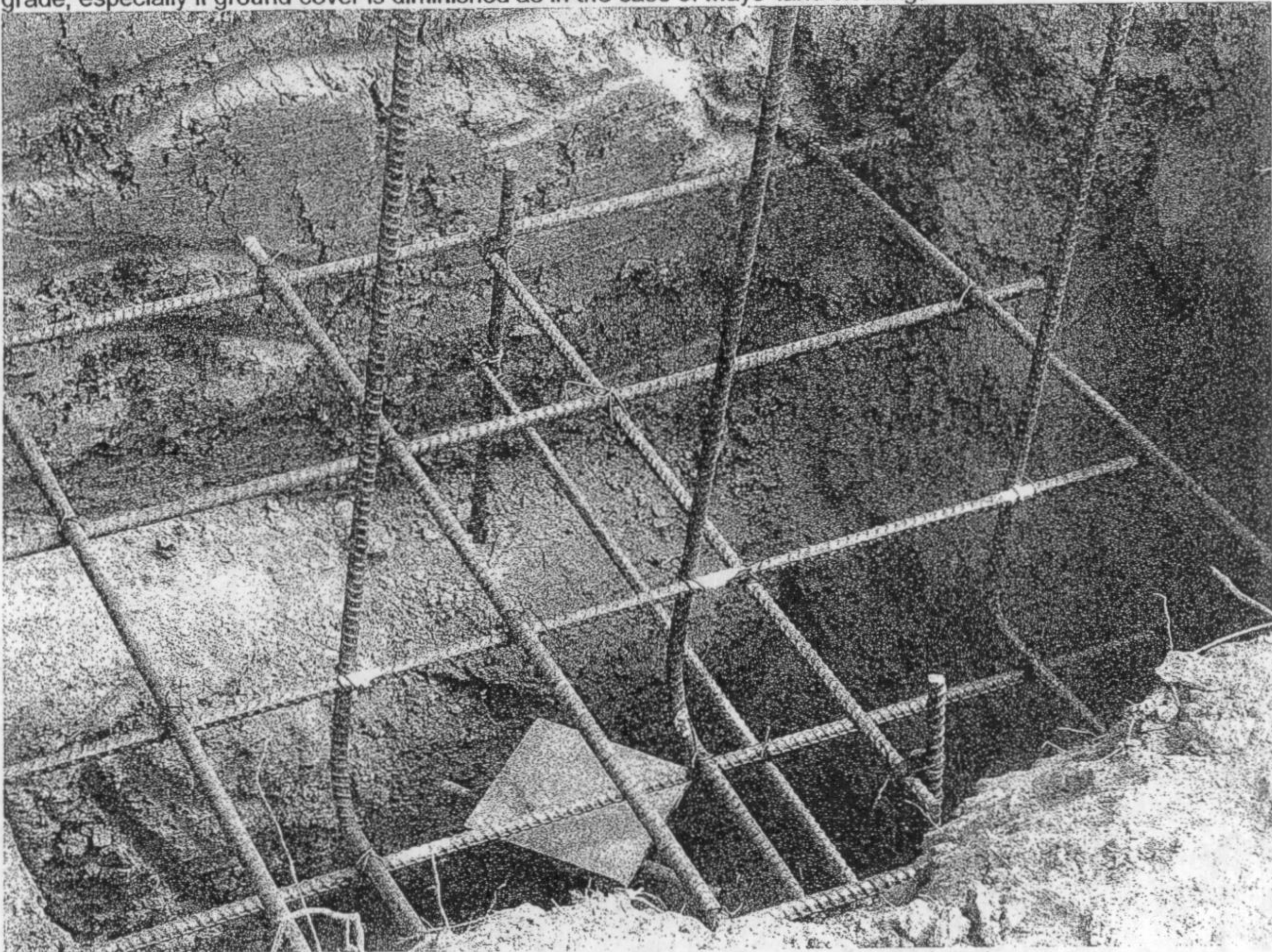
In addition to the retaining wall, we have made additional significant investments in our home and property.

Picture of asphalt driveway we put in to bring the house up to covenant requirements.



Pictures of the retaining wall we built to alleviate the drainage problem are attached below.

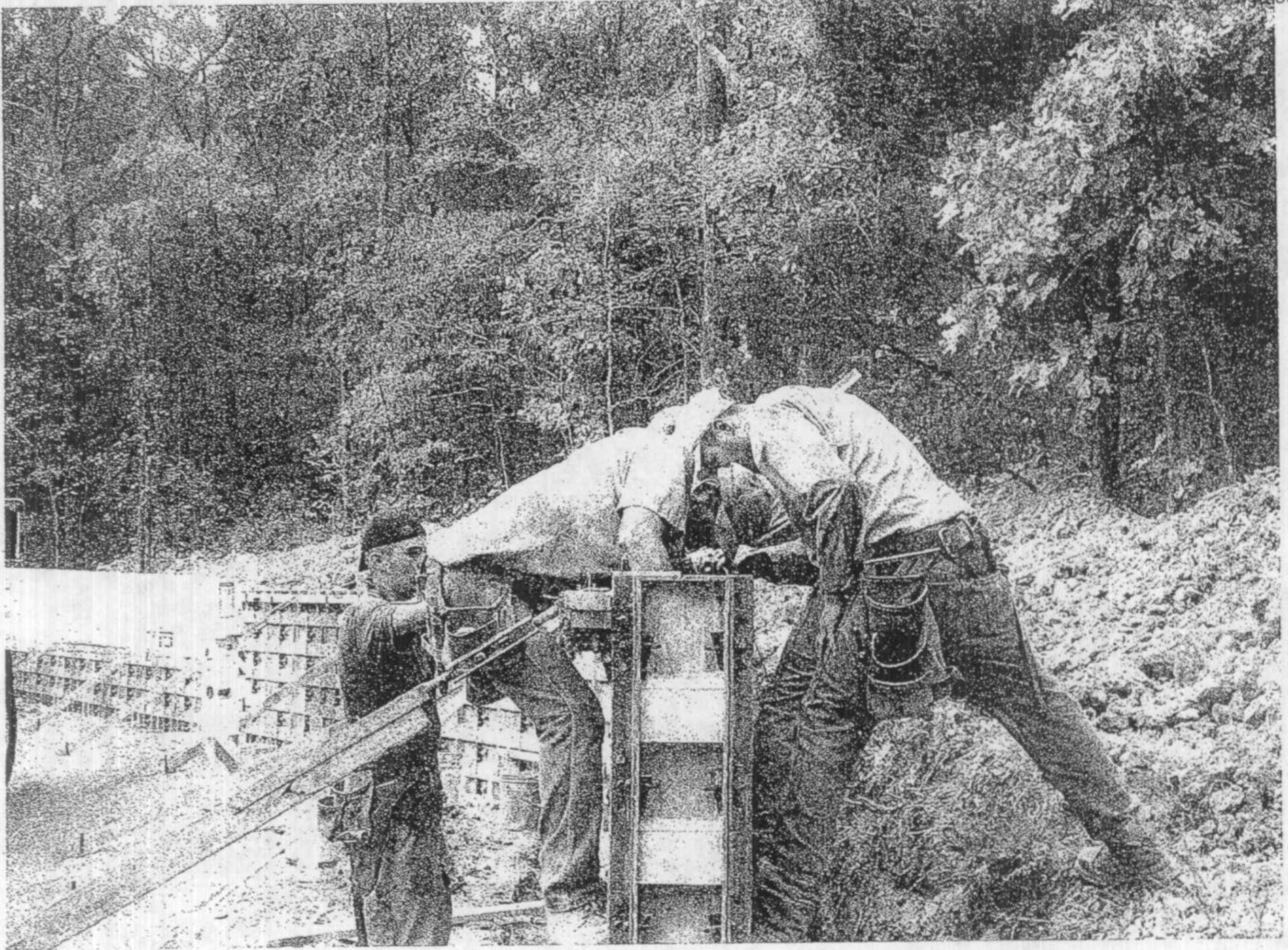
The footings used to anchor the cantilever wall – a massive construction project.
Note the extreme amount of clay in the subsoil – subsurface water easily and quickly finds the surface on this steep grade, especially if ground cover is diminished as in the case of Mays' land clearing.

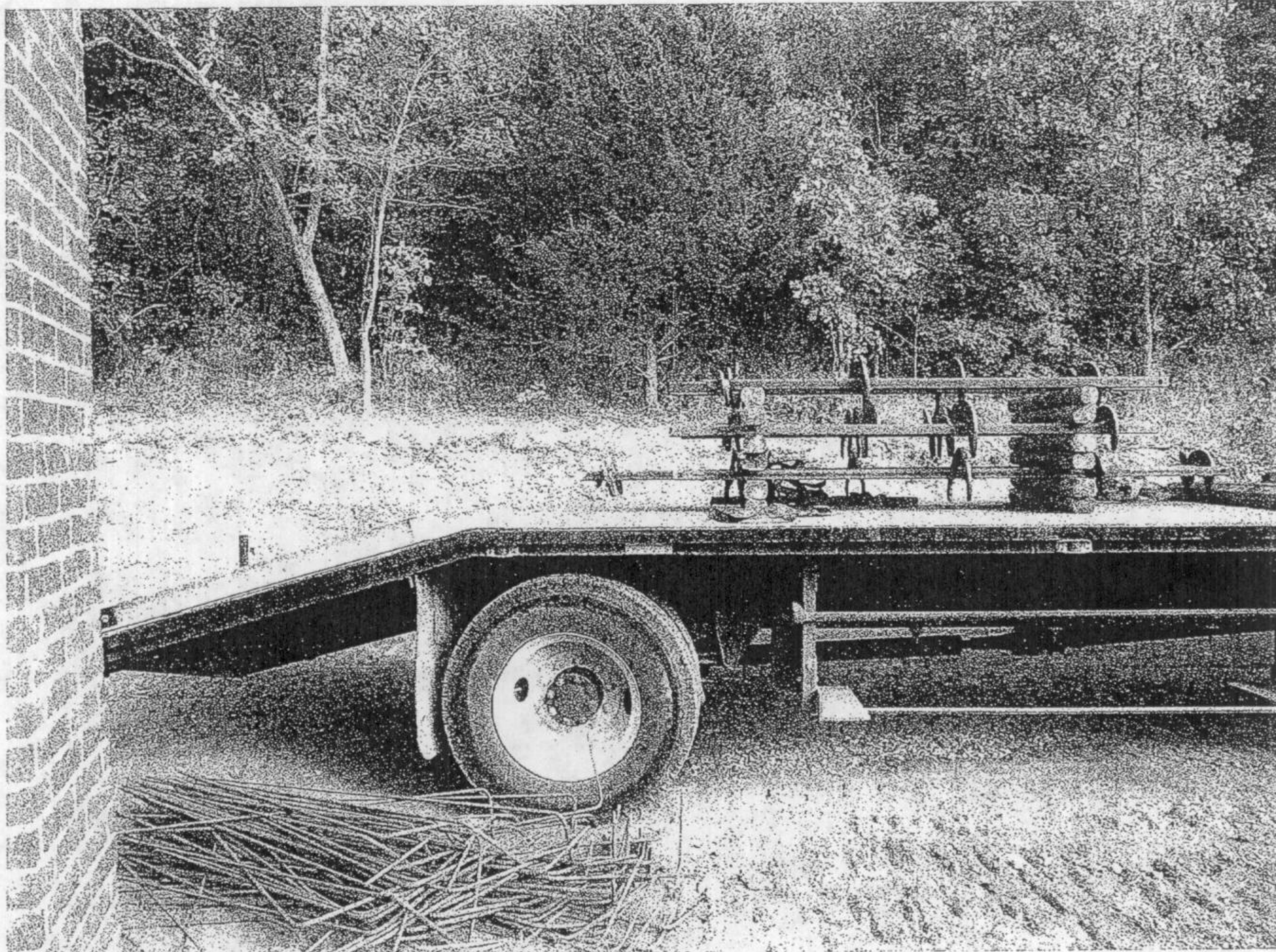


More images of the construction









Finished wall today



Appendix D

Subdivision Committee Minutes August 17, 2006

LSP 06-2200: Lot Split (MAYES, 491): Submitted by BLEW, BATES & ASSOCIATES for property located at 445 N. CANVAS ROAD. The property is in the Planning Area and contains approximately 3.11 acres. The request is to divide the subject property into two tracts of 1.61 and 1.50 acres, the smaller of which being a tandem lot.

Anthes: Our fifth item today is Lot Split 06-2200 for Mayes. Would the applicant come forward, and may we have the staff report?

Morgan: This subject property is Lot 21 of the Canvas Mountain Subdivision. It's located west of ... excuse me, east of Starr Drive, north of Wyman Road. The subdivision is located in the Planning Area, and although portions of this property are shown in the maps attached to the staff report as being located in the Hillside/Hilltop Overlay District, these regulations cannot be enforced in this Planning Area. The property is developed for a single-family home, as well as a pool and accessory structures to that home. The applicant requests to subdivide the lot for sale for a single-family development. The proposed property is ... the proposed lot is 1.5 acres of the overall 3.11-acre property located in the rear of the tract. As this property will not have any frontage onto a street ... a public street, the applicant requests a waiver of the 75-foot lot width requirement. The applicant has proposed a 30-foot access easement to ... for ... to serve as access to that property. There is an existing driveway on that access easement at this time. Canvas Mountain Subdivision was platted with a variety of lot sizes and shapes. As you can see on the, I believe, sixth page of your agenda, or a couple of pages into your agenda, there is a ... your staff report, there is a map of the overall subdivision. Lot 21 is marked. That is the subject property. And as you can see, the properties to the north and south have a similar lot configuration and size. Based on that, staff finds that the proposed lot is not compatible with the surrounding properties, particularly in size and the manner in which it is being subdivided. We have received a lot of public comment from the surrounding neighbors. Also included in the staff report is a petition against this lot split signed by 17 homeowners within this surrounding area. We also have a letter from an adjacent ... a representative from an adjacent property owner listing concerns regarding drainage, as well as compatibility and history of lot splits ... that there is no history of lot splits within the subdivision. Also handed out to you this morning was a colored packet of photos supplied by one of the neighbors just addressing that although there were ... have been drainage problems on this property and affecting his property, as it is adjacent prior to the clearing of the back portion of the property, he's afraid that any development of this back portion will just accentuate any ... all of the drainage problems that are existing. Staff is recommending forwarding this lot split to the Planning

Commission with a recommendation for denial. Mainly, we do not find in favor of the waiver request for lot width requirements. We have listed six conditions to address and discuss, though, but that is not a condition.

Anthes: Thank you, Suzanne. Are there further staff comments? Matt?

Casey: Just that sewer service is not available. This is in our Planning Area and a public water main will need to be extended to serve the rear lot. That's all I have.

Anthes: Okay. Sarah?

Patterson: (Shakes her head negatively.)

Anthes: Introduce yourself and give us your presentation.

Bunch: I'm Bryan Bunch with Blew, Bates & Associates, representing Ms. Mayes. They want to split off the back half of their lot because it's just ... you can see how long it is, and it's too much for them to try to take care of, and plus it would make it, you know, more marketable. They have a building site back there already that they haven't ... you know, it's just a natural building site, a flat spot before it drops off, so that's just kind of what had got them started thinking about this. We just request that they be allowed to split off the back portion of the 1.5 acres. They've already had septic approval for it, so, you know, it will sustain a residence. I guess I'll address any other comments as they come up.

Anthes: Okay. Thank you, Mr. Bunch. Would any member of the public like to address this Lot Split 06-2200 for Mayes? Please come forward and state your comments. Just use the podium there.

Toothaker: Thank you. My name is David Toothaker. I am the resident of 4128 Mural Drive. I am the west side, downhill neighbor of the Mayes. I don't know the actual lot number, but it's the 7.1-acre lot to the west border of their property. The photos you have from Ms. Morgan are compliments of me. Those are photos taken from my property. Let me start by just quickly saying I am very much for what I consider to be responsible development. I'm not here to try to destroy development on Canvas Mountain or anyone else's desire to split lots. My wife and I did not sign the petition in the neighborhood for that reason. Because if you look at it closely, it says it's against all lot splits; we are not. We're simply against this one for some very substantial reasons, not to mention the fact that it seems ... just looking at the plat, which I've had a chance to view with Ms. Morgan, it seems to be incompatible with the neighborhood, but

specifically the drainage issues onto my property. Several years back the Mayes cleared the back half of their property. You have photographs of that from my property boundary and theirs to see the adjacent properties are completely wooded, and theirs is on a significant grade. I don't have privy to that information, and I trust you do, but that property was cleared and at that time the drainage problem that did exist on our property was exacerbated by that, forcing my family to invest a significant amount of additional money in the construction of a cantilever retaining wall and drainage system that you have pictures of there from my property. So that cantilever wall, approximately \$33,000.00 of my own expense, a great portion of that was due to increased drainage problems that we noticed once that property was cleared. But my concern is very simple. With the addition of ... oh, and I wanted to make a couple of comments about that as well. I understand that 3 acres could be a lot to take care of. Everyone else in the neighborhood takes care ... most of us take care of that or more, and with the clearing I understand that mowing that is certainly a bigger challenge. I sympathize with that. There may be a natural building site in many people's eyes to that piece of property; I've yet to find it, and I live next to it, because of the severe grade. It may be at the top of the property, it may be small, but it would put it very few feet away from the Mayes' current home. So I'd like for you to consider that as well. But specifically, I live with a great concern that putting a roofline and that drainage, putting a septic system in that drainage and putting all the other ... patio and everything that would ... and a gravel ... and an asphalt driveway, which is according to the covenants not be graveled, it's been proposed by them, would definitely create an additional drainage problem onto my property that I've already spent a lot of money to solve, and I just see that as ... this approval of this would cause me to spend a great deal of money dealing with that drainage and problem. That's why I come. Thank you.

Anthes: Thank you, Mr. Toothaker. Would any other member of the public like to speak? Good morning.

Mayes: Good morning. I'm Linda Mayes. I want to hand you these, too. These are the (inaudible).

Anthes: Now, are you the applicant?

Mayes: Yes.

Bunch: Yes.

Anthes: Oh, okay. If you would please sit up here, I'm taking public comment right now for people not in association with the application.

Mayes: Okay.

Anthes: Would any member of the public ... other member of the public like to address this Lot Split 06-2200 for Mayes? Seeing none, I'll close the public comment section. Did the applicant have additional comments?

Mayes: Yes.

Anthes: Okay.

Mayes: Let me kind of go down this so I'll have it. If you'll look at your plat there ...

Anthes: (Motioning to microphone) . You need to move it. It's kind of weird. Thanks.

Mayes: Okay. 16 of the 32 lots are an acre and a half, and that's what we're asking to split. The property does drop off the back. It's not that severe. All the houses ... we are on a mountain like this. Okay. My house is on this side of the mountain. I'm wanting to split the lot off this side of the mountain. The way my realtor was talking, the property prices out in our area have skyrocketed. A lot down the street for 4 acres is going for 170,000. That puts us up in a price range that is almost impossible to get. We don't have that kind of homes. We're not a Savannah or whatever, but anyway, her idea was to split the lot off from the top, 2-acre-and-a-half lots, which is what 16 of the lots in the neighborhood are, and then we could try to sell our property. We've bought a farm. We are moving. We've been there 27 years. We've raised our kids there. We love this subdivision. We do not want to harm it in any way. But this would give us a more marketable piece of property if someone can afford to build ... by that 3 acres, that's the way we're going to list it, but if they don't want to buy the 3 acres, we have an option that makes our property more marketable at an acre and a half, which is what the realtor said most people want ... two halves. About an acre and a half is all they want to maintain and can afford this close to town. Now, as far as drainage problems, we've never heard anything about any drainage problems from the Toothakers. He did put in a retaining wall. Where this house ... we would be putting a 50-foot setback off of our property, which puts it over a hundred yards, the size of a football field, away from my house. It also would be a hundred yards away from his house, the size of a football field. My house is closer to the two adjacent lots. If you'll look on your map

here, this green area, my lot is 21. The cul-de-sac is right here. There is an easement into a 200-acre farm here that could be developed tomorrow with a thousand, five hundred houses on it and they would have access right through our road, which they could, you know, be an acre, half-acre lot. It's already approved for a septic tank. It already has water and it already has electricity. It already has a drive. Nothing on the front road would ... no one would even know it was there. It already has a separate drive with a retaining wall, entryway. Nothing at the front of the road would stop. I spoke to all the neighbors on the top. I did not speak to that side of the mountain because there's only one lot which is ... or two lots, one's not built on, but Mr. Toothaker's lot ... I did contact him and told him what we were doing. The other lots are all an acre and a half. I didn't feel like I needed to speak to them because they have an acre and a lot. I don't know what their complaint would be. You know, theirs is an acre and a half, also. The covenants require for me ... the covenant is ... Number 3 only requires for me to get Jim Lindsey's signature, which I did. I called him. He said he put that covenant in because of the larger lots. He knew it was close to town and that he would approve any lot split that there was because there's anywhere from 3-, 4-, 5-, 6-, and 7-acre lots up on the top and he knew they would want to be split later. You've already approved a split lot on Lot ... I think I have it written on there ... Lot 4. You approved a split lot of two and a half acres three years ago for J. R. Arnold. There's already a tandem lot in the subdivision. It is Lot 3. And I think that's just about it. Do you have any more questions? We have no homeowner's association. Never have. No one wanted to be. I was the first home on the mountain, tried to start one. Everyone said, "We live out here in the country and we don't want to follow any rules." All the lots in yellow on your plats are people that are out of ... in violation of the covenants for one reason or another. You know, we just feel like that we should have the option to sell off our property and split it and make it more usable to someone. If someone wants the three acres and they want to keep the whole thing together, well, that's the way we're listing it. We won't sell the acre and a half without the house first selling, and give the person the right for the three acres. But if they want or can't afford, which is a big thing in our area, property, like I said, 170,000 for four acres is a lot of money.

Anthes: Well, we're going to have the discussion with the Commissioners and we'll get back with you if we've got questions.

Mayes: Okay.

Anthes: Hillary, do you have any comments?

Harris: Let's see. I want to sort of sort out what we're looking at. The covenants, of course, are nothing that the City enforces, and again, so what I ... I think what we're really looking at today, in terms of the staff findings so far, seems to be ... the major issue here seems to be the zero frontage on a public street, correct? And would you ... I'm sorry, was it Jesse? Whose was this?

Morgan: Oh, that was mine.

Harris: Suzanne. I'm sorry, Suzanne. Zero frontage, that was the problem, and it's not compatible with surrounding area?

Morgan: Yes, that was our finding.

Harris: Okay. Do you mind just elaborating on that a bit more?

Morgan: Certainly. With any lot split, and of course the Planning Area does not have zoning, but we do have a requirement that every lot have 75 feet of frontage on a public street, and if it is less than that, we do evaluate it in terms of compatibility. It's helpful to think of the things that we review with tandem lot conditional use permits in the City, those types of findings ... adequate access, etcetera. Certainly this applicant is providing access back to the property; however, the lot itself will not have frontage. And in reviewing the overall subdivision and the lots to the north and south of this, they are all similar shape, sizes. Most often in the Planning Area, we look at subdivision of lots that are not within an overall subdivision, but just parts of lots that have been split out and subdivided over time. So in this area there is a standard size and ... of the lots, because of how ... in the manner of the subdivision. And so in review of just this proposal, we did not find that a house on a lot in the rear of this property would be compatible with the surrounding 3-acre-plus lots to the north and south.

Harris: Thank you for that.

Anthes: Normally with a tandem lot we do see a dedicated access, that it would have a tail that would belong to that lot and then a different piece of property, so I am troubled by the zero frontage and would follow staff's recommendation on that. I do have a question. This cul-de-sac that is at the end of this road, is this actually a stub-out to the north, and this would be a road that could be constructed in the future?

Morgan: It appears that there is an easement to the north. I am not sure that that is dedicated right-of-way or if the lot lines actually go ... or if it is an

easement, and it would have to be dedicated for right-of-way in order to construct that street to the north.

Anthes: I'm sorry. Do you have anything, Lois?

Bryant: Well, currently the only thing that ... one of the main things that troubles me with this right now is the covenant.

Anthes: We cannot ... we cannot consider the protective covenants, so ...

Bryant: Well, that's ...

Anthes: That's an internal ...

Bryant: Internal to them.

Anthes: ... to them, uh-huh.

Bryant: And the other that did trouble me, that when I did go out and look at this it looks more like it just kind of dead ends out instead of an actual cul-de-sac. And this driveway does ... this asphalt driveway on the side here runs all the way up the side of the hill?

Bunch: To the back.

Bryant: To the back?

Mayes: It runs all the way to the property, yes.

Bryant: If this were split, would this remain ...

Motion:

Anthes: I think this one's pretty complicated and the whole Planning Commission needs to see it. I'm going to take staff's recommendation and move that we forward Lot Split 06-2200 to the full Planning Commission with a recommendation for denial.

Bryant: I'll second.

Harris: I concur.

Anthes: Okay. We'll see you in a couple of weeks.

Mayes: Thank you. Do you want to keep those?

Anthes: If you would like, I'm going to give them to staff. Is that all right?

Mayes: That would be great.

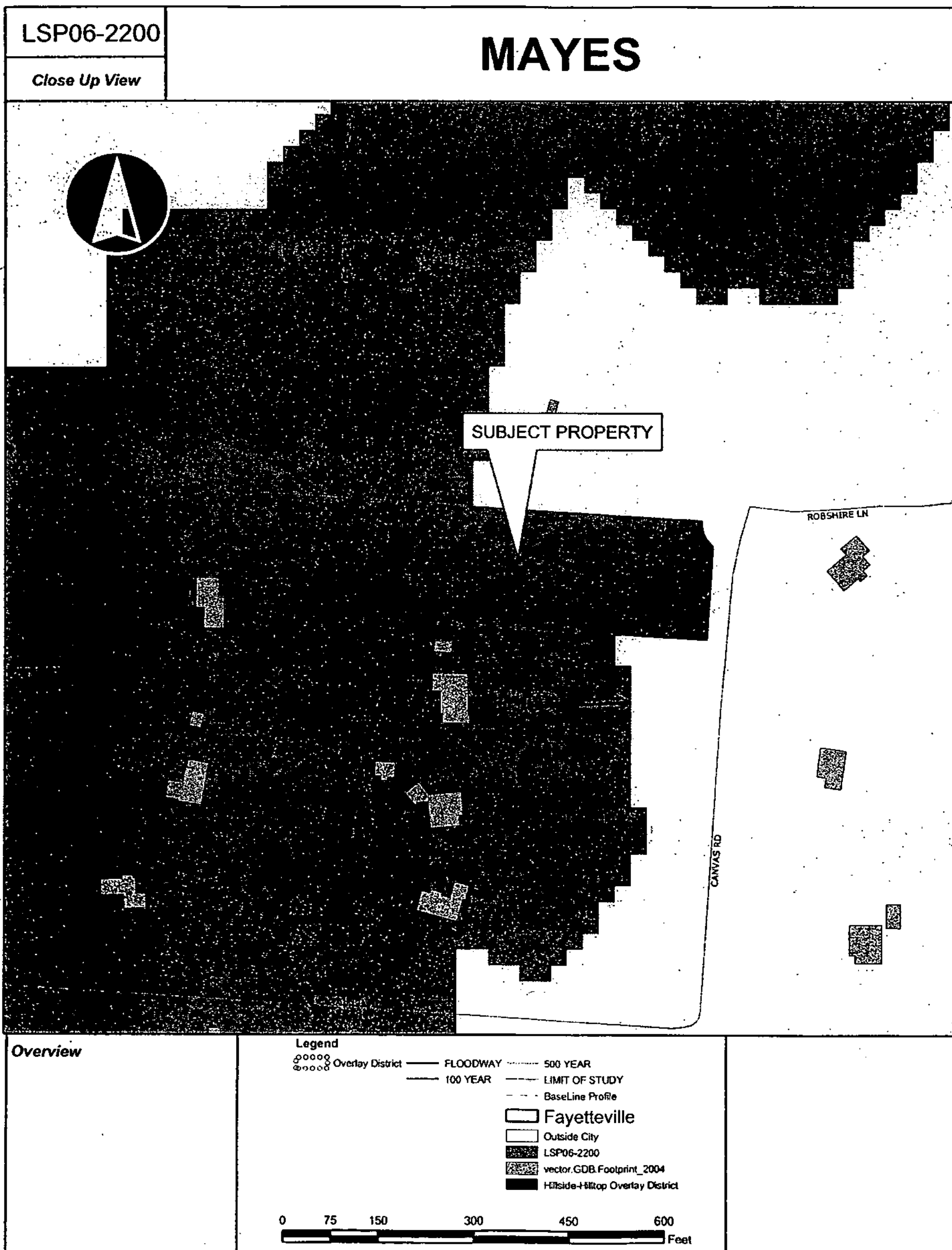
(At this point Hillary Harris leaves the meeting.)

Appendix E

Maps

CANVAS MOUNTAIN

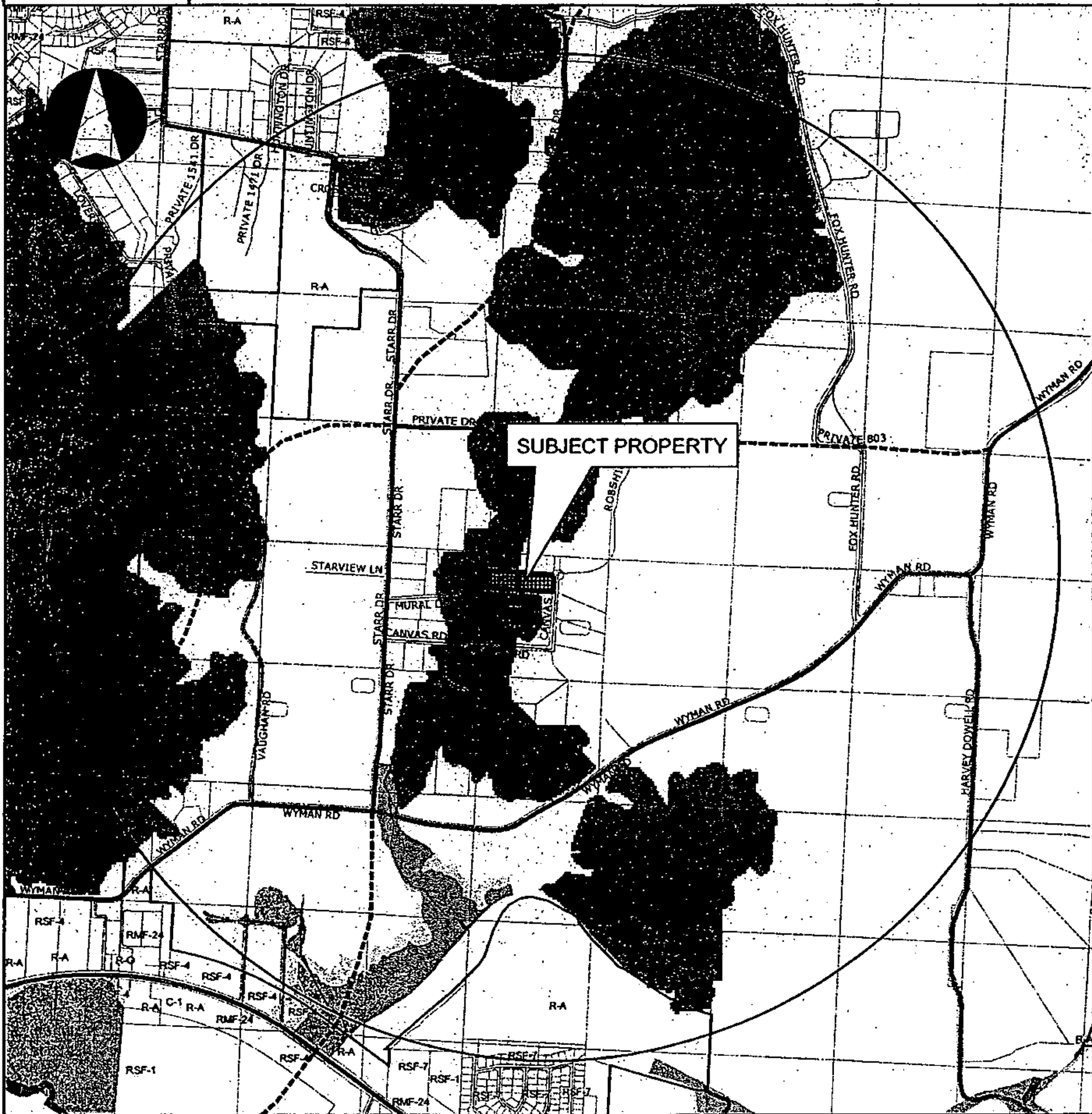




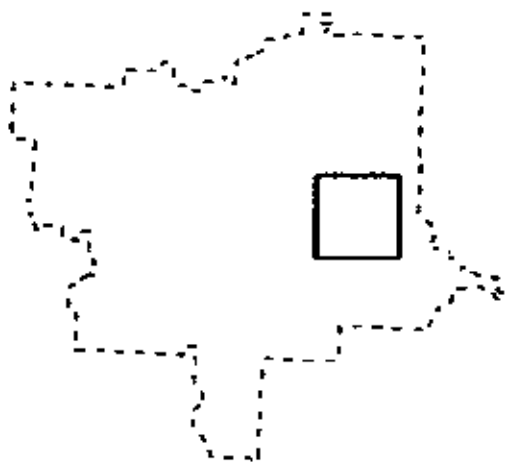
LSP06-2200

One Mile View

MAYES



Overview



Legend

Subject Property

LSP06-2200

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

Dear City Council,

I, Mike Carfagno Jr., my wife Melody Carfagno and my two children ages 16 and 13 have lived at 463 N. Canvas Rd. Lot 22, for 14 years. We fell in love with the serenity of the 3.5 wooded lots, which provided privacy. It was like being in the country, but yet just five minutes from town. We love that we have so much property and not a "postage stamp size yard." We immensely take pride that we built our home ourselves.

We are completely confused on how or why a lot split in our plated subdivision is even a possibility. The access to the proposed lot split in the back, of Lot 21, would only be accessible by a 30-foot alley, which 15 ft is a utility easement. Is it not required to be 75 feet of lot frontage to the main road?

This would create a flag lot; there are no flag lots in Canvas Mtn subdivision at this time. We feel this type of lot split would jeopardize the value of our property. If this lot split was to be approved, would it allow all Canvas Mtn lots to become flag lots? We are also very concerned with the water pressure at our homes; the main water line is only 2" in diameter to service our homes. Since we live at the end of the street, on top of a mountain, and regularly already experience low water pressure. If additional homes were built what would happen? The proposed house site would be located directly in our backyard view. The Mayes have never contacted us about the lot split. We only can assume they are asking for it due to financial reasons. We also have heard they plan to sell their current home and move to the Huntsville area where they are currently building a home. So they would be leaving the subdivision with no concern to the rest of the property owners. Attached will be signatures of seventeen current residents of Canvas Mtn subdivision opposing the lot split.

I would also like to address and correct some of the comments made by Linda Mayes at the Planning Board meeting on September 25.

We do not own or run a plumbing company out of our home. Mike Jr., is only an employee of Carfagno Enterprise Inc. and brings home his employee vehicle. There is no traffic caused by driving to and from work. I heard her say "We built our home on the front half of the property with intentions to split the lot in the future."

If this is true, why did they build their swimming pool in the access roadway? And why did they remove all the trees from the lot when trees add value to the property, it would seem that building a house site would

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more practical.

My father started the plumbing business 30 years ago in 1976; we have been plumbing new residential homes and commercial buildings in Northwest Arkansas. I am not apposed to governed growth, I believe that I'm honest, hard working, and I take a lot of pride in what I do. Or the family business would not still be in business for all these years.

We can only hope the city of Fayetteville will follow the rules and regulations on lots splits, which would make this lot split impossible. Thank you for your time and consideration.

Mike & Melody Carfagno Jr.

We, the undersigned property owners in the Canvas Mountain Subdivision, are opposed to any lot splits in our subdivision.

Name	Address	Phone No.
Kelli ^{and Lynn} Morrison	4160 N. Canvas	443-2770
Mike + Melodey Cuffagno	4163 N. Canvas	443-4244
Ricky + Donna Smith	4185 E. Canvas Rd	444-7073
Jay + Sherri Holmes	4106 Brushstroke	582-1472
Donna Davis	4109 Brushstroke Lane	521-1384
Lordona Julie Jones	4041 Canvas Rd	444-9304
Bob + Virginia Handgaras	4010 E Canvas Rd	571-1941
David Hall	41005 E Canvas Rd.	582-3149
Kerry Mitchell	41005 E Canvas Rd.	521-0116
Sherrill Mitchell	41005 E Canvas Rd.	521-0116
John McFarley	4189 Brushstroke Ln	443-9212
Theresa Joyce Gooden	4122 E. Canvas Rd	696-8805
Gary Wiles	391 N. Canvas Rd	409-4279
Donna Smith	4006 E mural	466-3383
Stephen + Katie League	4003 E. mural Dr.	521-6093
John Smith	4072 E mural Dr	442-3684
Allyson Smith	273 Canvas	571-3353

Fayetteville City Council Members
C/O Fayetteville City Clerk

October 12, 2006

Dear Fayetteville City Council Members,

RE: Agenda item C-5: Mayes Lot Split Appeal - 10/17/06 City Council Meeting

I am writing to you to register my opposition to the Mayes Lot split appeal and to reiterate my support of the planning staff's opposition and the Planning Commission's denial of this proposed lot split and to urge you to uphold the Planning Commission's ruling on this matter.

My wife and I, along with our two daughters, are the proud owners and residents of 4128 East Mural Drive – Lot #6 in the Canvas Mountain Subdivision. We are the west side neighbors of Jim and Linda Mayes.

We purchased our home in March 2000 because of the remote, wooded setting and the beauty and serenity of the neighborhood. Since that time we have invested significantly in our home, not only for our enjoyment but also to bring our property up to the standards of the community – you have pictures in the Planning Commission records of the asphalt driveway we put in as an example of this investment.

Let me be very clear – my wife and I are in favor of responsible development. We are not opposed to all development on Canvas Mountain. For this reason, my wife and I did not sign the petition signed by 17 or so of our neighbors in opposition of the Mayes lot split because that petition states opposition to all lot splits in the subdivision and we do not share that opinion.

But make no mistake, we are very opposed to this specific lot split. We agree with the planning commission's decision and the planning staff's opposition to the proposed split based on its incompatibility with the subdivision and adjacent lots. We are also opposed to this lot split based upon the drainage and run-off impact on our property we have already experienced and paid handsomely to correct.

In spring 2003 the Mayes chose to clear the back half of their property (proposed lot 21-B). This portion of their land is a very steep grade and is considered to be in the Hillside Hilltop Overlay District, although this is not active outside the city limits. Upon seeing a bulldozer on this steep portion of their land knocking down everything, we approached them and asked them to not scalp the land...fearing it would make our existing drainage problems even worse...and it did.

Once the Mayes' cleared (scalped) their property uphill of our property, our drainage problem became considerably worse. In the planning commission packet you have 3 pictures taken from the western boundary of the Mays property looking uphill in which you can see the dramatic clearing of the land – note the stark difference between this scalped hillside as compared to the wooded lots to the north and south. That scalped hillside is located just above my property (adjacent to me on the east side)

With the increased drainage problems we began construction of our retaining wall and water management system on September 16, 2004 after months of planning and review. Pictures of that construction are also in your packet.

As you can see in the pictures, this was not the installation of a few landscaping blocks but rather it is an engineered cantilever wall made of piers and reinforced concrete with an extensive water management system.

Total cost of the retaining wall is as follows.

Backhoe and Digging (Pense)	\$4,815
Wall construction (Foundation Specialties)	\$25,121
Fencing (Goshen Fence)	\$970
Grass to hold the soil (Razorback Sod)	\$1674.16
GRAND TOTAL	\$32,680.16

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The retaining wall and extensive water management system is a very large expense we were forced to incur to protect our investment in our home.

We are very concerned that the further reduction of ground cover and surface soil (house, driveway, sidewalks, roof-line) on this lot will significantly increase the already substantial runoff...if not in fact exceed our retaining wall's capacity to handle the groundwater.

We have invested significantly in our home and we are simply trying to protect our investment from a very real and demonstrated threat.

My wife and I respectfully request that you affirm the Planning Commission's ruling denying this proposed lot split.

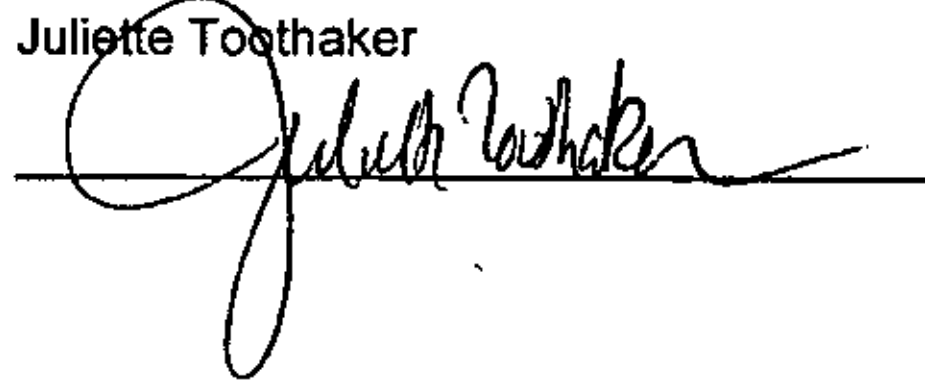
We thank you for your time and for your service to our community.

Sincerely,

David G. Toothaker



Juliette Toothaker



DAILY & WOODS

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

58 SOUTH 6TH STREET
P.O. BOX 1446
FORT SMITH, AR 72902
TELEPHONE (479) 782-0361
FAX (479) 782-6160

516 EAST MILLSAP ROAD, SUITE 200
FAYETTEVILLE, AR 72703
TELEPHONE (479) 582-0361
FAX (479) 251-8111

JAMES E. WEST
OF COUNSEL

HARRY P. DAILY (1886-1965)
JOHN P. WOODS (1886-1976)
JOHN S. DAILY (1912-1987)

JERRY L. CANFIELD, P.A.
THOMAS A. DAILY, P.A.
WYMAN R. WADE, JR., P.A.
DOUGLAS M. CARSON, P.A.
ROBERT R. BRIGGS, P.A. +
C. MICHAEL DAILY +

+ Also Licensed in Oklahoma

October 20, 2006

City of Fayetteville
City Council
c/o City Clerk
113 W. Mountain St.
Fayetteville, AR 72701

Re: LPS 06-2200 (Mayes) / Appeal of Planning Commission Denial of Proposed Lot Split

Dear Council Members:

I represent Mr. & Mrs. David Toothaker, who own the property immediately West of the Applicants of the denied lot split application. Please consider this letter to be in response to and in opposition of the appeal of the Planning Commission's 8 - 0 decision to deny the proposed lot split.

On September 29, 2006, the Applicants submitted their appeal letter to the Council. In that letter, the Applicants alleged what they believed to be the basis for the Council's overturning of the unanimous vote of the Planning Commission. I submit to the Council that the allegations by the Applicants are unfounded. Even if true, those allegations would not provide a rational basis for the Council to overturn the Planning Commission's 8 - 0 vote denying the application. Immediately below, I have commented on the Applicants' unfounded allegations.

1. "We felt that the Commission made their decision on incorrect information that 3 of my neighbors gave."

I am personally familiar with the facts of the application and was present for the comments given by the three (3) neighbors referenced in the Applicants' appeal letter. Those neighbors did not provide the Planning Commission with any incorrect information. Moreover, the Applicants have not detailed any information which they believe was incorrectly provided to the Planning Commission.

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2. "We also believe the Commission made an emotional decision instead of a decision based on the facts."

As I mentioned, I attended the Planning Commission meeting and note that the Planning Commissioners, Planning Staff, and various public speakers discussed the facts of the application in great detail. The Planning Commissioners' comments were limited to a careful and professional discussion of the merits of the application. The record is replete with facts for and against the application, and by judging by the extent of the Planning Commissioners' discussion of the application, it is quite clear that the Commission thoroughly considered all relevant facts in making its 8 - 0 vote against the Application.

3. "We are legal in all aspects of a tandem lot...we are legal with the City's requirement for a lot split for a tandem lot."

This allegation is simply not true. I would point the Council's attention to my September 20, 2006 letter to Ms. Susan Morgan, Fayetteville Planning Department, which details how the proposed lot split was contrary to several requirements. Moreover, Ms. Morgan's memo to the Fayetteville Planning Commission dated September 20, 2006 in the paragraph titled "*Lot With Requirements*" further details how the Proposed Lot Split was contrary to legal requirements.

4. "We have approval of 19 homeowners at Canvas Mountain"

I assume the Applicants were referring to the petition submitted by them which contained the headings "We the under signed understand that Jim and Linda Mayes are splitting their three (3) acre lot in to #2- - 1 1/2 acre lot and we have no objections to it".

Of those that signed that Petition, the owners indicated by petition numbers 3, 4, 5, 14, 16 and 19 do not own property within the platted Canvas Mountain Subdivision. The petition number 10 was signed by an owner who sold their property 10 days after signing the petition and no longer lives in Canvas Mountain Subdivision. Petition numbers 12 and 15 were signed by owners of property who do not reside in Canvas Mountain Subdivision. Finally, Petition number 17 was signed by Fred Shefte with Bank of Fayetteville for John Hein. John Hein was unaware that Fred Shefte signed this Petition on his behalf and did not authorize the same. In fact, Mr. Hein opposes the proposed lot split. I have attached a copy of an email transmission from Mr. Hein I received

relative to this issue.

A petition in opposition of the Applicants' lot split was also submitted to the Planning Commission. In addition to those who signed the petition opposing the proposed lot split, the owners of the three (3) adjacent lots to the proposed lot split spoke before the Planning Commission in opposition to the proposed lot split. No Canvas Mountain Subdivision owners, save the Applicants, spoke at the Planning Commission meeting in favor of the application.

The proposed lot split simply failed to meet the City's adopted Unified Development Code as well as several other requirements. Moreover, the proposed lot split was opposed by those neighbors who would be affected by the lot split. The Planning Staff recognized that the proposed lot split, and the revised proposed lot split should be denied. The Planning Commission agreed with the Staffs' recommendation in its well considered 8 - 0 vote to deny the application. There simply is no rational basis to overturn the Planning Commission's vote. Accordingly, I respectfully request that the City Council affirm the Planning Commission's vote to deny the application LSP 06-2200.

Very truly yours,



Robert R. Briggs
aab

cc: Client

To: City of Fayetteville
Sondra Smith

11-7-06
Agenda

From: Dr. Ira Zakariadze,

I would like to appite (Administrative
Item (Emerald Point S/D 474) ADM 06-2282).
Planning Commission's decision on
October 9, 2006.

Thank you

Dr. Ira Zakariadze

10.10.06.

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CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: October 18, 2006

Subject: Major Modification of Emerald Point Subdivision (ADM 06-2282)

RECOMMENDATION

The Planning Commission voted to deny the subject request for a major modification to remove an approved street stub-out within Emerald Point Subdivision, PPL 05-1773. Staff recommended denial of the proposed major modification.

BACKGROUND

On June 26, 2006, the Planning Commission approved the preliminary plat for Emerald Point Subdivision, a residential subdivision containing 9.7 acres with 8 single-family lots and 40 townhome lots. The property is located east of Double Springs Road, and it is zoned RMF-6 subject to a Bill of Assurance. Property to the north is developed for mini-storage. Two adjoining properties to the south were recently annexed and zoned R-A and RSF-4. It is anticipated that the property zoned RSF-4 will develop for single family homes in the future.

During the review of this project, significant attention was given to the connectivity proposed between this development and surrounding property. The subdivision was approved with one street stub-out to the north and three stub-outs to the south. Placement of the street stub-out furthest to the east, Rocky Crossing, will provide a potential street connection north to Legacy Point Phase 1. The western-most street stub-out is necessary to provide lot width for two lots. Though staff had recommended that this street be extended south 70 feet through the R-A property to stub-out to the RSF-4 property, the owner indicated the street connection is not to be provided through his property. Therefore, the middle street, Integrity Way, was added to the plat to provide additional connectivity to the south and avoid the construction of long, straight streets that may increase traffic speeds.

Construction drawings and preliminary analysis of the drainage have been submitted to the City Engineering Division. The result of these studies shows that the detention area available in Lot 35 is not adequate to detain the storm water from this property and the additional water run-off from the property to the north, which was developed under County requirements and was not required to provide storm water detention. Due to the drainage issues, the applicant has requested to remove Integrity Way and incorporate the right-of-way into the detention pond lot resulting in an increased capacity.

DISCUSSION

On October 9, 2006, the Planning Commission voted 6-2-0 to deny this request. Commissioners Trumbo and Anthes voted against the motion to deny. The applicant submitted a letter of appeal to the City Clerk within 10 days following the Planning Commission meeting. Additionally, the applicant has met with staff and the adjacent property owner to the north to discuss potential solutions to the drainage issues which were exacerbated by the development of the mini-storage units. At this time, the participants have not agreed upon any one solution.

BUDGET IMPACT

None.



PC Meeting of October 09, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: October 04, 2006 *Updated October 18, 2006*

ADM 06-2282: Administrative Item (EMERALD POINT S/D, 474): Submitted by STEADFAST, INC. for property located S of Wedington, E of Double Springs Road. The request is for a major modification of the approved Preliminary Plat, PPL 05-1773.
Planner: Suzanne Morgan

Background

The Planning Commission tabled this item indefinitely at its September 25, 2006 meeting due to the absence of an applicant at the time the item was heard. The applicant requests that the Planning Commission reconsider this item at its October 09, 2006 meeting.

On June 26, 2006, the Planning Commission approved the preliminary plat for Emerald Point Subdivision. The residential subdivision contains 9.7 acres and is located east of Double Springs Road. The property is zoned RMF-6 subject to a Bill of Assurance. The subdivision consists of 48 lots, of which 8 are single-family lots and 40 are townhome lots. Property to the north is developed for mini-storage. Two adjoining properties to the south were recently annexed and zoned R-A and RSF-4. It is anticipated that the property zoned RSF-4 will develop for single family homes in the future.

During the review of this project, significant attention was given to the connectivity proposed between this development and surrounding property. A street connection was provided from Double Springs Road. One street is stubbed-out to the north where a future connection could be made from this property to Legacy Pointe Phase 1 should the mini-storage property be redeveloped. No street connections to the east were provided within Legacy Pointe Phase V. Most of the discussion regarding street connectivity was focused on street connections to the south, in an effort to coordinate the impending development activity to the south with the subject development proposal.

At Subdivision Committee, the applicant proposed two street stub-outs to the south. The western street, Georgia Trail, would provide street frontage for the creation of two lots. Georgia Trail dead-ends into a 1-acre property zoned R-A owned by Mr. Williams. Understanding that the property south of Mr. Williams would be developed in the future,

staff recommended extending the street through Mr. Williams' property (a 70' street extension) so that a proper street connection can occur with subsequent development. It was discussed at Subdivision Committee that the applicant was not able to obtain approval from Mr. Williams. Staff, therefore, recommended the relocation of the street stub-out to the east (east of Mr. William's property) and reconfiguration of the lot layout. The Subdivision Committee further specified that the stub-out should be located between lots 35 and 36. The new street, Integrity Way, was created by reducing the size of the detention pond. Georgia Trail remained in order to provide frontage to lots 46 and 47, but it was understood that this street may never extend through Mr. Williams' property. On June 26, 2006, the Planning Commission reviewed and approved a preliminary plat with three street stub-outs to the south.

Construction drawings and analysis of the drainage has been submitted to the City Engineering Division. The result of these studies has shown that the detention area available in Lot 35 is not adequate to detain the storm water from this property and the water run-off from the property to the north which was developed under County requirements and was not required to provide storm water detention.

Request

The applicant requests a modification to the approved preliminary plat for Emerald Pointe Subdivision. As shown in page 3 of the supplementary hand out, the applicant requests removal of Integrity Way for the following reasons:

1. The storm water run-off onto the subject property has increased due to the development of the mini-storage facility to the north. Enlargement of the detention pond will be necessary to accommodate this flow, and this will result in the elimination of one or more lots.
2. The resulting block lengths are do not exceed city requirements. The block length from Double Springs Road to Rocky Crossing is 1,173 feet. When Georgia Trail is extended to the south, the block length from Georgia Trail to Rocky Crossing will be 960 feet. Furthermore, the applicant proposes that traffic will be heavier on the east-west street connections rather than on the north-south streets.

Discussion

The detention pond, Lot 35, as originally proposed was sized too small for the development of the subdivision. Final calculations have not yet been submitted to the Engineering Division for review, but according to Engineering staff it is likely that a total of four lots may be removed and added to the detention pond. Removal of Integrity Way is proposed not to increase lot yield but to increase the size of the detention pond and to avoid the loss of lots.

The Unified Development Code states that block lengths can range between 400' to 1,400' (see Ch. 166.08 D). Staff recommends this additional street connection to provide additional avenues of travel north and south. The resulting block sizes are comparable to others within the Legacy Pointe Phase 1 Subdivision and others within the city.

Recommendation

Staff recommends denial of the requested modification for the removal of Integrity Way without the construction of Georgia Trail through Mr. Williams' property. Although the block length requirements have been met from Double Springs Road to Rocky Crossing, staff does not recommend the construction of long, straight streets that may increase traffic speeds when there is a possibility of providing additional street connections. Planning Commission approved Integrity Way because Georgia Way would not be able to be extended through Mr. Williams' property. The applicant's current proposal does not provide an alternative street connection, as Mr. Williams has indicated the street connection is not to be provided through his property.

Date: October 9, 2006

Planning Commission Action: Denied

Motion to deny: Ostner

Second: Clark

Vote: 6-2-0 with Commissioners Trumbo and Anthes voting no.

Comments:

PPL 06-1773: Preliminary Plat (EMERALD POINT, 474): Submitted by STEADFAST, INC. for property located at DOUBLE SPRINGS RD., E OF SILVERTHORNE S/D. The property is zoned RMF-6, LOW DENSITY MULTI-FAMILY RESIDENTIAL and contains approximately 9.7 acres. The request is to approve a preliminary plat of a residential subdivision containing 8 single family lots and 40 two-family lots.

Anthes: Our next item this evening is item 19, Preliminary Plat 06-1773 for Emerald Point.

Morgan: This is a subdivision on a property approximately 10 acres. It is north of the Williams property and the Hays property that were earlier considered tonight for annexation. The applicant requests approval of a Preliminary Plat of 48 lots, 8 of which are single family and those single family lots lie on both the east and west property lines which adjoin other single family residential neighborhoods. And there are 40 townhome lots between those 2 rows of single family lots. In the review of this application staff and the applicant and Subdivision Committee worked considerably hard on connectivity. The applicant is providing one connection to the north which potentially in the future will connect with Legacy Point Phase 1. There is an intervening property which is currently developed for storage units which would currently prevent that connection at this time. The applicant also proposed three connections to the south, one of which, the western most, stubs out to the Williams property and it is questionable whether or not by the time of final plat as presented before you we will have right-of-way and the street will be constructed through that property, therefore the applicant is proposing a turnaround temporary cul-de-sac at this location. There is an additional access for this property to the Hays property which could be connected when that property develops as well as the one furthest to the east. There are several waiver requests associated with this application. Those include both the waiver of distance between Olika Street at the main lane through this property as well as Mesa Street which is existing in the Silverthorne subdivision. The requirement is 150' and the applicant proposes 117' between those center lines. With the locations of the existing homes that are proposed to be saved and just the distance between there, that was the only viable option in order to get some additional lots along the northern property line. Additionally, they request a waiver of the 150' curb radius. The applicant requests for a 100' radius. Staff is recommending support of this waiver as well as the previous. We do have two other Planning Commission determinations which we have requested. First of all being street connectivity. Again, we have worked with the applicant and Subdivision Committee and at the last Subdivision Committee meeting they did recommend approval of this third connection of the three connections. And Planning Commission determination of street improvements is requested. Staff recommends that the applicant

improve Double Springs Road from the northern property line to the southern property line also including the 70' portion adjacent to Mr. Mike Williams' property which is the property that was heard earlier today for annexation. The existing home on lot 49 will encroach in the building setback and the applicant may go to the Board of Adjustment to relieve that non-conformity. However, should a variance not be approved the structure will remain as non-conforming; it's just a point of interest and we've including a condition regarding that. There are several revisions that need to be made to the plat but we have confidence that that will be done and we are recommending approval of this project.

Anthes: Thank you, Ms. Morgan. Would any member of the public like to address this Preliminary Plat 06-1773, please come forward. Seeing none I'll close the public comment section. Will the applicant make a presentation? Good evening.

Ritchey: Good evening, my name is Randy Ritchey and I represent the applicant. Our main obstacle here as Suzanne has noted is the connectivity and we went through a couple iterations there trying to achieve connectivity to the south through Mr. Williams' property which was annexed tonight and we thought that was going to be a viable option, but he expressed some concerns and didn't really, he decided not to follow through that. So, we've adjusted our street stub outs accordingly and that's sort of generated a few more required changes. So, I think we've accomplished our goal with the connectivity both with the south and the north and possibly even three points of connection if there is a possibility to connect through Mr. Hays' property. The waivers as Suzanne presented to you are fairly straight forward. The curb radii and the distance between the street T intersections. There is really not much we can do about the T intersection distance. The street existing is where it is and we've moved the proposed street as far away from that as we can. And other than that I would just be happy to answer any question you may have. Thanks.

Anthes: Thank you, Mr. Ritchey. Can we have a Subdivision report on this item?

Myers: If I can remember at this hour of the night. It was Commissioner Graves and wasn't it me and Lack?

[multiple people talking]

Myers: I went to the Subdivision Committee twice. Ok, so we are the most recent one I think.

Graves: I've never seen this.

Trumbo: I substituted for Commissioner Graves, I believe.

Anthes: Well, it looks like on conditions of approval 2, 3, and 4 that Subdivision Committee really recommended the same thing as staff did. But I might like to hear a little bit about the connectivity issue if anyone can recall.

Lack: If I may, Madame Chair.

Anthes: Thank you, Commissioner Lack.

Lack: The connectivity was the greatest issue with this subdivision and the western most connection that you see was I believe actually farther to the west shown originally. But with that inability to connect at that location we did ask that it be moved just to where it could connect but still maintaining it at that location. The middle connection which is labeled Integrity Way on the plat for us was requested to be added at the Subdivision Committee and that was pretty much the extent of the discussion that I remember. We did talk about maximum length of hammerheads or maximum length of streets or stub outs without requiring a turnaround and they were compliant in that except for the one at what is labeled Georgia Trail, the western most stub out.

Anthes: Thank you, Commissioner Lack. Is there further discussion? I have a question about lots 48 and 49. It looks like on 49 there is an existing house to remain and I'm assuming because the garage is on the east side of that house that access will be from Georgia Trail to that property, is that correct? Anyone?

Pate: No, the lot access to lot 48 will be specifically -

Anthes: Lot 49 is my question.

Pate: Lot 49 will be retained where it is now because that is the location of the house. There is a condition of approval that states with redevelopment of that lot the house shall be situated so that at least access is from the interior street as opposed to Double Springs Road. But as it is that existing lot would remain. Access to lot 48 will also be Double Springs Road. That's the only frontage for that lot and the structures on 46 and 47 would be removed and that would be a different development that would access the interior street which is name Georgia Trail in your plat.

Anthes: And what street does lot 1 access?

Pate: Lot 1 will access the interior street as well.

- Anthes: Ok, in the conditions of approval, can you direct me to the condition of approval that refers to lot 49. There are quite a number here. Oh, I think it is 13. Or no?
- Morgan: I believe 15.
- Pate: Yes. It also addresses the size of multi-family lots; because these are smaller lots we've reduced the driveway width to 12' maximum unless they were shared.
- Anthes: I would like to move to amend condition number 15 to state that homes developed on lots 1 and 48 and with any redevelopment of lot 49 that those houses should face Double Springs Road and access be provided for the side streets.
- Pate: Mr. Williams, correct me if I'm wrong, I don't believe that we can by our current ordinances dictate where a house can face or not.
- Anthes: We've seen it on other -
- Pate: On Planned Zoning Districts, yes, but not with a Preliminary Plat.
- Anthes: Well, there you have it, never mind.
- Myers: And it was so nicely crafted.
- Ostner: Our current condition of approval is dictating it.
- Pate: Only the access to the driveway. The actual vehicular access because they are discouraged on our Master Street Plan from directly accessing minor arterials.
- Anthes: Can't blame a girl for trying. Is there further discussion?
- Lack: Madame Chair.
- Anthes: Commissioner Lack.
- Lack: After seeing this in Subdivision and seeing the changes that we request and finding in favor of the staff's recommendations I will vote to approve Preliminary Plat 06-1773 with the stated conditions of approval giving special consideration to condition 1, connectivity, condition 2, street improvements, condition 3, the waiver of the distance between Olika and Mesa, condition 4, the Planning Commission waiver of the 100' curb radius, all of the conditions of approval as stated.

Anthes: We have a motion to approve by Commissioner Lack, do we have a second?

Myers: I'll second.

Anthes: Second by Commissioner Myers. I have one quick question and only because it is late. Will staff describe again why we are not asking for an additional stub out to the north. I know that we added, that we have 3 going south and not 1 going north, is there a reason that is not balanced?

Pate: The property directly to the north is a newly developed property. The applicant has agreed to stub out Rocky Crossing even though there is a brand new structure in the way of those 2 ever being connected. However, we do feel that hopefully in the future there will be some point in time that Rocky Crossing can be seen as a more valuable property then a storage unit.

Anthes: It is the mini-storage property.

Pate: Correct, and being constructed so that's why we are looking at that this time.

Anthes: It's just we look at other places where properties are developed in the county or even a golf course for instance and we go ahead and connect to it whether or not that may develop that way in the future.

Pate: That's exactly why we made the recommendation on Rocky Crossing for this particular piece of property we didn't feel it should be the [inaudible] of the developer for the number of lots being proposed to provide all connections just in anticipation of this potentially redeveloping.

Anthes: Ok, thank you, Mr. Pate. Is there further discussion? Will you call the roll.

Roll Call: The motion to approve PPL 06-1773 carries with a vote of 8-0-0.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of June 26, 2006

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: June 20, 2006 *Updated June 30, 2006*

PPL 06-1773: Preliminary Plat (EMERALD POINT, 474): Submitted by STEADFAST, INC. for property located at DOUBLE SPRINGS RD., E OF SILVERTHORNE S/D. The property is zoned RMF-6, LOW DENSITY MULTI-FAMILY RESIDENTIAL and contains approximately 9.7 acres. The request is to approve a preliminary plat of a residential subdivision with 8 single family lots and 40 two-family lots.
Planner: Suzanne Morgan

Findings:

Property description: The subject property contains 9.7 acres and is located east of Double Springs Road. The property was recently annexed into the City of Fayetteville and zoned RMF-6, subject to a Bill of Assurance (see attached). The applicant has met all requirements of the Bill of Assurance with the proposed development. The property is bordered on two sides by property in the city limits, with Silverthorne Subdivision to the west and Legacy Point Phase 4 (under construction) to the east. Two intervening unincorporated properties lie between the subject property and the city limits to the north (Legacy Point Phase 1).

Proposal: The applicant requests approval of a preliminary plat consisting of 48 lots, of which 8 are single-family lots and 40 are townhome lots. No more than two attached townhomes are permitted within the subdivision.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Storage Units & 2 Single family homes Single family homes	Planning Area RSF-4 & RMF-6 (Legacy Pt. Ph. 1)
South	Rural Single family homes	Planning Area
East	Vacant (under construction)	RSF-4
West	Silverthorne Subdivision	RSF-4

Water and Sewer: Water and sewer lines shall be extended to this development.

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial)

Right-of-way: The required right-of-way for Double Springs Road was dedicated with previous lot splits. Interior streets consist of both Local and Residential streets.

Connectivity: A street connection is proposed from Double Springs Road into the subdivision. Three street connections are proposed from this main street to the south. The western street connection, located just east of the existing dwelling owned by Mr. Fletcher Williams, stubs-out to a one-acre parcel owned by Michael Williams. Michael Williams' property contains one-acre and is an unusual tract, with a 70' lot width and 580' length, extending from Double Springs Road to Lot 40. Staff is aware that Hays, the property owner south of Mr. Williams, anticipates developing her property for residential use. Staff recommends the extension of the proposed street through Michael Williams' property to the Hays property so that a proper street connection can occur with subsequent development. This will result in a two-tiered row of lots, potentially 4 lots deep, adjacent to Double Springs Road.

The applicant has submitted a letter signed by Mr. Michael Williams that indicates his agreement "to dedicated right-of-way across [his] property located at 340 Double Springs Road in Fayetteville." The letter states that "this right-of-way is to be used for future extension of a proposed street stub-out in Emerald Point Subdivision to the north." To avoid any confusion, staff would like to make it clear that the recommendation is that the street be constructed through Mr. William's property prior to the recordation of the final plat for this development. The final plat for Emerald Point Subdivision will reflect the location of the street and Mr. Williams shall either sign the final plat dedicating the right-of-way for the street or have sold (or donated) the property to the owner of the subdivision prior to recordation.

The document signed by the applicant is not a legally binding document enforceable by the City of Fayetteville. If the applicant is unable to secure rights to construct the street across Mr. William's property or the right-of-way cannot be dedicated. The applicant, therefore, has provided third street connection to the south, west of Lot 35, to provide additional internal street connections in response to the recommendation of the Subdivision Committee and staff. Any further modification to an approved preliminary plat shall require Planning Commission review and approval.

The applicant proposes a street connection to the north at the eastern end of the property. This street can provide a connection north to Legacy Pointe Phase I when the adjacent property develops (it is currently utilized for a new storage unit business) and a street connection south to the Hays property.

Parkland: The applicant will contribute fees in lieu of land dedication.

Tree Preservation:	Existing:	3.85%
	Preserved:	3.85%
	Required:	3.85%
	Mitigation:	None

Recommendation: Staff recommends approval of PPL 05-1773 with the following conditions:

Conditions of Approval:

- X* 1. Planning Commission determination of street connectivity. *The applicant proposes to provide a street stub-out to the north for future connection to an existing street in Legacy Pointe Phase I and three street connections to the south. The applicant has submitted a letter signed by Mr. Michael Williams, property owner to the south, conveying agreement to a street connection through his property. Staff is recommending the street stub-out continue south the additional 70' in length through Mr. Williams' property to provide a through connection to the Hays property, which is in the process of annexation, zoning, and will be developing in the near future. If the applicant is unable to secure final rights to construct the street across Mr. William's property or the right-of-way cannot be dedicated, the applicant shall construct a temporary cul-de-sac at lot 45/46/47 in accordance with Fire Department regulations.*

The Subdivision Committee recommended a third street connection to the south as indicated on the revised site plan. The western street connection may dead-end with turn-around means satisfactory to the Fire Department.

The Planning Commission found in favor of this condition of approval.

2. Planning Commission determination of street improvements. *Staff recommends the applicant improve Double Springs Road from the north property line to the southern property line of property owned by Mr. Michael Williams (approximately 70' south of the subdivision). Improvements shall extend 14' from centerline including pavement, curb and gutter, 6' sidewalks and storm drainage.*

The Subdivision Committee recommended in favor of street improvements as stated.

The Planning Commission found in favor of this condition of approval.

3. Planning Commission determination of a waiver of the distance between streets (Olika Lane (proposed) and Mesa Street (existing)). The requirement is for a 150' separation between centerlines of streets. The applicant proposes to construct Olika Lane approximately 117' from the centerline of Mesa Street. *Staff recommends approval of this waiver request. With a different configuration, the efficiency of the infrastructure improvements with relation to the lots decreases significantly. Staff finds this separation to be adequate and will not create a dangerous traffic condition.*

The Subdivision Committee recommended in favor of the requested waiver for a 117' separation between Mesa Drive and Olika Lane.

The Planning Commission found in favor of this condition of approval.

4. Planning Commission determination of a waiver of the requirement for a 150' curve radius. The applicant proposes a 100' radius at the intersection of Williams Way and Olika Lane. *Staff recommends approval of this waiver request.*

The Subdivision Committee recommended in favor of the requested waiver for a 100' curve radius.

The Planning Commission found in favor of this condition of approval.

5. The applicant shall submit a guarantee (letter of credit, bond, or cash) of \$1,000 per lot prior to the recordation of the final plat for contributions to an interim solution to wastewater capacity concerns in the Owl Creek/Hamestring Creek basin, if the improvement is required. Final determination of the contribution shall be made by the City Engineer.
6. An assessment in the amount to be determined by the Engineering Division shall be paid by the developer prior to Final Plat for the unconstructed portion of Georgia Trail stub-out to the south, extension of sidewalks, and removal of the temporary cul-de-sac, approximately 110 feet in length.
7. The existing home on Lot 49 will encroach into the front 25' building setback from Olika Lane right-of-way. A variance, approved by the Board of Adjustment, is required to alleviate the restrictions of a nonconforming structure from this property. Staff recommends that the applicant process the variance prior to the recordation of the final plat. Should the variance not be approved, the structure will remain a nonconforming structure.
8. All development shall be in accordance with the RMF-6 zoning district and the recorded Bill of Assurance.
9. Lots 2-4 appear to have very little buildable area. Should the lots be inadequate for the construction of dwelling unit, the applicant shall reconfigure the lots to provide adequate buildable area prior to the recordation of the final plat.
10. The applicant shall construct required sidewalks adjacent to Double Springs Road, Lot 49, adjacent property to the south owned by Michael Williams, and the detention lot prior to recordation of the final plat. All other interior sidewalks may be constructed or guaranteed prior to the recordation of the final plat.
11. Street lights shall be installed with a maximum separation of 300 feet along all interior and external streets prior to final plat.
12. The septic system on lot 46/47/48 shall be abandoned in accordance with Arkansas Health Department requirements prior to final plat approval. The existing structure on lot 48 is indicated to be removed. If it is not, the structure shall be connected to public sewer prior to recordation of the final plat.
13. The existing dwelling on Lot 49 shall be tied onto sanitary sewer and the existing septic systems shall be abandoned in accordance with Arkansas Health Department requirements prior to final plat approval.

14. The applicant shall pay park fees in the amount of \$25,530 for 46 new single family dwellings prior to the application of signatures on the final plat.
15. Only lots 48 and 49 shall be permitted access onto Double Springs Road. If lot 49 is redeveloped, access to Double Springs Road shall be discontinued and established on the interior street. All multi-family lots shall construct a driveway no greater than 12' in width. Staff recommends that the multi-family lots share driveways where possible. If shared on the property line, the maximum driveway width shall be 24'.
16. A temporary access easement, filed with the Final Plat for the temporary cul-de-sac on Georgia Trail, shall be automatically abandoned at the time of the street extension to the north.
17. The accessory structure on Lot 45 shall be removed prior to the recordation of the final plat.
18. Signs shall be posted at the end of each stub-out to indicate that the street will extend in the future prior to the recordation of the final plat (coordinate with Transportation Division).
19. No mitigation is required on this site unless there is unforeseen removal below the 3.85%.
20. Several issues and revisions requested at the Technical Plat Revision were not addressed with the revision submittal. The applicant shall submit to the Planning Division a revised preliminary plat addressing the following items:
 - a. Imogene Williams shall sign the application as owner of record. Please submit a signed application or have her submit a letter authorizing another party (i.e. her husband) to sign on her behalf.
 - b. Reduce the width of the street in each 42' right-of-way from 28' to 24' in accordance with the Master Street Plan. Revise the street table to correspond.
 - c. The building setbacks on Lots 35 and 36 adjacent to the right-of-way are 25'. The lot line between lots 35/36 will need to be east-west instead of north-south to provide sufficient building area.
 - d. Street lights shall be located at each street intersection and along all streets at intervals of no greater than 300'.
 - e. The note on the plat identifying the sidewalk to be constructed prior to final plat approval should include adjacent property to the south owned by Michael Williams and the sidewalk adjacent to Lot 49.
 - f. Sewer shall be extended to Lot 48. The plat shall be revised to show the extension of sewer to this lot prior to construction plan approval.
 - g. Utility easement lines shall be extended to property lines or to the point of termination.
 - h. The temporary cul-de-sac shall be constructed to meet City of Fayetteville standards.

Standard Conditions of Approval:

21. 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)
22. 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.
23. Subdivision area signage shall be permitted in accordance with applicable city codes.
24. All overhead electric lines under 12Kv shall be relocated underground. All proposed utilities shall be located underground.
25. All street names and addresses shall be approved by the 911 coordinator.
26. Preliminary Plat approval shall be valid for one calendar year.

Additional conditions:

- a. _____
- b. _____
- c. _____

Planning Commission Action: yes Required ✓ Approved _____ Denied

Date: June 26, 2006

Motion: Lack

Second: Myres

Vote: 8-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By

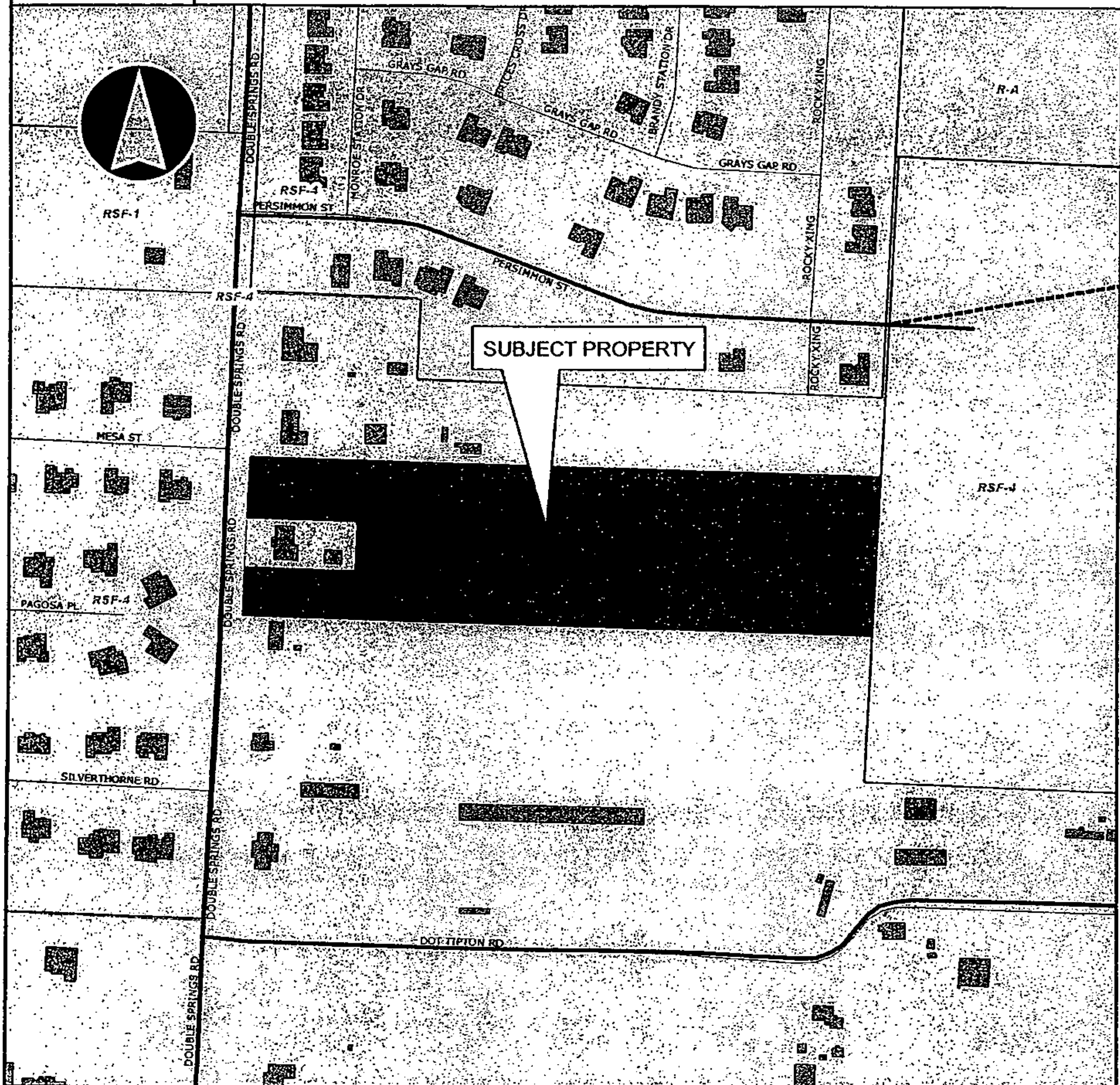
Title

Date

ADM 06-2282

Close Up View

EMERALD POINT



Overview

Legend

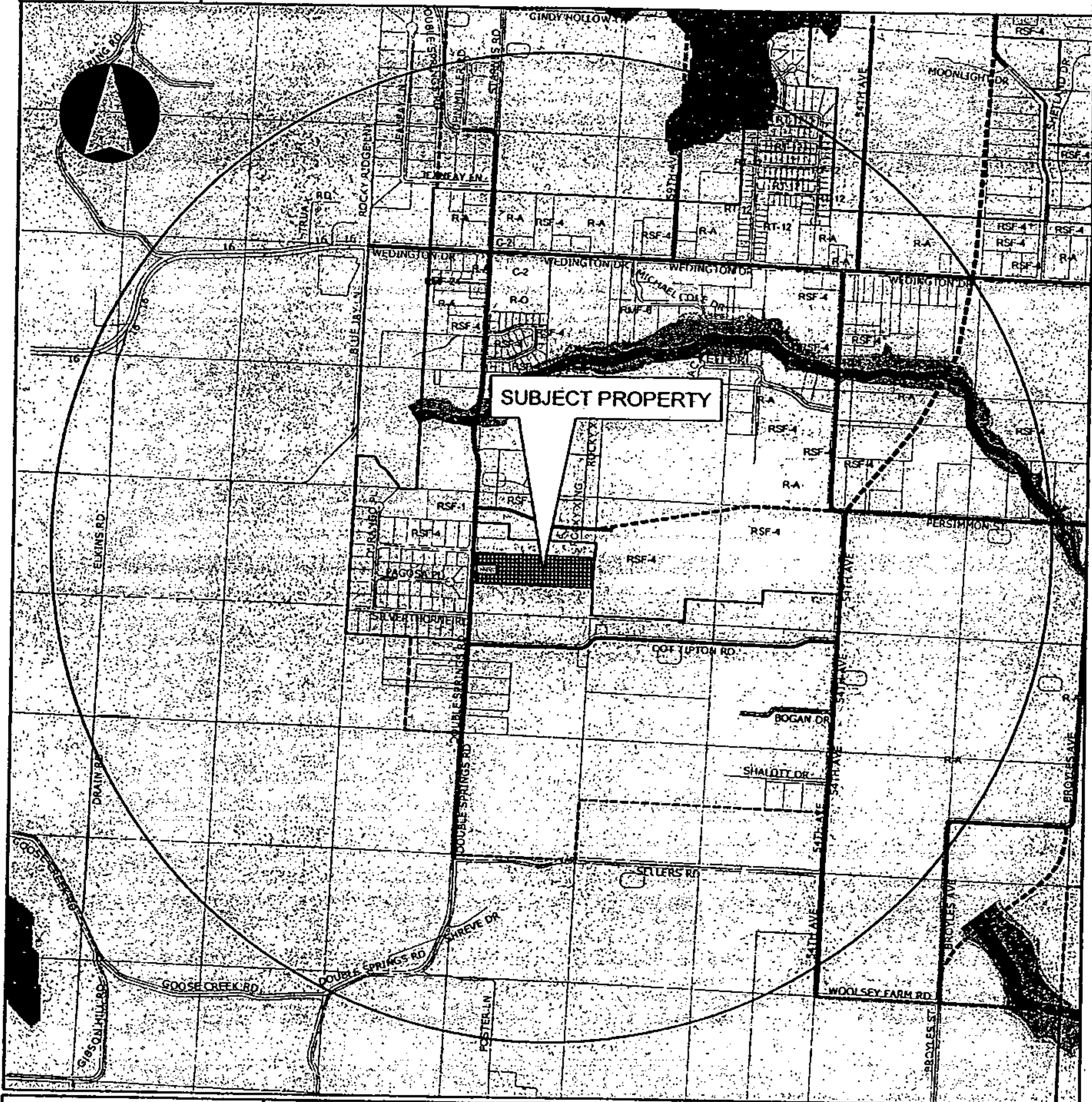
- Overlay District
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- PPL06-1773
- vector.GDB Footprint_2004
- Hillside+Hilltop Overlay District

0 125 250 500 750 1,000 Feet

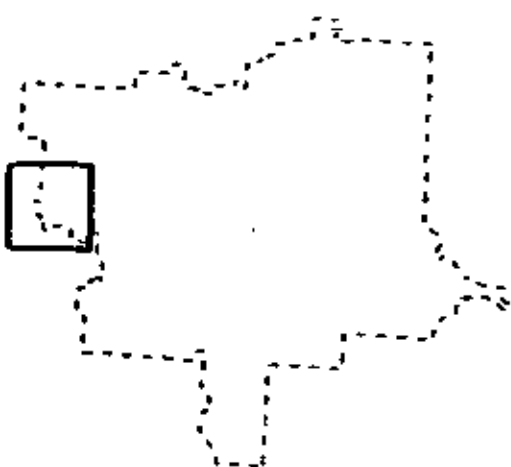
ADM 06-2282

One Mile View

EMERALD POINT



Overview



Legend

Subject Property

PPL06-1773

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 0.75 1
Miles

Hometown Development
1747 N. College Avenue
Fayetteville, AR 72703

October 12, 2006

Mrs. Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, Ark 72701

Dear Mrs. Smith

On Monday October 9, 2006, the Fayetteville Planning Commission considered R-PZD 06-2213 Planned Zoning District (SUNBRIDGE VILLAS, 290). After considerable discussion, the commission by a vote of 4-4 failed to pass the ordinance.

It is our intent to appeal this decision to the Fayetteville City Council and we are respectfully requesting that we be placed on an upcoming agenda so that our appeal may be heard. It is my understanding that the next date for such an appeal is November 7th, 2006. We understand that we will have to generate some additional material for the appeal and we will keep you in the information "loop" as we proceed.

Thank you for your assistance in this matter. If you have any questions or concerns please feel free to call me on my cell phone 422-1857 or Hugh Earnest who you perhaps already see more than you wish. His number is 841-8549.

Sincerely,



Mike McDonald
Hometown Development

RECEIVED

OCT 12 2006

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

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: October 11, 2006

Subject: Residential Planned Zoning District for Sunbridge Villas (R-PZD 06-2213)

RECOMMENDATION

The Planning Commission did not vote to forward the subject request to City Council. A motion to forward failed by a vote of 4-4-0. Planning Staff recommends in favor of the request for an ordinance to create an R-PZD for Subbridge Villas.

This action would establish a unique zoning district for a residential development on a 20.92-acre tract located at the Villa Mobile Home Park, northwest of Sunbridge Drive and Villa Boulevard.

BACKGROUND

The subject property consists of an existing trailer park on approximately 20.92 acres located northwest of Sunbridge Drive and Villa Boulevard. The site is zoned RMF-24 and developed with 141 mobile home lots available for use, with a total density of 6.7 units per acre. The applicant requests rezoning and preliminary plat approval for a residential development in an R-PZD zoning district. The project proposes to relocate or remove the existing mobile homes and utilize the existing streets and infrastructure to develop 169 dwellings units and a community greenspace area. This property is planned to be subdivided into 142 lots and the common parcels would be under a common ownership maintained by a property owner's association, along with the private streets and sidewalks. Zoning criteria identifying permitted and conditional uses, building setbacks, bulk and area requirements and architectural guidelines are included within the project booklet provided by the applicant.

DISCUSSION

On October 9, 2006, the Planning Commission voted 4-4-0 to forward this request to the City Council with commissioners Ostner, Harris, Clark, and Anthes voting 'No'. The motion failed and the applicant has appealed this request to City Council. The main issues of Planning Commission concern centered on the architectural renderings not providing enough detail, and a lack of variety of the building elevations proposed for the residential structures.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2213, SUNBRIDGE VILLAS, LOCATED NORTHWEST OF SUNBRIDGE DRIVE AND VILLA BLVD., VILLA MOBILE HOME PARK, CONTAINING APPROXIMATELY 20.92 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RMF-24, Residential Multi-Family, 24 units per acre, to R-PZD 06-2213 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council indicated in Exhibit "C" attached hereto and made a part hereof.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4. That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 06-2213

A PART OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND A PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT A BEND POINT IN THE NORTH LINE OF LOT 6 IN SUNBRIDGE CENTER, AS SHOWN ON THE FINAL PLAT THEREOF RECORDED IN PLAT BOOK 13 AT PAGE 60; THENCE N07°02'19"E 746.76 FEET TO THE SOUTHWEST CORNER OF LOT 12, BLOCK 6 IN VILLA NORTH, AS SHOWN ON THE AMENDED FINAL PLAT THEREOF RECORDED IN PLAT BOOK 7 AT PAGE 105; THENCE ALONG THE SOUTH LINE OF SAID VILLA NORTH THE FOLLOWING TWO COURSES: S76°52'48"E 291.02 FEET TO A FOUND CONCRETE POST; THENCE S86°02'51"E 1028.04 FEET TO THE SOUTHEAST CORNER OF LOT 1, BLOCK 1 IN SAID VILLA NORTH; THENCE DEPARTING SAID SOUTH LINE S07°03'49"W 674.34 FEET; THENCE N87°12'42"W 861.97 FEET TO A FOUND IRON PIN; THENCE N87°06'22"W 457.23 FEET TO THE POINT OF BEGINNING, CONTAINING 20.92 ACRES, MORE OR LESS, BEING SUBJECT TO THE RIGHT-OF-WAYS OF VALENCIA AVENUE, ARROYO AVENUE, MIRANDA AVENUE, SIERRA AVENUE, BARCELONA AVENUE, VILLA BOULEVARD, MADRID STREET AND GRANADA STREET, AND ALSO SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

SUNBRIDGE VILLAS

The map displays a residential neighborhood with a grid of streets. A large, dark-shaded area is highlighted and labeled 'SUBJECT PROPERTY' with a callout box. This area is zoned 'RMF-24'. Surrounding streets include Drake St, Augusta Dr, Forsythia Dr, Village Lake Dr, Sunbridge Dr, College Ave, and Sunbridge Dr. Other zoning codes visible on the map include 'RMF-24', 'C-2', 'C-1', 'C-3', 'RMF-60', and 'RMF-40'. A north arrow is located in the top left corner.

EXHIBIT "C"
R-PZD 06-2213

Page 1 of 5

Conditions of Approval

1. Planning Commission determination of street improvements. Staff recommends an asphalt overlay on all streets within the project. The overlay shall create, at minimum, a 25' wide street width back of curb to back of curb. Engineering staff shall determine at the time of construction, the amount of improvement necessary (milling, depth of overlay, etc.). Street lights shall be installed every 300' along the private streets and at all intersections. In addition, existing sidewalks shown on the plat shall be repaired or reconstructed to meet City standard and shall be maintained by this development.
2. Planning Commission determination of a waiver of Chapter 166.06 to allow for more than 80 dwelling units on a private loop street. Staff finds in favor of this request, given that surrounding properties are fully developed and the existing neighborhood and street grid layout is being maintained for private two points of ingress and egress.
3. All streets and sidewalks shall be in an access easement. Private streets, sidewalks and detention ponds shall be the responsibility of the property owner or property owner's association to maintain according to city standards. Covenants shall provide that in the event the private streets and sidewalks are not maintained as required, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. Said covenants regarding maintenance of private streets shall not be amended and shall not terminate without approval of the City Council (§166.06 (K.10.b.vii)). Appropriate language shall be included on the final plat and approved by the Transportation and Engineering Divisions for such easement.
4. Curb cuts shall be limited to a maximum width of 16' measured at the back of the sidewalk or right-of-way where applicable, or at the back of the access easement where sidewalk is not present. Typical on-street parking shall be permitted on private streets, as long as no driveways are blocked.
5. Driveways shall meet the City's standard driveway requirements with 10' between drives, and a minimum of 5' between the drive and the side property line. Staff recommends

EXHIBIT "C"
R-PZD 06-2213
Page 2 of 5

utilizing shared driveways where possible. If lots share a driveway, a maximum 24-foot driveway shall be permitted.

6. Drainage improvements are required within the development to meet the current requirements of the City of Fayetteville Drainage Criteria Manual. The proposed storm sewer improvements will need to safely convey the 100-year storm flow through the site. Minimum finish floor elevations will need to be established for each lot adjacent to open channel or swales, and provided at the time of final plat.
7. Plat and booklet revisions to be completed:
 - a. Sheet 3.1. Side and rear elevations for the duplex and single family residences shall be submitted for review.
 - b. Sheet 5.0. Change the title to "Preliminary Plat".
 - c. Street lights shall be installed every 300' along the private streets and at all intersections. Include the location of new street lights on the plat.
 - d. Clearly indicate on the plat where the building setbacks are measured from, with dimensions. In addition, add notes to the setback chart for all of the zoning criteria clearly explaining where the building setbacks will be measured from. For the purpose of this development, the front building setbacks shall be measured from the edge of the access easement.
 - e. Specify the maximum amount of square feet (intensity) for the existing/proposed clubhouse in the zoning criteria for PA-4.
 - f. If the balconies/decks are not proposed to be installed on the rear of the four-plexes as shown in the submitted photos, the architectural design standards in the zoning criteria should add a statement indicating as such.
8. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
9. Project Phasing: This development shall be built in one phase, with all permits for construction required to be issued within one year of City Council approval. A final plat shall be required in order to record the proposed lots and issue building permits.
10. Buildings shall be constructed to be consistent with the photos and concepts depicted in the

EXHIBIT "C"
R-PZD 06-2213
Page 3 of 5

booklet as specified. Building permits will be based upon the submitted photos and elevations.

11. Park fees credit has been given in the amount of \$135,360 for 141 existing mobile home lots. Parks fees for 133 single family and 36 multi-family homes totaling a net of \$16,800 after credit is given shall be paid prior to recordation of the final plat.
12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential single-family development.
13. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Tree Preservation Conditions:

14. Tree protection fencing will be extensive for this project. Please coordinate the installation with the Urban Forester.
15. By ordinance, tree canopy found within the building footprint must be counted as removed. There are several large canopied trees on this site that will not actually have to be removed entirely but possible just pruned for height allowance. Staff recommends working with the Urban Forester throughout the entire project to fence and preserve some of the larger trees that could remain.
16. Mitigation will be required on this site in the amount of 294 (2) inch caliper large species tree. The applicant has requested and been approved for on-site mitigation. A variety of quality tree species have been proposed to be planted back on the site which will ultimately better the city's urban forest as a whole.
17. A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$73,500 shall be deposited with the City before the last certificate of occupancy.

EXHIBIT "C"
R-PZD 06-2213
Page 4 of 5

Standard Conditions:

18. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
19. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.
20. 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.
21. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
22. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
23. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete

EXHIBIT "C"
R-PZD 06-2213
Page 5 of 5

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.

24. The only non-residential structure on the site is the proposed clubhouse. This structure shall comply with commercial design standards and shall be appropriately designed to provide compatibility with the proposed residential structures, in terms of materials, etc. The building elevations for the clubhouse are not being approved as part of this PZD.

25. A private street stub-out shall be provided to the west in the vicinity of Lot 55.

The Planning Commission recommended these two amendments (No. 24 and 25), but the overall motion for approval of the PZD failed. If the City Council recommends then they will be indicated; if not, they will be removed.

Hometown Development

**1747 N. College Avenue
Fayetteville, AR 72703**

October 12, 2006

Mrs. Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, Ark 72701

Dear Mrs. Smith

On Monday October 9, 2006, the Fayetteville Planning Commission considered R-PZD 06-2213 Planned Zoning District (SUNBRIDGE VILLAS, 290). After considerable discussion, the commission by a vote of 4-4 failed to pass the ordinance.

It is our intent to appeal this decision to the Fayetteville City Council and we are respectfully requesting that we be placed on an upcoming agenda so that our appeal may be heard. It is my understanding that the next date for such an appeal is November 7th, 2006. We understand that we will have to generate some additional material for the appeal and we will keep you in the information "loop" as we proceed.

Thank you for your assistance in this matter. If you have any questions or concerns please feel free to call me on my cell phone 422-1857 or Hugh Earnest who you perhaps already see more than you wish. His number is 841-8549.

Sincerely,



Mike McDonald
Hometown Development

RECEIVED

OCT 12 2006

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



Planning Commission Meeting
October 9, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: October 3, 2006 Updated October 19, 2006

R-PZD 06-2213: Planned Zoning District (SUNBRIDGE VILLAS, 290): Submitted by PROJECT DESIGN CONSULTANTS, INC. for property located at NW OF SUNBRIDGE DRIVE AND VILLA BLVD., VILLA MOBILE HOME PARK. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 20.92 acres. The request is for rezoning and preliminary plat approval for 142 lots containing 129 detached and 40 attached residential dwellings.

Property Owner: Windstar Investments, LLC
Planner: Andrew Garner

Findings:

Property Description: The subject property consists of an existing trailer park on approximately 20.92 acres located northwest of Sunbridge Drive and Villa Boulevard. The site is zoned RMF-24 and developed with 141 mobile home lots available for use, with a total density of 6.7 units per acre. The surrounding zoning and land use is presented in *Table 1*.

Table 1
Surrounding Land Use/Zoning

Direction from Site	Land Use	Zoning
North	Two-family residential	RMF-24
South	Office/commercial	C-1, Neighborhood Commercial; R-O, Residential Office
East	Mixed commercial	C-2, Thoroughfare Commercial
West	Multi-family	RMF-24

Proposal: The applicant requests rezoning and preliminary plat approval for a residential development in an R-PZD zoning district. The project proposes to relocate or remove the existing mobile homes and utilize the existing streets and infrastructure to develop 169 dwellings units and a community greenspace area as listed in *Table 2*. This property is planned to be subdivided into 142 lots and the common parcels would be under a common ownership maintained by a property owner's association (POA), along with the private streets and sidewalks.

Table 2
Sunbridge Villas R-PZD 06-2213
Project by Planning Area

Planning Area		Dwellings	Number of Structures	Type of Structure	Acreage	Density
Number	Name					
1	Single Family	129	129	Single-family detached	16.63	7.76
2	Two-Family	4	2	Duplex	0.88	4.55
3	Multi-Family	36	9	Quad-plex	2.64	13.64
4	Green Space	0	1	Clubhouse	0.77	0.00
TOTAL	NA	169	141	Varied	20.92	8.08

Access and Parking: Access is provided off of Villa Boulevard traversing the eastern portion of the property and connecting Sunbridge Drive and Drake Street to the south and north, respectively. Barcelona Avenue, Sierra Avenue, Granada Street, Valencia Avenue, Arroyo Avenue, and Madrid Street are internal streets in the existing mobile home park that would be retained in their current grid pattern. Four-foot sidewalks as depicted on the submitted plats would be provided on at least one side of all streets. The streets and sidewalks would be private streets maintained by the property owner or POA, with the exception of Villa Boulevard.

Connectivity: This property is developed for a mobile home park and is surrounded on all four sides by existing development. Providing additional street connections from those existing is not feasible.

Street Improvements/Right-of-Way Dedication: Staff recommends overlaying the existing street system throughout the property with a new asphalt layer, with the details and specifications to be determined by Engineering staff at the time of construction. Right-of-way dedication is not necessary. The amount of traffic generated by 169 dwelling units could be substantial; however, there are 141 existing mobile homes on the property generating a substantial amount of traffic currently, without noticeable deficiencies in traffic movement. The proposed increase of 28 dwelling units is not substantial, given the already improved public streets in the area.

Proposed Zoning Criteria: The proposed zoning criteria and site plan allows for a density of 8.08 units per acre over the entire site and a 15' building setback off of the private streets. The zoning criteria are provided in duplicate in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Phasing: The applicant proposes to construct this development in one phase with permits for infrastructure construction being obtained within one year of approval.

Water & Sewer: Water and sewer lines are available to serve the development.

Adjacent Master Street Plan Streets: Villa Boulevard (Local Street)

Parks: On August 7, 2006 the Park and Recreation Advisory Board recommended accepting

money in lieu of land to satisfy the park land dedication ordinance. Park fees credit has been given in the amount of \$135,360 for 141 existing mobile home lots. Parks fees for 133 single family and 36 multi-family homes totaling a net of \$16,800 after credit is given shall be paid prior to recordation of the final plat.

Tree Preservation:	Existing Canopy:	18.21%
	Preserved Canopy:	6.79%
	Required Canopy:	20.0%
	Mitigation:	Required; 294 two-inch caliper trees

Public Comment: Staff has received a few phone calls from interested neighbors, but has not received any objections to the project.

Subdivision Committee Update: The September 28, 2006 Subdivision Committee meeting discussion centered on concerns with dumpsters for the quad-plexes being located in the front yard adjacent to the streets. The Subdivision Committee also asked if recycling could be provided to the quad-plexes with dumpsters. Planning Staff discussed this project with the Solid Waste Division who confirmed that dumpsters are required for quad-plexes. The Solid Waste Division discussed that they are open to discussing how recycling service could be provided to these multi-family units, although it is not typically allowed in a multi-family setting.

Recommendation: Staff recommends forwarding R-PZD 06-2213 to City Council with a recommendation for approval with the following conditions to be addressed:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends an asphalt overlay on all streets within the project. The overlay shall create, at minimum, a 25' wide street width back of curb to back of curb. Engineering staff shall determine at the time of construction, the amount of improvement necessary (milling, depth of overlay, etc.). Street lights shall be installed every 300' along the private streets and at all intersections. In addition, existing sidewalks shown on the plat shall be repaired or reconstructed to meet City standard and shall be maintained by this development.*
2. Planning Commission determination of a waiver of Chapter 166.06 to allow for more than 80 dwelling units on a private loop street. *Staff finds in favor of this request, given that surrounding properties are fully developed and the existing neighborhood and street grid layout is being maintained for private two points of ingress and egress.*
3. All streets and sidewalks shall be in an access easement. *Private streets, sidewalks and detention ponds shall be the responsibility of the property owner or property owner's association to maintain according to city standards. Covenants shall provide that in the event the private streets and sidewalks are not maintained as required, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within*

the PZD for such cost. The covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. Said covenants regarding maintenance of private streets shall not be amended and shall not terminate without approval of the City Council (§166.06 (K.10.b.vii). Appropriate language shall be included on the final plat and approved by the Transportation and Engineering Divisions for such easement.

4. Curb cuts shall be limited to a maximum width of 16' measured at the back of the sidewalk or right-of-way where applicable, or at the back of the access easement where sidewalk is not present. Typical on-street parking shall be permitted on private streets, as long as no driveways are blocked.
5. Driveways shall meet the City's standard driveway requirements with 10' between drives, and a minimum of 5' between the drive and the side property line. *Staff recommends utilizing shared driveways where possible. If lots share a driveway, a maximum 24-foot driveway shall be permitted.*
6. ~~For these lots adjacent to a sidewalk, setbacks shall be 11' instead of 15', to incorporate the 4' sidewalk into the access easement. Revise the zoning criteria on the plats and booklets accordingly.~~

THE APPLICANT ADDRESSED THIS CONDITION WITH THE PLATS AND BOOKLETS SUBMITTED FOR CITY COUNCIL.

7. Drainage improvements are required within the development to meet the current requirements of the City of Fayetteville Drainage Criteria Manual. The proposed storm sewer improvements will need to safely convey the 100-year storm flow through the site. Minimum finish floor elevations will need to be established for each lot adjacent to open channel or swales, and provided at the time of final plat.
8. Plat and booklet revisions to be completed prior to City Council:
 - a. Sheet 3.1. *Side and rear elevations for the duplex and single family residences shall be submitted for review prior to City Council.*
 - b. Sheet 5.0. Change the title to "Preliminary Plat".
 - c. Street lights shall be installed every 300' along the private streets and at all intersections. Include the location of new street lights on the plat.
 - d. Clearly indicate on the plat where the building setbacks are measured from, with dimensions. In addition, add notes to the setback chart for all of the zoning criteria clearly explaining where the building setbacks will be measured from. For the purpose of this development, the front building setbacks shall be measured from the edge of the access easement. ~~This may reduce the front building setbacks from 15' to approximately 11' for those buildings located adjacent to an existing sidewalk. Please verify, and change the zoning criteria as needed to update this change.~~

THE APPLICANT ADDRESSED THIS CONDITION PARTIALLY WITH THE PLATS AND

BOOKLETS SUBMITTED FOR CITY COUNCIL, ALTHOUGH A NOTE STILL NEEDS TO BE ADDED INDICATING WHERE THE BUILDING SETBACKS WILL BE MEASURED FROM.

- e. Specify the maximum amount of square feet (intensity) for the existing/proposed clubhouse in the zoning criteria for PA-4.
- f. If the balconies/decks are not proposed to be installed on the rear of the four-plexes as shown in the submitted photos, the architectural design standards in the zoning criteria should add a statement indicating as such.
- g. ~~Booklet page 6 for PA 4. Item C. Change 'Density' to 'Intensity'.~~

THE APPLICANT ADDRESSED THIS CONDITION WITH THE PLATS AND BOOKLETS SUBMITTED FOR CITY COUNCIL.

- h. ~~Booklet. Page 2, Item 2. Site Plan. Add statements describing that the existing one parcel would be subdivided into 142 lots, providing 129 single family detached, two duplexes, nine quad plexes, and a common greenspace area. There is currently one legal lot of record, APN 765-16000-000.~~

THE APPLICANT ADDRESSED THIS CONDITION WITH THE PLATS AND BOOKLETS SUBMITTED FOR CITY COUNCIL.

- 9. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
- 10. Project Phasing: This development shall be built in one phase, with all permits for construction required to be issued within one year of City Council approval. A final plat shall be required in order to record the proposed lots and issue building permits.
- 11. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted photos and elevations.
- 12. Park fees credit has been given in the amount of \$135,360 for 141 existing mobile home lots. Parks fees for 133 single family and 36 multi-family homes totaling a net of \$16,800 after credit is given shall be paid prior to recordation of the final plat.
- 13. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential single-family development.
- 14. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Tree Preservation Conditions:

15. Tree protection fencing will be extensive for this project. Please coordinate the installation with the Urban Forester.
16. By ordinance, tree canopy found within the building footprint must be counted as removed. There are several large canopied trees on this site that will not actually have to be removed entirely but possible just pruned for height allowance. Staff recommends working with the Urban Forester throughout the entire project to fence and preserve some of the larger trees that could remain.
17. Mitigation will be required on this site in the amount of 294 (2) inch caliper large species tree. The applicant has requested and been approved for on-site mitigation. A variety of quality tree species have been proposed to be planted back on the site which will ultimately better the city's urban forest as a whole.
18. A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$73,500 shall be deposited with the City before the last certificate of occupancy.

Standard Conditions:

19. 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).
20. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit.
21. 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.
22. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
23. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
24. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.

- b. Separate easement plat for this project that shall include the tree preservation area.
- c. Project Disk with all final revisions
- d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

25. The only non-residential structure on the site is the proposed clubhouse within the Commons. This structure shall comply with commercial design standards and shall be appropriately designed to provide compatibility with the proposed residential structures, in terms of materials, etc. The building elevations for the clubhouse are not being approved as part of this PZD.

PLANNING COMMISSION ADDED THIS CONDITION (10/09/06).

26. A private street stub-out shall be provided to the west in the vicinity of Lot 55.

PLANNING COMMISSION ADDED THIS CONDITION (10/09/06).

Planning Commission Action:	Approval	<u>X</u> Denied	Forwarded to C.C.
Motion:	<u>Graves (motion to approve)</u>		
Second:	<u>Trumbo</u>		
Vote:	<u>4-4-0 (Ostner, Harris, Clark, and Anthes voting "No".)</u>		
Meeting Date:	<u>October 9, 2006</u>		
Comments:	<u>Main issues of Planning Commission concern centered on the architectural renderings not providing enough detail, and a lack of variety of the building elevations proposed for the residential structures.</u>		

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

Findings associated with MDP R-PZD 06-2213 (Sunbridge Villas)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Interim Future Land Use Plan Map adopted as part of City Plan 2025 designates this site Residential. The Sector Map also adopted as part of City Plan 2025 designate this area as an Infill Growth Sector. Rezoning this property to R-PZD 06-2213 with single and multi-family dwelling units is consistent with the land use plan for residential uses, and is compatible with surrounding residential land uses and density within surrounding residential property to the north, and west, and commercial/office to the south and east. Further, the density of the residential development proposed is consistent with this property's location within the Infill Growth Sector.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow 129 single-family, 4 two-family, and 36 multi-family residential dwellings. The proposed zoning criteria and residential development provides an appropriate transition between the commercial zoning and development to the south and east, the surrounding two-family residential development to the north, and the multi-family to the west. The overall density on the property would be 8.08 units per acre and would be compatible with

the existing RMF-24 zoning to the north and west, and the existing two-family and multi-family development in the vicinity. The site layout utilizes the existing grid street pattern for the mobile home park accessing Villa Street at two points and providing access to the residential structures and club house, and a 4' sidewalk would be provided on at least one side of each street. Common area on the site is provided in 0.6 acres in an existing clubhouse lot that would be utilized for a clubhouse and potentially a community pool. The site layout would remain the same as with the existing mobile home park, and is compatible with the existing surrounding land uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is developed for 141 mobile homes and a clubhouse. This project makes use of the existing streets and infrastructure and is suitable for the intended redevelopment of the property. The project would be able to preserve some of the existing tree canopy and would be required to mitigate for impacted tree canopy. The development is compatible with the natural environment.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The amount of traffic generated by 169 dwelling units could be substantial; however, there are 141 existing mobile homes on the property generating a substantial amount of traffic currently, without noticeable deficiencies in traffic movement. The proposed increase of 28 dwelling units is not substantial, given the already improved public streets in the area.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall

determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Sunbridge Villas PZD provides for an adequate transition and infill between the existing two-family residences to the north, the multi-family residences to the west, and the commercial and office uses to the south and east. The architectural standards for the proposed structures are a higher standard than the existing mobile homes on the property. A PZD in this situation allows for an increased density over the property while providing a mixed single- and multi- family residential neighborhood. The existing street system and mobile home lots will be used for 129 relatively small single-family detached units, 4 duplexes, and 36 quad-plexes. This infill development takes advantage of existing infrastructure and results in a minimal amount of environmental impacts to an already disturbed and developed site. The proposed zoning is required to allow for the non-traditional residential development proposed that would not be allowed under current residential zoning. Adequate parking has been provided, and the inclusion of preserved trees as well as mitigation trees will create a healthy urban canopy.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Surface parking areas are provided in Lot 141 where the existing clubhouse and parking area is located. A landscape plan has been supplied, and trees and shrubs along the street frontages of the parking lot are required.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic,

general attractiveness, access to dwelling units and the proper relationship of different land uses.

- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of the existing grid street system through the mobile home park accessing Villa Boulevard at two points. The dwellings primarily face the streets where possible. The existing street alignment provides adequate ingress and egress, and would be required to be overlayed with asphalt, and a 4' sidewalk provided on at least one side of all streets.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: A 17-space parking lot would be provided around the clubhouse, and all other parking would be accommodated in either garages or driveways. All parking ratios are to be met with this proposal. On-street parking is to be permitted, where possible.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

- (6) *Sidewalks.* As required by §166.03.

FINDING: As conditioned, a 4' concrete sidewalk would be provided on at least one side of all the interior streets in this development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public and private streets at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water lines are provided in accordance with city codes.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are provided in accordance with city codes.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad

valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant shall comply with the above criteria, as this development would retain Villa Boulevard as a public street, and all other existing streets would be private. Private streets are proposed to be 25 feet in width, and Villa Boulevard, a public street, is 28 feet in width, in a 50' right-of-way with 4' sidewalk on either side. The applicant requests a waiver of Section 10.(IV), requiring a maximum of 80 units on a loop street. Staff is supportive of this request, finding two separate points of egress/ingress are available and that the existing neighborhood's infrastructure is being utilized, for the property is surrounded by developed properties.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the

nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: This development would retain 6.64% of the existing 27.86% tree canopy over the property. This property is required to retain 20% tree canopy. The applicant would provide for on-site mitigation trees in compliance with ordinance, and to provide an increased overall canopy on the site, providing for an urban canopy.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The only non-residential structure on the site is the proposed clubhouse within the Commons. This structure shall comply with commercial design standards and shall be appropriately designed to provide compatibility with the proposed residential structures, in terms of materials, etc.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed is not uncommon for the area.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) *Purpose.* The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development

of the area;

- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of the City Plan 2025, as well as some of the above ten criteria. Residential infill in this urban area is accomplished at a moderate density of 8.08 units per acre, transition and compatibility of land uses is provided by converting the existing mobile home park into a mixed single- and multi- family development by changing the existing zoning from RMF-24 into a customized residential zoning. Reduced building setbacks and private streets allowed by this customized PZD zoning allow the existing infrastructure and street layout for the mobile home park to be converted into single- and multi- family dwellings that can be owner-occupied, thus providing the potential for home ownership within the City. The following guiding policies within Residential Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Areas:

12.1.4.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods. (Goal 3)

12.1.4.c Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness. (Goal 4)

12.1.4.d Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances.

12.1.4.e Utilize more intense development patterns within the infill sector and encourage mixed uses in new developments to promote better community design, maintain human scale,

and enhance pedestrian activity. (Goal 1)

12.1.4.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services. (Goals 1g and 3)

12.1.4.g Encourage residential dwellings in appropriate specified Mixed Use Areas. (Goals 1 and 3)

12.1.4.h Encourage a development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas. (Goal 3a)

12.1.4.i Utilize the Master Street Plan and incorporate bike lanes, parkways and landscaped medians to preserve the character of the City and enhance the utilization of alternative modes of transportation. (Goal 4)

12.1.4.j Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc. (Goal 3a)

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166; Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council, an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.
- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: All uses are proposed as residential, with the exception of those areas identified for conditional use permits and the clubhouse.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's General Plan;

- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is two-family to the north, multi-family to the west, and a mix of commercial and office uses to the south and east. The proposed residential density of 8.08 units per acre would be compatible with the surrounding development, and is a downzoning from the existing RMF-24 zoning. The proposed density would increase the number of dwellings units from 141 to 169 on the property, and is consistent with City land use goals and policies indicating residential infill on the site. The impacts of the proposed density would be negligible to surrounding properties, and is consistent with the character and topography, and layout of the site. Requirements under the current zoning (RMF-24) would not allow for the proposed layout and redevelopment utilizing the existing streets and infrastructure. Infrastructure in the area is adequate to support the proposed development.

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

FINDING: Lot area minimums and setbacks are different than a standard residential zoning to allow the structures to be closer to the street and the side and rear lot lines. The lot area and setbacks provide for a small footprint type of single family unit mixed with quad-plexes and duplexes.

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

FINDING: Building heights proposed for this project are typical of single and multi-family development in the surrounding area.

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

FINDING: The building area coverage on this project would minimize lot coverage to between 50-65%, while the existing RMF-24 zoning on the site and surrounding residential

properties does not limit building area.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: The Interim Future Land Use Plan Map adopted as part of City Plan 2025 designates this site Residential. The Sector Map also adopted as part of City Plan 2025 designate this area as an Infill Growth Sector. Rezoning this property to R-PZD 06-2213 with single- and multi- family dwelling units is consistent with the land use plan for residential use, and compatible with surrounding residential land uses and density within surrounding residential property to the north and west, and commercial and office development to the south and east. Further, the density of the residential development proposed is consistent with this property's location within in Infill Growth Sector.

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

Finding: At this time the property is zoned RMF-24, which allows for single- and multi-family residential use. The redevelopment of this existing mobile home park into a mixed residential neighborhood requires a customized R-PZD zoning district. The property is identified as an Infill Growth Sector. The existing street layout and public infrastructure make rezoning of this property to the proposed R-PZD advisable.

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

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion.

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

Finding: Staff finds that in evaluating this proposal, the population density would be slightly increased from that which currently exists. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact, with the improvements as recommended by staff for this project.

Engineering: Public water and sewer are located throughout the site.

The site has access to Villa Boulevard which is an improved two-lane paved roadway at this property. Staff recommends an asphalt overlay be provided over the existing roadways throughout the property, and that 4' concrete sidewalk be provided on at least one side of all streets.

Drainage improvements are required within the development to meet the current requirements of the City of Fayetteville Drainage Criteria Manual. The proposed storm sewer improvements will need to safely convey the 100-year storm flow through the site. Minimum finish floor elevations will need to be established for each lot adjacent to open channel or swales.

***Police:* It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services.**

***Fire:* The subject property is located approximately 2.2 miles from the Engine #4 and Ladder #4 at the fire station at 3385 North Plainview, with an expected response time of approximately 6 minutes. No adverse impacts on call volume or response time are anticipated.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Fayetteville Planning Commission

From: Andrew Garner, Senior Planner

Date: October 3, 2006

ITEM #: LSD 06-2213 (Sunbridge Villas)

Applicable Requirements:

X	Off Street Parking
X	Commercial Design Standards
X	Buffers and Screening
	IL-540 Design Overlay

Plan Checklist:

Y = submitted by applicant

N = requested by city

NA = not applicable

Preliminary Submittal	Final Submittal	
		Off-Street Parking and Loading
Y		wheel stops / curbs
Y		irrigation
Y		edged landscape beds indicated
Y		species of plant material identified
Y		size of plant material at time of installation indicated
Y		interior landscaping
		narrow tree lawn (8' min. width, 17' min. length / 1 tree per 15 spaces)
		tree island (10' min. width / 1 tree per 12 spaces)
Y		perimeter landscaping
		side and rear property lines (5' landscaped)
		adjacent to street R.O.W (15' greenspace exclusive for landscaping / 1 street tree every 30 L.F., a continuous planting of shrubs and ground cover - 50% evergreen)

Planning Commission Meeting October 9, 2006

Y		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)
NA		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
		Overlay 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 06-2190 with the following conditions.

Conditions of Approval:

1. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.



CC Meeting of November 7, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville City Council

From: Sarah K. Patterson, Urban Forester

Date: October 16, 2006

ITEM # RPZD 06-2213: Residential Planned Zoning District (Sunbridge Villas)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	20.92
square feet	911,275
Existing Tree Canopy	
acres	3.82
square feet	166,375
percent of site area	18.21 %
Existing Tree Canopy Preserved	
acres	1.42
square feet	61,922
percent of total site area	6.79 %
Percent Minimum Canopy Required	18.21%

FINDINGS:

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

- **This site is currently a mobile home park. The intent of this project is to utilize existing streets and utilities to redevelop the area into a**

single and multi family neighborhood. The area has been inventoried by a certified arborist who found most trees to be in poor to fair shape. There are several species with many being invasive and/or less desirable.

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

- **Environmental degradation should be very minimal on this site because it is redeveloping in a similar fashion.**

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.

- **Utility easements are required along all the property lines of this project. This type of design does not allow for preservation of canopy along property lines. Adjacent property could be affected.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **Size and shape of the lot does not reduce flexibility of design however trying to use the existing streets does.**

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 the trees is anywhere from poor to fair with a few ranking as good.**

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

- **Many of the trees shown as removed are as such by City requirements for building foot print size. There is a possibility that with care during construction, additional trees will be saved interior to the lots around the structures. Many utility easements have been requested for this leaving the site little area for preservation.**

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

- **Many trees are found within utility easements. Several existing lines required additional easements around them. The trees have been shown as removed but will potential stay unless the lines require repair or upgrading.**

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

- **The existing roads and drives have been utilized for the design of this**

project.

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 this site to replace poor canopy on the site. Mitigation of superior species trees will ultimately benefit this site and the urban forest as a whole.**

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 Tree Preservation Plan associated with RPZD 06-2213 with the following conditions of approval.**

Conditions of Approval:

- 1. Tree protection fencing will be extensive for this project. Please coordinate the installation with the Urban Forester.**
- 2. By ordinance, tree canopy found within the building footprint must be counted as removed. There are several large canopied trees on this site that will not actually have to be removed entirely but possible just pruned for height allowance. Staff recommends working with the Urban Forester throughout the entire project to fence and preserve some of the larger trees that could remain.**
- 3. Mitigation will be required on this site in the amount of 294 (2) inch caliper large species tree. The applicant has requested and been approved for on-site mitigation. A variety of quality tree species have been proposed to be planted back on the site which will ultimately better the city's urban forest as a whole.**
- 4. A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$73,500 shall be deposited with the City before the last certificate of occupancy.**

Project Design Consultants
Sunbridge Job #2006023 Tree Inventory

<u>Tree #</u>	<u>Species</u>	<u>Size</u>	<u>Condition</u>	<u>Comments</u>
1	Silver Maple	15 TRPL	Poor	
2	Silver Maple	29	Poor	
3	Silver Maple	24	Poor	Hollow trunk
4	Silver Maple	16 TRPL	Poor	
5	Silver Maple	13 Multi	Fair	Corrective prune, deadwood
6	Silver Maple	10 DBL	Poor	
7	Silver Maple	11 TRPL	Poor	
8	Black Walnut	19	Good	Deadwood
9	Black Walnut	9	Fair	Corrective prune
10	Black Walnut	11	Good	
11	Black Walnut	9	Good	Corrective prune
11	Black Walnut	10	Fair	Corrective prune
12	Black Walnut	10	Poor	
13	Chinese Elm	14	Fair	Deadwood
14	American Elm	21	Poor	
15	American Elm	11	Dead	
16	Black Walnut	11	Poor	
17	Black Walnut	9	Good	Remove vine
18	American Elm	26	Fair	Remove concrete, deadwood, corrective
19	American Elm	19	Fair	Remove concrete, deadwood, corrective
20	Black Walnut	11	Poor	Bent trunk
21	Black Walnut	9	Poor	Bent trunk
22	American Elm	13	Poor	Bent trunk
23	American Elm	21	Poor	Decay
24	American Elm	11	Poor	Trunk in fence
25	Chinese Elm	18	Fair	Deadwood
26	Chinese Elm	13 DBL	Poor	In fence
27	American Elm	14	Poor	Lean
28	Black Walnut	12	Fair	Deadwood
29	Black Walnut	13	Poor	
30	American Elm	11	Poor	Lean
32	Hackberry	11	Poor	In fence
33	Black Walnut	10	Fair	Deadwood
34	Black Walnut	12	Good	Deadwood
35	Osage Orange	11 Multi	Fair	Deadwood, remove fence
37	American Elm	11	Poor	
38	Black Walnut	9	Fair	
39	Black Walnut	14	Fair	Deadwood
40	Black Walnut	11	Fair	Corrective prune
41	American Elm	24 DBL	Poor	
42	Sycamore	9 DBL	Fair	Remove west trunk
43	Black Walnut	10	Fair	Deadwood
44	Black Walnut	10	Fair	Corrective prune
45	Black Walnut	12	Good	Corrective prune
46	Chinese Elm	8 Multi	Poor	
47	Black Walnut	12	Fair	Corrective prune
48	Silver Maple	10 TRPL	Fair	Corrective prune
49	American Elm	18 TRPL	Poor	

50 American Elm	11 TRPL	Poor	
51 American Elm	10	Poor	Lean
52 Black Walnut	12	Good	Deadwood
53 Black Walnut	10	Good	Deadwood
54 Chinese Elm	10	Fair	Deadwood
55 Black Walnut	10	Fair	Corrective prune
56 American Elm	10	Poor	Damaged trunk
57 American Elm	10	Fair	
58 American Elm	18	Poor	Damaged trunk
59 Chinese Elm	12	Poor	Bent trunk
60 Black Walnut	8 DBL	Fair	
61 Black Walnut	12	Good	Deadwood
62 American Elm	10	Poor	Lean
63 Slippery Elm	10 DBL	Fair	Deadwood, remove vine
64 Hackberry	12	Fair	
65 Black Walnut	10	Good	
66 American Elm	14	Poor	Lean
67 Hackberry	13	Poor	Broken top
68 American Elm	11	Poor	
69 American Elm	12 DBL	Poor	
70 Hackberry	11	Fair	
71 White Ash	11	Fair	
72 Red Mulberry	10	Poor	
73 Hackberry	12	Fair	
74 White Ash	11	Fair	
75 Black Locust	11	Fair	
76 Hackberry	10 DBL	Fair	Remove east trunk, corrective prune
77 Hackberry	10	Fair	
78 Hackberry	11 DBL	Poor	Bent trunk
79 Hackberry	11	Good	
80 Hackberry	10 DBL	Fair	
81 Silver Maple	26 Multi	Poor	
82 Hackberry	15	Fair	Remove vine
83 Hackberry	13 DBL	Poor	
84 Hackberry	10 DBL	Fair	
85 Hackberry	17 DBL	Poor	
86 Black Cherry	10	Fair	Remove vine
87 Hackberry	11	Fair	Remove vine
89 White Ash	16	Fair	Corrective prune, double leader
90 Eastern Red Cedar	10	Fair	Deadwood
91 American Elm	25 TRPL	Poor	Dutch Elm disease
92 Silver Maple	8 DBL	Poor	
93 Silver Maple	11 TRPL	Poor	
94 Pin Oak	23	Good	Deadwood
95 Silver Maple	15 DBL	Fair	
96 Hackberry	11	Fair	Corrective prune
98 White Ash	20 TRPL	Fair	Corrective prune, deadwood
99 White Poplar	42	Poor	
100 Sugar Maple	15	Good	Corrective prune
101 White Poplar	42	Poor	
102 Eastern Redbud	12 TRPL	Poor	
103 Loblolly Pine	13	Good	Deadwood

104 Hackberry	19	Could not see all of trunk, canopy is hea
105 American Elm	30 DBL Poor	
106 White Ash	12 Fair	Corrective prune
107 White Ash	22 Poor	
108 Sycamore	26 DBL Good	
109 Eastern Redbud	8 DBL Fair	
110 White Ash	18 TRPL Fair	Deadwood
111 White Ash	9 DBL Fair	Corrective prune
112 White Poplar	14 DBL Poor	
113 Catalpa	35 Multi Poor	
114 Catalpa	12 TRPL Poor	
115 Black Cherry	10 Fair	
116 White Ash	21 DBL Fair	
117 White Ash	12 TRPL Poor	
118 Boxelder	26 Fair	Corrective prune
119 American Elm	40 Fair	Deadwood, corrective prune
120 Sweet Gum	10 Good	
121 Loblolly Pine	14 Poor	
122 White Ash	14 Fair	Deadwood, corrective prune
123 Eastern Red Cedar	12 Fair	Metal post in trunk
124 White Ash	17 Poor	
125 Silver Maple	17 Fair	Metal post in trunk
126 White Ash	8 Fair	
127 Red Maple	8 Multi Poor	
128 White Pine	12 Good	Deadwood
129 Green Ash	26 Poor	Deadwood
130 Green Ash	23 Poor	Deadwood
131 Silver Maple	20 Good	
132 Black Cherry	10 Fair	Deadwood
133 Black Cherry	10 Fair	Deadwood
134 White Ash	11 Fair	Corrective prune
135 Sweet Gum	16 Fair	Corrective prune
136 Eastern Redbud	9 Multi Fair	Deadwood
137 Persimmon	9 Multi Fair	Deadwood
138 White Ash	10 Multi Fair	Remove south trunk, deadwood
139 Red Maple	11 TRPL Poor	
140 Slippery Elm	29 Fair	Corrective prune, deadwood
141 Sweet Gum	16 Good	Deadwood
142 Silver Maple	12 Multi Fair	Deadwood, girdling root
143 American Elm	12 DBL Fair	Deadwood
144 American Elm	10 TRPL Poor	
145 American Elm	9 DBL Poor	
146 Silver Maple	14 Multi Fair	Deadwood
147 American Elm	10 Fair	Deadwood
148 Slippery Elm	11 TRPL Fair	Deadwood, remove north trunk
149 American Elm	10 Fair	Deadwood, remove mistletoe
150 Eastern Red Cedar	8 Good	
151 Silver Maple	16 Fair	Deadwood
152 Sweet Gum	13 Fair	Girdling root
153 White Poplar	14 Poor	
154 White Poplar	13 Fair	Deadwood
155 American Elm	16 Poor	

156 Eastern Red Cedar	12 Good	
157 Eastern Redbud	9 TRPL Poor	
158 White Ash	11 Fair	Cut out fence post
159 White Ash	10 DBL Poor	
160 White Ash	14 Good	Deadwood
161 American Elm	12 TRPL Poor	
162 American Elm	10 Poor	
163 American Elm	9 Poor	
164 American Elm	17 Fair	Deadwood
165 Slippery Elm	10 Poor	
166 Silver Maple	11 Poor	
167 American Elm	13 Poor	
168 Sweet Gum	13 Fair	
169 Virginia Pine	14 Fair	Corrective prune
170 American Elm	22 Fair	Deadwood
171 Hackberry	10 Poor	Lean
172 Virginia Pine	24 Fair	Corrective prune
173 American Elm	15 Poor	
174 White Poplar	10 Fair	
175 Red Maple	16 Poor	Trunk damage
176 American Elm	16 Fair	Deadwood
177 American Elm	10 Fair	Deadwood
178 American Elm	9 Poor	
180 Green Ash	13 Poor	
181 Boxelder	8 Fair	Corrective prune
182 American Elm	12 Fair	Remove vine
184 Chinese Elm	9 Poor	
185 Red Mulberry	11 DBL Fair	
186 Siberian Elm	13 Poor	
187 American Elm	12 Fair	
188 American Elm	28 DBL Poor	
189 American Elm	17 TRPL Fair	Corrective prune
190 Silver Maple	8 Multi Fair	Deadwood
191 American Elm	11 Fair	Deadwood
192 Bradford Pear	14 DBL Fair	Corrective prune
193 American Elm	18 Good	
194 Black Walnut	10 Fair	
195 Honeylocust	10 DBL Fair	Deadwood
196 Black Walnut	12 DBL Fair	Corrective prune
197 American Elm	10 Poor	Lean
198 Osage Orange	11 Multi Fair	Deadwood
199 Black Walnut	10 Fair	Deadwood
200 American Elm	16 Fair	Deadwood
201 Black Walnut	11 Good	
203 Black Walnut	11 Good	Remove vine
204 American Elm	12 TRPL Fair	Deadwood
205 Sweet Gum	11 DBL Fair	Corrective prune
206 Eastern Redbud	13 Poor	
207 Black Cherry	14 TRPL Poor	
208 White Ash	18 DBL Fair	Deadwood
209 Black Walnut	9 Fair	
209 White Pine	17 Fair	Corrective prune, deadwood

210	American Elm	23	Poor	
211	Black Cherry	13 DBL	Poor	
212	Silver Maple	14 Multi	Poor	
213	Silver Maple	10 Multi	Poor	
214	Silver Maple	8	Fair	
215	White Ash	11 DBL	Poor	
216	Silver Maple	15	Fair	
217	White Ash	16	Poor	
218	Silver Maple	18 Multi	Fair	Corrective prune
219	Silver Maple	33	Fair	
220	Silver Maple	40 DBL	Fair	Deadwood
221	White Ash	20	Fair	Deadwood
222	Scotch Pine	18	Fair	
223	Sycamore	15	Fair	
224	White Ash	16 DBL	Poor	
225	Eastern Redbud	6 Multi	Fair	
226	White Ash	16	Fair	Deadwood
227	Silver Maple	17 Multi	Poor	
228	Sycamore	13	Fair	
229	White Ash	20	Poor	
229A	American Elm	23	Poor	Growing in 229
229B	American Elm	12	Poor	Growing in 229
230	White Poplar	13	Fair	Corrective prune, deadwood
231	White Poplar	13	Poor	
232	Silver Maple	13	Good	Corrective prune
233	White Poplar	12	Fair	Deadwood
234	White Poplar	12	Dead	
235	White Poplar	12 Multi	Poor	Almost dead
236	White Poplar	12	Fair	Deadwood
237	Silver Maple	13	Fair	Corrective prune
238	Silver Maple	12	Good	
239	Silver Maple	11 DBL	Poor	
240	White Poplar	11 DBL	Poor	
241	Silver Maple	9 Multi	Poor	
242	White Poplar	10 DBL	Fair	Deadwood
243	Silver Maple	11	Fair	
244	White Poplar	8	Fair	
245	White Poplar	11 DBL	Poor	
246	Silver Maple	8	Fair	
247	Red Maple	20	Fair	Cut chain
248	American Elm	11	Poor	
249	American Elm	14	Fair	Deadwood
250	White Ash	14 TRPL	Fair	Deadwood
251	Silver Maple	16 Multi	Fair	Corrective prune, deadwood
252	Sugar Maple	20	Fair	Corrective prune
253	White Ash	29	Fair	Deadwood
254	Silver Maple	13 DBL	Poor	
255	Eastern Red Cedar	10	Poor	
256	White Ash	13	Fair	Corrective prune, deadwood
257	White Ash	27	Fair	Deadwood
258	Silver Maple	12 Multi	Fair	Corrective prune
261	Hackberry	11	Poor	

262 White Ash	14 TRPL	Fair	Deadwood
264 White Ash	14 Multi	Fair	Deadwood
265 White Ash	11 Multi	Poor	
266 White Ash	14 TRPL	Fair	Deadwood, corrective prune
267 American Elm	19	Poor	
268 Silver Maple	12 Multi	Fair	Deadwood
269 Red Maple	11	Poor	
270 White Ash	12	Poor	
271 White Ash	11 Multi	Poor	
272 Boxelder	33	Poor	
273 Silver Maple	8 Multi	Fair	
274 Silver Maple	39	Fair	Remove mistletoe
275 Boxelder	37	Poor	
276 Virginia Pine	12	Poor	
277 White Ash	12	Poor	
278 White Ash	20	Poor	
279 White Ash	20	Fair	
280 Sweet Gum	11	Fair	Corrective prune
281 White Ash	11 Multi	Fair	Deadwood
282 Silver Maple	50	Fair	
283 White Poplar	11	Fair	Corrective prune
284 Red Maple	13	Poor	
285 Black Cherry	12 Multi	Poor	
285 Hackberry	16	Poor	
286 American Elm	27	Fair	Deadwood
288 Green Ash	12	Poor	
289 White Pine	12	Good	
290 Silver Maple	8 Multi	Fair	
291 White Ash	10 DBL	Poor	
292 American Elm	10	Poor	
293 American Elm	11	Fair	Deadwood
294 Green Ash	9	Fair	
295 American Elm	9	Poor	
296 Siberian Elm	26	Fair	Deadwood
297 Silver Maple	15	Fair	Corrective prune
298 American Elm	11	Fair	Deadwood
299 White Poplar	10	Poor	
300 American Elm	17	Poor	
301 White Ash	10	Fair	
302 White Ash	40	Fair	
303 Golden Raintree	10 DBL	Fair	
304 Silver Maple	12	Fair	Deadwood
305 Silver Maple	14 DBL	Fair	Deadwood
306 Silver Maple	12 DBL	Fair	Deadwood
307 Tulip Tree	14 DBL	Poor	Split trunk
308 Empress Tree	8	Good	
309 Black Cherry	23	Poor	Damaged trunk
310 Silver Maple	14 Multi	Poor	
311 Silver Maple	21 Multi	Fair	Deadwood
312 White Poplar	8 DBL	Poor	
313 White Poplar	7 DBL	Poor	
314 White Poplar	9	Fair	

315 Silver Maple	8 Multi	Poor	
316 Silver Maple	43	Fair	Deadwood
317 Persimmon	9	Good	
318 Persimmon	12	Fair	
319 Silver Maple	23	Poor	
320 Silver Maple	9 Multi	Poor	Fence through trunk
321 Osage Orange	8 Multi	Fair	Corrective prune, deadwood
322 American Elm	9	Poor	
323 Eastern Redbud	8 Multi	Poor	Corrective prune, deadwood
324 Black Cherry	11	Poor	

Prepared by: Natural Resource Planning
Patti Erwin
SO-1118



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

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Associate Planner
FROM: Kay Curry, Park Planner
DATE: September 27, 2006
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: September 28, 2006
Item: PR-PZD 06-2213 (Sunbridge Villas, 290)
Park District: NW
Zoned: RMF-24
Billing Name & Address:
Hometown Development, LLC 1747, College, Fayetteville, AR 72703
Windstar Investments, LLC, P.O. Box 3646, Fayetteville, AR 72702

<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family 133 @ .024 acre per unit = 3.19 acres	133 @ \$960 per unit = \$127,680
Multi Family 36 @ .017 acre per unit = .61 acres	36 @ \$680 per unit = \$24,480
Lot Split	@ \$960 per unit = \$

COMMENTS:

- The Parks and Recreation Advisory Board recommended accepting money in lieu of land dedication on August 7, 2006. This decision was based Gordon Long Park and the Scull Creek trail corridor being located within one half mile of this development.
- Credit will be given in the amount of \$135,360 for 141 existing mobile home lots.
- Fees are assessed in the amount of \$152,160 for 133 single family and 36 multi-family homes totaling a net \$16,800 after credit is given.
- Fees are due before signing of final plat.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation System. The money collected as part of this development will be used to fund future park acquisitions and improvements for this park quadrant.



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson *TJ*
Asst Chief Bud Thompson *BTP*
From: Captain Dale Riggins
Date: September 28, 2006

Re: October 2, 2006 Zoning Review – Fire Department Comments
R-PZD06-2256 (Mansfield)

These .84 acres are covered by Engine 2 at 708 N Garland.

It is .25 miles from the station with an expected response time of 1.5 minutes.

The Fire Department anticipates 8 (5 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is at 1760 gpm.

The service impact of the 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.

R-PZD06-2213 (Sunbridge Estates)

These 20.92 acres are covered by Engine 4 and Ladder 4 at 3385 N Plainview.

It is 2.2 miles from the station with an expected response time of 6 minutes.

The Fire Department anticipates 38 (23 EMS – 15 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There is no recorded Measured Hydrant Flow in this area.

The service impact of the 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.

Feel free to contact me with any questions you may have about these

COPY



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 2, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville AR. 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Planned Zoning District **R-PZD 06-2256: Planned Zoning District (MANSFIELD, 444)**: Submitted by YUME AND RUSSELL RUDZINDKI for property located at 932 GARLAND, BETWEEN BERRY AND HUGHES STREET 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.

It is the opinion of the Fayetteville Police Department that this planned zoning district will not create an undesirable increase in the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

In reference to **R-PZD 06-2213: Planned Zoning District (SUNBRIDGE VILLAS, 290)**: Submitted by PROJECT DESIGN CONSULTANTS, INC. for property located at NW OF SUNBRIDGE DRIVE AND VILLA BLVD., VILLA M/H PARK

It is the opinion of the Fayetteville Police Department that this planned zoning district will not create an undesirable increase in the load on police services nor will it create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in black ink, appearing to read "William Brown".

Captain William Brown
Fayetteville Police Department

July 27, 2006

CITY OF FAYETTEVILLE
ATTN: PARK PLANNING STAFF
1455 HAPPY HOLLOW ROAD
FAYETTEVILLE, AR 72701

Dear Sir or Madam:

We are developing approximately 20.88 acres near the Sunbridge and Villa Blvd intersection in Fayetteville, AR. Our property is zoned RMF-24.

We have 141 existing single family lots. We are proposing 129 single family homes, 2 Duplex buildings (totaling: 4 units), and 9 Fourplex buildings (totaling: 36 units).

We have decided to use the option of money in lieu for land of our required Parks contribution. The calculations are as follows:

Existing Single Family Lots: $141 \times \$960.00 = \$135,360.00$

Proposed Single Family Dwellings: $133 \times \$960.00 = \$127,680.00$

Mult Family Dwellings: $36 \times \$680.00 = \$24,480.00$

Contribution: Proposed - Existing = Money in Lieu of Land

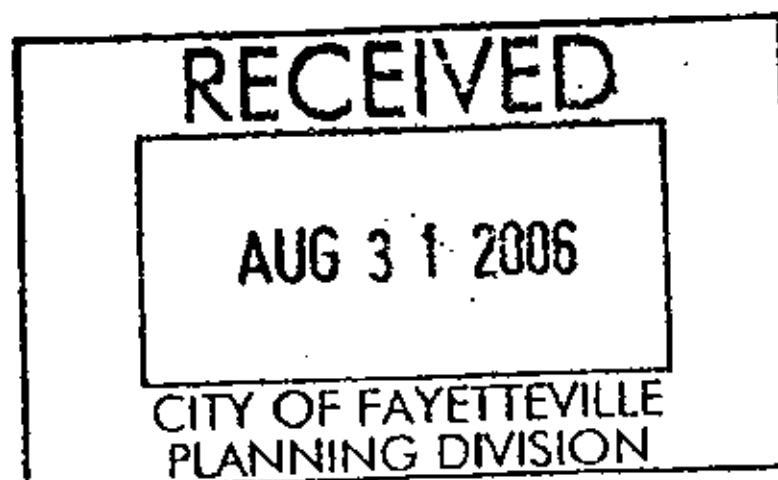
$(\$127,680.00 + \$24,480.00) - \$135,360.00 = \$16,800.00$

Our Contribution of Money in Lieu of Land is estimated to be \$16,800.00, however, this amount may change based on actual units approved through the PZD process.

We would like to be on the agenda for the Parks and Recreation Board Meeting scheduled for August 7th, 2006.

Sincerely,

Bob Schmidt



ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: September 14, 2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Drive Suite 104
Fayetteville, AR 72703

Phone: 479-521-5405
Fax: 479-521-0919

Subdivision Meeting

Thursday, September 28, 2006 8:30am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219
(479) 575-8267

Planning Commission Meeting

Monday, October 9, 2006 5:30pm
Fayetteville City Administration Building
113 West Mountain Street, Room 219
(479) 575-8267

PROJECT DESCRIPTION:

PROPERTY LOCATED AT NW OF SUNBRIDGE DRIVE AND VILLA BLVD., VILLA M/H PARK. THE PROPERTY IS ZONED RMF-24, MULTI FAMILY - 24 UNITS/ACRE AND CONTAINS APPROXIMATELY 20.92 ACRES. THE REQUEST IS FOR 129 DETACHED AND 40 ATTACHED RESIDENTIAL DWELLINGS.

Adjoining Property Address and Parcel Number(s)

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

☒ I have been notified of the above meetings for the described project.
☒ I do not object to the project described above.
☐ I do object to the project described above because:

BEN JACK
Name of Property Owner (Printed)

Ben Jack
Signature of Property Owner

PDCI PROJECT # 2006023

Sunbridge Villas

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date: September 14, 2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Drive Suite 104
Fayetteville, AR 72703

Phone: 479-521-5405
Fax: 479-521-0919

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Adjoining Property Address and Parcel Number(s)

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

- ☒ I have been notified of the above meetings for the described project.
☒ I do not object to the project described above.
☐ I do object to the project described above because:

It will be an improvement of what is there.

Ronald W. Curry
Name of Property Owner (Printed)

Ronald W. Curry
Signature of Property Owner

PDCI PROJECT # 2006023

Sunbridge Villas PZD

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date: September 14, 2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Drive Suite 104
Fayetteville, AR 72703

Phone: 479-521-5405
Fax: 479-521-0919

Subdivision Meeting

Thursday, September 28, 2006 8:30am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219
(479) 575-8267

Planning Commission Meeting

Monday, October 9, 2006 5:30pm
Fayetteville City Administration Building
113 West Mountain Street, Room 219
(479) 575-8267

PROJECT DESCRIPTION:

PROPERTY LOCATED AT NW OF SUNBRIDGE DRIVE AND VILLA BLVD., VILLA M/H PARK. THE PROPERTY IS ZONED RMF-24, MULTI FAMILY - 24 UNITS/ACRE AND CONTAINS APPROXIMATELY 20.92 ACRES. THE REQUEST IS FOR 129 DETACHED AND 40 ATTACHED RESIDENTIAL DWELLINGS.

Adjoining Property Address and Parcel Number(s)

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

☐ I have been notified of the above meetings for the described project.
☒ I do not object to the project described above.
☐ I do object to the project described above because:

William A. Lazear
Name of Property Owner (Printed)

William A. Lazear
Signature of Property Owner

PDCI PROJECT # 2006023

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

I have been notified of the above meetings for the described project.

☒ I do not object to the project described above.

☐ I do object to the project described above because:

GEORGE FAUCETT
Name of Property Owner (Printed)

Gaucett
Signature of Property Owner

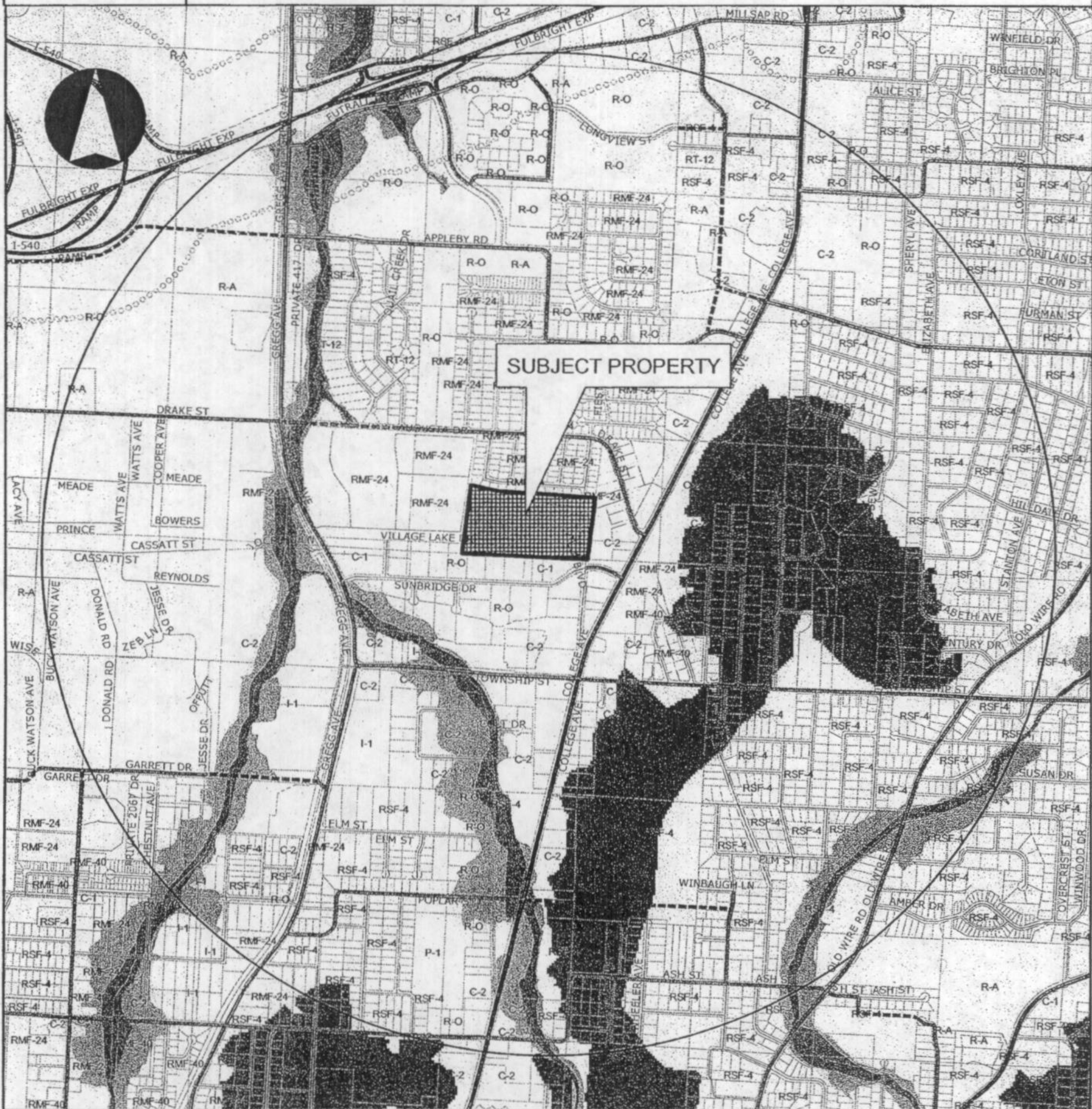
PDCI PROJECT # 2006023

*Sunbridge
Villas*

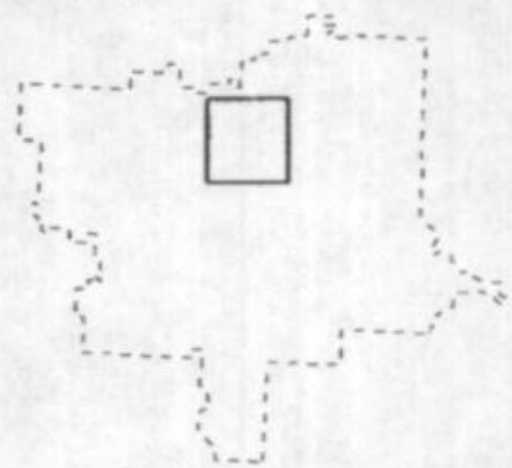
RPZD06-2213

SUNBRIDGE VILLAS

One Mile View



Overview



Legend

Subject Property

RPZD06-2213

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RPZD06-2213

SUNBRIDGE VILLAS

Close Up View

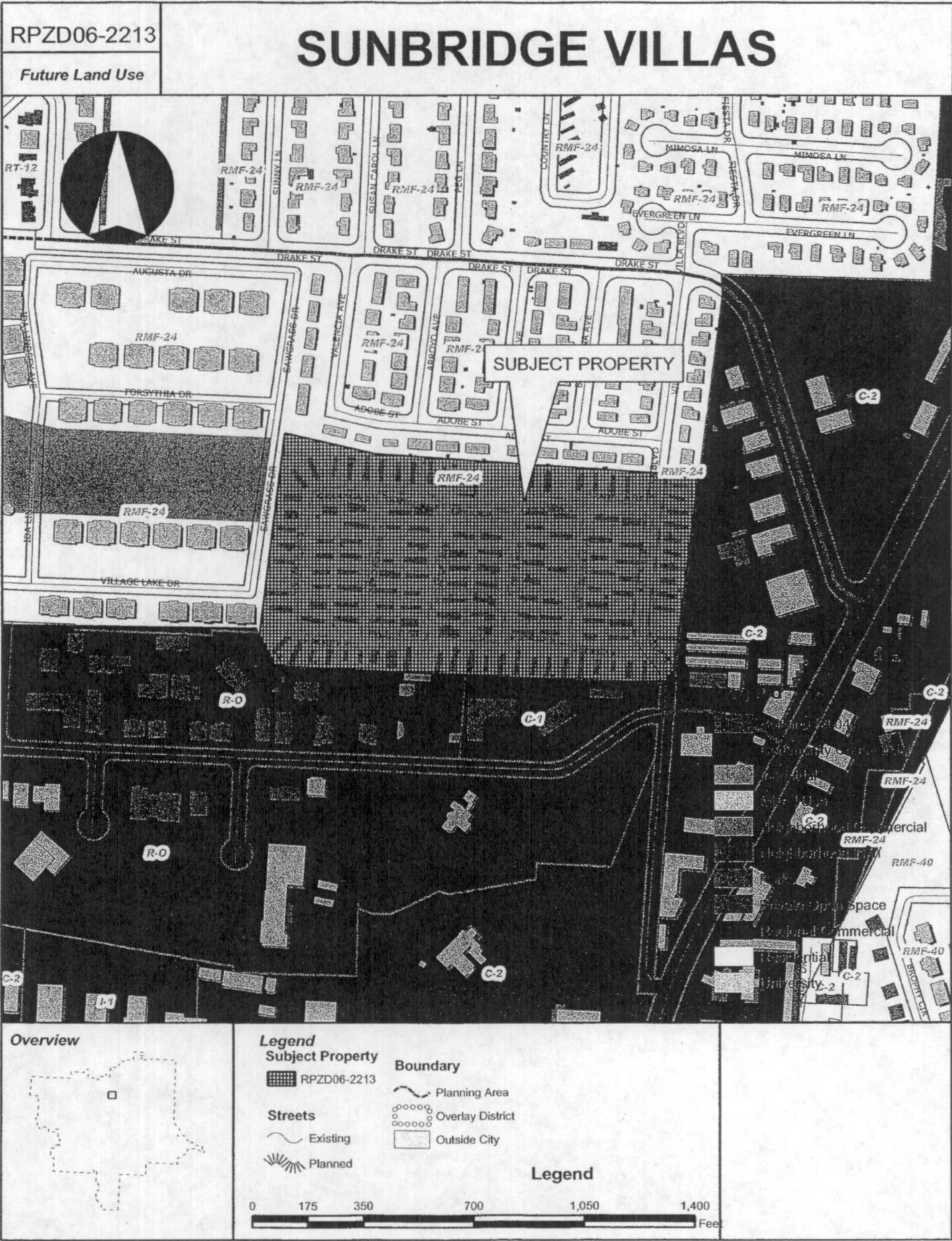


Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2213
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 125 250 500 750 1,000 Feet



RPZD06-2213

SUNBRIDGE VILLAS

Close Up View



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
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