

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 - Nancy Gordon Allen
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
December 19, 2006**

A meeting of the Fayetteville City Council will be held on December 19, 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**

Fayetteville Public Library Board of Trustees Recommendation - given by Mayor Coody

Nominating Committee Report

City Council voted to add to agenda: Frank Sharp Conservation Easement and to move Item No. 9 under New Business to Item No. 1 under New Business.

Conservation Easement: A resolution accepting a perpetual conservation easement from Frank Sharp as trustee of the Sharpridge Trust of an approximately twenty (20) acre significant natural area on behalf of the people of the City of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 210-06.

A. CONSENT:

- 1. Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.**

APPROVED.

2. **IBM AS400 Records Management System Server:** A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 211-06.

3. **T-G Excavating, Inc:** A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 212-06.

4. **Garver Engineering, Inc:** A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase Services associated with construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 213-06.

5. **Document Retention Schedule:** A resolution to adopt the Document Retention Schedule, to authorize the City Clerk to destroy documents older than this retention schedule and to adjust the document retention schedule to comply with changes in state law.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 214-06.

B. PUBLIC HEARINGS:

1. **Revoke Permit for Casa Torres:** A resolution to revoke the license of Miguel Torres d/b/a/ Casa Torres to sell alcoholic beverages within the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 215-06.

C. UNFINISHED BUSINESS:

1. **R-PZD 06-1884, Westside Village:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4959.

2. **Proposed 2007 Annual Budget & Work Program:** A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 216-06.

3. **ADM 06-2322 North Street ROW Dedication Variance:** A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. *This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 217-06.

4. **Stadium Centre Cottages Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the December 5, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4960.

5. **Easement Vacation for Archer (VAC 06-2289) Appeal:** An ordinance approving VAC 06-2289 submitted by Crafton Tull and Associates for property located at the west end of Markham, west of Sang Avenue, vacating a 0.35 acre portion of a right-of-way on the subject property. *This ordinance was left on the Second Reading at the December 5, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4961.

D. NEW BUSINESS:

1. **Morningside Drive and Fletcher Street:** An ordinance to vacate the street right-of-way obtained for the connection of Morningside Drive and Fletcher Street.

THIS ITEM WAS TABLED INDEFINITELY.

2. **RZN 06-2336 Sloan-Broyles and Persimmon:** An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.

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

3. **ADM 06-2382 House Vacation Extension:** An ordinance approving ADM 06-2382, for property located at the southwest corner of St. Charles Avenue and Watson Street, repealing ordinance No. 4807 and vacating drainage easements as indicated on the attached map and legal description.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4962.

4. **Amend Chapter 34, Purchases and Contracts:** An ordinance to amend §34.23 of the Fayetteville Code Purchases and Contracts not in excess of \$20,000.00 by enacting a sole source subsection.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4963.

5. **Fayetteville Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2007.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4964.

6. **LSD 06-2278 Shoppes at Shiloh Appeal:** An appeal of the Planning Commission decision regarding LSD 06-2278 The Shoppes at Shiloh.

THIS ITEM WAS TABLED INDEFINITELY.

7. **CUP 06-2295 DIDICOM Appeal:** An appeal of CUP 06-2295: Conditional Use permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.

THIS ITEM WAS DENIED.

8. **Community Access Television Contract Renewal:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 218-06.

9. **Fayetteville Downtown Partners Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$40,000.00 to assist in the implementation of the Downtown Master Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4965.

10. **New World Systems - Handheld Electronic Ticketing Devices:** A resolution approving a revised contract for the purchase of handheld electronic ticketing devices, software, and software maintenance from New World Systems Corp. in the amount of \$195,525.00; and approving the associated budget adjustments.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 219-06.

E. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 11:15 p.m.

Subject: Roll Call					
Motion To:					
Motion By:					
Seconded:					
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	absent			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody	7-0			

Subject: Nominating Committee Report					
Motion To:		Approve	Approve (Housing Authority)	Mayor	
Motion By:		Thiel	Thiel	Recommendation & Coody's appointment of	
Seconded:		Jordan	Jordan	DON MAER	
Passed	Ferrell	✓	✓	to Library	
	Lucas	✓	✓	Board	
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	absent	absent		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Mayor Coody				
		7-0	7-0		

Subject: Add Item & Move Item #9 Under New					
Motion To:					Business to
Motion By:		Thiel			Item #1
Seconded:		Jordan			Under New
Add Res. Frank Sharp Conservation Easement <u>passed</u>	Ferrell	✓			Business.
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody	7-0			

Subject: Frank Sharp Conservation Easement					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Ferrell			
Added to the Agenda <u>passed</u> Res. 210-06	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				
7-0					

Subject: Consent					
Motion To:					
Motion By:		Jordan			
Seconded:		Lucas			
Approve Res. 211-06 to 214-06	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	✓			
Mayor Coody					

7-0

Subject: Revoke Permit for Casa Torres					
Motion To:		Approve			
Motion By:		Reynolds			
Seconded:		Jordan			
B.I. Public Hearing Passed 215-06	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	✓			
Mayor Coody					

7-0

Subject: R-PZD 06-1884 Westside Village					
Motion To:		Adopt all recom. of Street Committee		Pass	
Motion By:		Jordan			
Seconded:		Reynolds			
C.1. Unfinished <u>passed</u> 4959	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	Absent		Absent	
	Allen	✓		✓	
	Rhoads	✓		✓	
	Mayor Coody	7-0		7-0	

Subject: Proposed 2001 Budget & Work Program					
Motion To:		Add Fire Dept. Ladder Truck to the Budget		Add Trail Maint. Worker	
Motion By:		Thiel		Thiel	
Seconded:		Reynolds		Rhoads	
C.2. Unfinished	Ferrell	✓		N	
	Lucas	✓		N	
	Jordan	✓		N	
	Reynolds	✓		N	
	Thiel	✓		✓	
	Cook	Absent		Absent	
	Allen	✓		N	
	Rhoads	✓		✓	
	Mayor Coody				
7-0 (PASSED)			2-5 (Failed)		

Subject: Proposed: 2007 Budget & Work Program					
Motion To:		Approve			
Motion By:		Rhoads			
Seconded:		Thiel			
C.2. Unfinished passed 216-06	Ferrell	N			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody	6-1			

Subject: ADM 06-2322 North Street ROW Dedication					
Motion To:		Amend to change from 55' to 33'	Approve	Variance	
Motion By:		Jordan	Jordan		
Seconded:		Thiel	Thiel		
C.3. Unfinished Passed 217-06	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Reynolds	✓	✓		
	Thiel	✓	✓		
	Cook	Absent	Absent		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Mayor Coody				

7-0

7-0

Subject: Stadium Centre Cottages Appeal					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C.4. Unfinished	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	absent during the vote			
	Mayor Coody	6-0			

Subject: Stadium Centre Cottages Appeal					
Motion To:		Amend to: adopt the new plat.	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C.4. Unfinished Passed 4960	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	absent	absent	absent	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: Easement Vacation for Archer (VAC 06-2289)					
Motion To:		3rd read			Appeal
Motion By:		Jordan			
Seconded:		Lucas			
C.5. Unfinished	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	absent during the vote			
	Cook	absent			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody	6-0			

Subject: Easement Vacation for Archer (VAC-06-2289)					
Motion To:		Amend Ord. Public Street.		Pass	Appeal
Motion By:		Jordan			
Seconded:		Lucas			
C.5. Unfinished passed	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Reynolds	✓		✓	
	Thiel	✓		✓	
	Cook	absent		absent	
	Allen	✓		✓	
	Rhoads	✓		✓	
4961	Mayor Coody				

7-0

7-0

Subject: Morning Side Drive & Fletcher Street					
Motion To:		Table Indef.			
Motion By:		Thiel			
Seconded:		Reynolds			
New Business D. 9. Moved up on the Agenda Tabled Indefinitely	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	Absent during the vote			
	Mayor Coody	6-0			

Subject: RZN 06-2336 Sloan-Broyles & Persimmon					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
D. 1, New Business Left on the Second Reading	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	Absent during the vote			
	Mayor Coody				

6-0

Subject: ADM 06-2382 House Location Extension					
Motion To:		2nd read	3rd read	pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Ferrell		
D.2. New Business Passed 4962	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	Absent	Absent	absent	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote	absent during the vote	absent during the vote	
	Mayor Coody	6-0	6-0	6-0	

Subject: Amend Chapter 34, Purchases and Contracts					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Jordan		
Seconded:		Lucas	Ferrell		
D.3. New Business Passed 4963	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	Absent	Absent	Absent	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote	absent during the vote	absent during the vote	
	Mayor Coody	6-0	6-0	6-0	

Subject: Jayeterville Youth Center, Inc. Contract					
Motion To:		2nd read	3rd read	Pass	
Motion By:			Jordan		
Seconded:			Lucas		
D.4, New Business 4964	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	Absent	Absent	Absent	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote	absent during the vote	absent during the vote	
	Mayor Coody	6-0	6-0	6-0	

Subject: L S D 06-2278 Shoppes at Shiloh					
Motion To:		Table Indef.			Appeal
Motion By:					
Seconded:					
D.5- New Business Tabled Indef.	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	absent			
	Allen	✓			
	Rhoads	absent during the vote			
	Mayor Coody				

6-0

Subject: CUP 06-2295 DIDICOM Appeal					
Motion To:		Denny Appeal			
Motion By:		Lucas			
Seconded:		Reynolds			
D.L. New Business Appeal denied	Ferrell	N			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	absent during the vote			
	Mayor Coody	5-1			

Subject: Community Access Television Contract Renewal					
Motion To:		Pages 9 & 10 (Section 14) Amend to add		Pass	
Motion By:		Ferrell		Jordan	
Seconded:		Reynolds		Allen	
D.T. New Business Passed 218-06	Ferrell	✓		N	
	Lucas	✓		✓	
	Jordan	N		✓	
	Reynolds	✓		N	
	Thiel	N		✓	
	Cook	Absent		Absent	
	Allen	N		✓	
	Rhoads	Absent during the vote.		Absent during the vote	
	Mayor Coody	Mayor Coody chose not to vote.		Mayor Coody Voted yes	
3-3 failed					
5-2					

Subject: Jayetteville Downtown Partners Contract					
Motion To:		Amend Section 7 - payment			
Motion By:		Thiel			
Seconded:		Reynolds			
D.8. New Business	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	Absent			
	Allen	✓			
	Rhoads	Absent during the vote			
	Mayor Coody				

Subject: Jayetteville Downtown Partners Contract					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Reynolds		
D.8. New Business	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Reynolds	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	absent	absent	absent	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote	absent during the vote	absent during the vote	
4965	Mayor Coody				

6-0

6-0

6-0

Subject: <i>New World Systems - Handheld Electronic</i>					
Motion To:		<i>Approve</i>			<i>Ticketing</i>
Motion By:					<i>Devices.</i>
Seconded:					
<i>D.10.</i> <i>New</i> <i>Business</i> <i>Passed</i> <i>219-06</i>	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Reynolds	✓			
	Thiel	✓			
	Cook	<i>absent</i>			
	Allen	✓			
	Rhoads	<i>absent during the vote</i>			
	Mayor Coody	<i>6-0</i>			

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

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 - Nancy Gordon Allen
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
December 19, 2006**

A meeting of the Fayetteville City Council will be held on December 19, 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**

Discussion Item: Monuments, Art & Memorials on Public Property. – Agenda Session Only

Nominating Committee Report

A. CONSENT:

- ✓ 1. **Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.**
- ✓ 2. **IBM AS400 Records Management System Server:** A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.
- ✓ 3. **T-G Excavating, Inc:** A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.

- ✓ 4. **Garver Engineering, Inc:** A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase Services associated with construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.00.

- ✓ 5. **Community Access Television Contract Renewal:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007.

Move from Consent to NB (last)

B. PUBLIC HEARINGS:

- ✓ 1. **Revoke Permit for Casa Torres:** A resolution to revoke the license of Miguel Torres d/b/a/ Casa Torres to sell alcoholic beverages within the City of Fayetteville.

C. UNFINISHED BUSINESS:

- ✓ 1. **R-PZD 06-1884, Westside Village:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
- ✓ 2. **Proposed 2007 Annual Budget & Work Program:** A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
- ✓ 3. **ADM 06-2322 North Street ROW Dedication Variance:** A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. *This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
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D. NEW BUSINESS:

1. **RZN 06-2336 Sloan-Broyles and Persimmon:** An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.
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5. **R-PZD 06-2196 West Fork Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2196, West Fork Place, located at the end of Ray Avenue, south of Huntsville Road; containing approximately 13.92 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
6. **LSD 06-2278 Shoppes at Shiloh Appeal:** An appeal of the Planning Commission decision regarding LSD 06-2278 The Shoppes at Shiloh.
7. **CUP 06-2295 DIDICOM Appeal:** An appeal of CUP 06-2295: Conditional Use permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.
8. **Document Retention Schedule:** A resolution to adopt the Document Retention Schedule, to authorize the City Clerk to destroy documents older than this retention schedule and to adjust the document retention schedule to comply with changes in state law.

E. INFORMATIONAL:

City Council Tour: December 18, 2006 - 4:30 PM

Add: New World Systems
Morningside Drive & Fletcher Street
Fayetteville Downtown Partners

● New World
Electronic Ticketing ● The Agenda Session
12/16/06

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 - Nancy Gordon Allen
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
December 19, 2006**

A meeting of the Fayetteville City Council will be held on December 19, 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**

~~2006 Action Plan Information, Agenda Session~~
Discussion Item: Monuments, Art & Memorials on Public Property. - Agenda Session Only

Nominating Committee Report

A. CONSENT:

- ✓ 1. **Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.**
- ✓ 2. **IBM AS400 Records Management System Server:** A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.
- ✓ 3. **T-G Excavating, Inc:** A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.

4. **Garver Engineering, Inc:** A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase Services associated with construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.00.

B. UNFINISHED BUSINESS:

1. **R-PZD 06-1884, Westside Village:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
2. **Proposed 2007 Annual Budget & Work Program:** A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
3. **ADM 06-2322 North Street ROW Dedication Variance:** A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. *This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
4. **Stadium Centre Cottages Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the December 5, 2006 City Council meeting.*
5. **Easement Vacation for Archer (VAC 06-2289) Appeal:** An ordinance approving VAC 06-2289 submitted by Crafton Tull and Associates for property located at the west end of Markham, west of Sang Avenue, vacating a 0.35 acre portion of a right-of-way on the subject property. *This ordinance was left on the Second Reading at the December 5, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **RZN 06-2336 Sloan-Broyles and Persimmons:** An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.

2. **ADM 06-2382 House Vacation Extension:** An ordinance approving ADM 06-2382, for property located at the southwest corner of St. Charles Avenue and Watson Street, repealing ordinance No. 4807 and vacating drainage easements as indicated on the attached map and legal description.

3. **Amend Chapter 34, Purchases and Contracts:** An ordinance to amend §34.23 of the Fayetteville Code Purchases and Contracts not in excess of \$20,000.00 by enacting a sole source subsection.

4. **Fayetteville Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2007.

Consent
5. **Community Access Television Contract Renewal:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007.

6. **R-PZD 06-2196 West Fork Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2196, West Fork Place, located at the end of Ray Avenue, south of Huntsville Road; containing approximately 13.92 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

7. **LSD 06-2278 Shoppes at Shiloh Appeal:** An appeal of the Planning Commission decision regarding LSD 06-2278 The Shoppes at Shiloh.

8. **CUP 06-2295 DIDICOM Appeal:** An appeal of CUP 06-2295: Conditional Use permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.

9. **Document Retention Schedule:**

Public Hearing
10. **Revoke Permit for Casa Torres:**

11. **New World Systems:**

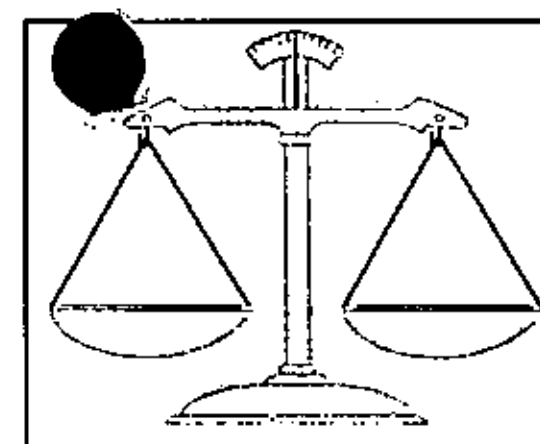
D. INFORMATIONAL:

City Council Tour: December 18, 2006 - 4:30 PM

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

DATE: **December 20, 2006**

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

RE: **Passed Ordinances and Resolutions from City Council meeting
of December 19, 2006**

1. **Frank Sharp Conservation Easement:** Resolution accepting perpetual conservation easement form Frank Sharp as Trustee of the Sharpridge Trust of an approximately 20 acre significant natural area on behalf of the people of the City of Fayetteville;
2. **IBM AS400 Records Management System Server:** Resolution approving purchase of a replacement IBM AS400 Records Management System Service via the State of Arkansas purchasing contract in amount of \$93,908.00 for the Fayetteville Police Department;
3. **T-G Excavating, Inc.:** Resolution approving Change Order #2 to construction contract with T-G Excavating, Inc. in amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in vicinity of N. College Ave. and Davidson St.;
4. **Garver Engineering, Inc.:** Resolution approving amending to contract with Garver Engineers, LLC in amount of \$999,857.00 for construction phase services associated with construction of east side lines and lift stations of Wastewater System Improvement Project; and approving contingency in amount of \$40,000.00;

5. **Document Retention Schedule:** Resolution adopting document retention schedule to authorize City Clerk to destroy documents older than this retention schedule and adjusting document retention schedule to comply with changes in state law;
6. **Revocation of Permit for Casa Torres:** Resolution revoking the License of Miguel Torres d/b/a Casa Torres to sell alcoholic beverages within City of Fayetteville;
7. **R-PZD 06-1884:** Ordinance establishing Residential Planned Zoning District, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending official zoning map of City of Fayetteville; and adopting Associated Master Development Plan;
8. **Proposed 2007 Annual Budget & Work Program:** Resolution adopting 2007 annual budget and work program as approved and amended;
9. **ADM 06-2322:** Resolution reducing right-of-way dedication required from North Street centerline from 55 feet to 32 feet accommodating the existing structure and proposed development for property located at 1104 North College Avenue as described in ADM 06-2322;
10. **Stadium Centre Cottages Appeal:** Ordinance establishing R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 acres; amending Official Zoning Map of the City of Fayetteville and adopting Associated Master Development Plan;
11. **VAC 06-2289 – Archer Appeal:** Ordinance approving VAC 06-2289 submitted by Crafton Tull & Associates for property located at west end of Markham, west of Sang Avenue, vacating portion of right-of-way south of the sidewalk;
12. **ADM 06-2382:** Ordinance approving ADM 06-2382 for property located at southwest corner of St. Charles Avenue and Watson Street, repealing ordinance No. 4807 and vacating drainage easements as indicated on attached map and legal description;
13. **Amend Chapter 34, Purchases and Contracts:** Ordinance amending §34.23 of Fayetteville Code **Purchases and Contracts not in excess of \$20,000.00** by enacting a sole source subsection;

14. Fayetteville Youth Center, Inc. contract: Ordinance waiving requirements of formal competitive bidding and approving contract between City and Fayetteville Youth Center, Inc. in amount of \$250,000.00 to provide public recreation services for youth and citizens of Fayetteville for 2007;

15. CAT Contract Renewal: Resolution approving contract in amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007;

16. Fayetteville Downtown Partners Contract: Ordinance waiving requirements of formal competitive bidding and approving contract for services with Fayetteville Downtown Partners in amount of \$40,000.00 to assist in implementation of Downtown Master Plan;

17. New World Systems Contract: Resolution approving revised contract for purchase of handheld electronic ticketing devices, software, and software maintenance from New World Systems Corp. in amount of \$195,525.00 and approving associated budget adjustments.

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:

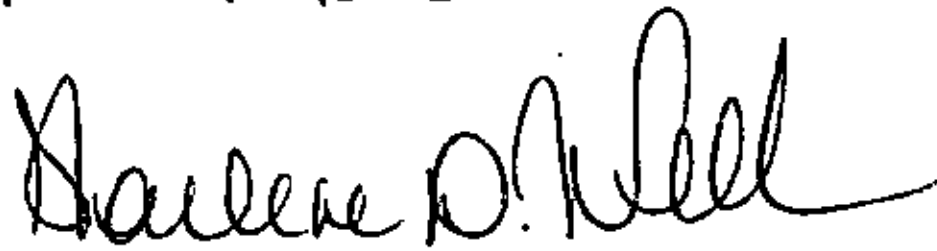
December 18, 2006

Publication Charge: \$200.45

Subscribed and sworn to before me

This 18 day of December 2006.

Notary Public



My Commission Expires:

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

RECEIVED

DEC 20 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
DECEMBER 19, 2006**



A meeting of the Fayetteville City Council will be held on December 19, 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**

**Fayetteville Public Library Board of Trustees Recommendation - given by Mayor Coody
Nominating Committee Report**

A. CONSENT:

1. Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.

2. IBM AS400 Records Management System Server: A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.

3. T-G Excavating, Inc: A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.

4. Garver Engineering, Inc: A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase Services associated with construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.00.

5. Document Retention Schedule: A resolution to adopt the Document Retention Schedule, to authorize the City Clerk to destroy documents older than this retention schedule and to adjust the document retention schedule to comply with changes in state law.

B. PUBLIC HEARINGS:

1. Revoke Permit for Casa Torres: A resolution to revoke the license of Miguel Torres d/b/a/ Casa Torres to sell alcoholic beverages within the City of Fayetteville.

C. UNFINISHED BUSINESS:

1. R-PZD 06-1884, Westside Village: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.

2. Proposed 2007 Annual Budget & Work Program: A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.

3. ADM 06-2322 North Street ROW Dedication Variance: A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.

4. Stadium Centre Cottages Appeal: An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. This ordinance was left on the First Reading at the December 5, 2006 City Council meeting.

5. Easement Vacation for Archer (VAC 06-2289) Appeal: An ordinance approving VAC 06-2289 submitted by Crafton Tull and Associates for property located at the west end of Markham, west of Sang Avenue, vacating a 0.35 acre portion of a right-of-way on the subject property. This ordinance was left on the Second Reading at the December 5, 2006 City Council meeting.

D. NEW BUSINESS:

1. RZN 06-2336 Sloan-Broyles and Persimmon: An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.

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6. CUP 06-2295 DIDICOM Appeal: An appeal of CUP 06-2295: Conditional Use permit (DIDI-COM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.

7. Community Access Television Contract Renewal: A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007.

8. Fayetteville Downtown Partners Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$40,000.00 to assist in the implementation of the Downtown Master Plan.

9. Morningside Drive and Fletcher Street: An ordinance to vacate the street right-of-way obtained for the connection of Morningside Drive and Fletcher Street.

10. New World Systems - Handheld Electronic Ticketing Devices: A resolution approving a revised contract for the purchase of handheld electronic ticketing devices, software, and software maintenance from New World Systems Corp. in the amount of \$195,525.00; and approving the associated budget adjustments.

E. INFORMATIONAL:

City Council Tour: None

RECEIVED

DEC 20 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 – Nancy Gordon Allen
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
November 21, 2006**

A meeting of the Fayetteville City Council was held on November 21, 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, Cook, Allen, Rhoads, Ferrell, Lucas, Jordan, Mayor Dan Coody, Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Alderman Thiel was absent.

Pledge of Allegiance

Nancy Gordon Allen Oath of Office by Judge Rudy Moore

Alderman Allen thanked her friends and family for their support.

Alderman Cook announced the Board and Committee openings and encouraged citizens to apply for the open positions.

CONSENT:

Approval of the October 17, 2006 City Council meeting minutes and the October 19, 2006 Special City Council meeting minutes.

Approved

Baird, Kurtz & Dobson (BKD), LLP: A resolution approving the annual contract renewal with Baird, Kurtz & Dobson (BKD), LLP, in the amount of \$65,000.00 to provide independent audit services to the City of Fayetteville.

Resolution 189-06 as Recorded in the Office of the City Clerk.

The Southern Company NLR, Inc: A resolution approving a contract with The Southern Company of NLR, Inc. in the amount of \$231,738.00 for the purchase and construction of fuel tanks and dispensing system at the Happy Hollow Maintenance Complex; and approving a budget adjustment in the amount of \$256,738.00 which includes \$25,000.00 for site preparation, concrete and asphalt.

Resolution 190-06 as Recorded in the Office of the City Clerk.

Williams Tractor Company: A resolution awarding Bid #06-61 and approving the purchase of one (1) Medium Track Excavator from Williams Tractor Company in the amount of \$98,747.00 for use by the Transportation Division; and approving a budget adjustment in the amount of \$100,000.00.

Resolution 191-06 as Recorded in the Office of the City Clerk.

Alpha Utilities, Inc: A resolution approving a contract with Alpha Utilities, Inc. in the amount of \$1,185,000.00 for improvements to the 36" and 42" water transmission mains from Beaver Water District to the City of Fayetteville; approving a four percent (4%) contingency in the amount of \$47,000.00 and approving a budget adjustment in the amount of \$734,677.00.

Resolution 192-06 as Recorded in the Office of the City Clerk.

Garver Engineers, LLC: A resolution awarding an engineering contract to Garver Engineers, LLC in an amount not to exceed \$227,550.00 for traffic studies, conceptual design services, surveys, and related services associated with the Cato Springs Road (Technology Corridor) Project.

Resolution 193-06 as Recorded in the Office of the City Clerk.

CEI Engineering Associates, Inc: A resolution awarding an engineering contract to CEI Engineering Associates, Inc. in an amount not to exceed \$88,380.00 for survey, design and bidding services associated with the Gregg Avenue Improvements Project.

Resolution 194-06 as Recorded in the Office of the City Clerk.

Carter & Burgess, Inc: A resolution awarding an engineering contract to Carter & Burgess, Inc. in an amount not to exceed \$233,148.00 for survey, design, bidding and related services associated with the Garland Avenue (Highway 112) Improvements Project between I-540 and Howard Nickell Road.

Resolution 195-06 as Recorded in the Office of the City Clerk.

Wayest Safety, Inc: A resolution awarding Bid #06-62 and approving the purchase of replacement personal protective equipment from Wayest Safety, Inc. in the amount of \$159,740.00 for use by the Fayetteville Fire Department.

Resolution 196-06 as Recorded in the Office of the City Clerk.

Fayetteville Natural Heritage Association, Inc: A resolution to apply the cost of up to \$80,000.00 of the pavilion to be built in Mount Sequoyah Woods to the remaining \$100,000.00 due for the purchase of all developmental rights in Mount Sequoyah Woods by the Fayetteville Natural Heritage Association, Inc.

Resolution 197-06 as Recorded in the Office of the City Clerk.

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

PUBLIC HEARINGS:

Mayor Coody Opened the Public Hearing.

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 resolution was tabled at the November 7, 2006 City Council meeting to the November 21, 2006 City Council meeting.*

Greg Tabor, Police Chief: We have been provided with all the paper work necessary for this certificate, therefore I recommend approval.

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

Resolution 198-06 as Recorded in the Office of the City Clerk.

Mayor Coody Closed the Public Hearing.

UNFINISHED BUSINESS:

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 ordinance was left on the First Reading at the November 7, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief update on the PZD. He asked the City Council to amend the PZD to reflect the updated conditions of approval. He also stated the

applicant worked with the City Engineering Division to come up with an alternative alignment for the street that would hopefully save the existing spring house structures. He stated staff is supportive of this request.

Alderman Ferrell moved to amend the ordinance to accept the amended Conditions of Approval. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent.

Ron Petrie, City Engineer explained to the Council the reason for a private street instead of a public street.

Alderman Ferrell moved to amend the ordinance to approve a Private Street for the development. Alderman Reynolds seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent.

Jeremy Pate: The plats that were passed out tonight differ from those that you had. This different plat is an effort to meet the City Council desires to protect the existing canopy and the spring house and springs that are in this location.

Mayor Coody: Will we be losing that old rock built up spring area or will this preserve that.

Daniel Ellis, Crafton, Tull, and Associates: This alignment is still impacting the spring closest to College Avenue. There is alternative to avoid that but it will regard some work with our neighbor to the north. We just need to get with him and get that done.

Mayor Coody: Can we amend this to move that road to the north to stay away from the spring.

Jeremy Pate: You would need to adopt a new condition of approval. Jeremy read the condition of approval.

Alderman Cook: I agree those spring houses should be preserved, to accommodate that they are going to have to deal with the owner to the north. So we do not know what the out come of that negotiation will be.

Daniel Ellis: There is already existing documents in place that allows for access easements on neighboring properties in this subdivision.

Alderman Cook: I would feel better if we knew exactly what was going to happen.

Dave Chapman stated we would like to save this spring too but there is also the face of the bluff that needs to be saved. It will require an easement from Mr. Pitts. Maybe he will work with us.

Alderman Rhoads: Do you have the easement now?

Dave Chapman: No.

City Attorney Kit Williams: The easement was to provide a city street not a private street.

A discussion followed on the street and the location of the street and the project itself.

Alderman Rhoads moved to amend the ordinance to accept the New Plat that was provided at the City Council meeting. Alderman Ferrell seconded the motion. There was no vote on the motion.

This ordinance was Left on the Second Reading

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 ordinance was left on the First Reading at the November 7, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The applicant can not be present for this meeting so they would like this left on the second reading.

This ordinance was Left on the Second Reading.

ADM 06-2324 Amend Title XV: DMP Supplementary District Regulations: An ordinance amending Title XV: Unified Development Code 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 ordinance was left on the Second Reading at the November 7, 2006 City Council meeting.*

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 7-0. Alderman Thiel was absent.

City Attorney Kit Williams read the ordinance.

Tim Conklin, Planning & Development Management Director: You received a memo from our City Attorney regarding Exhibit E which discusses the sign ordinance and the issue of banners, our City Attorney is asking for additional time to work on that. Staff is recommending you pull out that part of the ordinance.

Alderman Cook moved to amend the ordinance to remove Section 4 from the ordinance. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent.

Alderman Jordan moved to amend the ordinance to add Section 4 back into the ordinance and to remove Section 5 from the ordinance. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent.

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

Ordinance 4946 as Recorded in the Office of the City Clerk.

Emerald Point ADM 06-2282 Appeal: An appeal of the Planning Commission's decision regarding ADM 06-2282 (Emerald Point). ***This appeal was Tabled at the November 7, 2006 City Council meeting to the November 21, 2006 City Council meeting.***

Jeremy Pate: The applicant can not be present tonight and would like to table this appeal.

Alderman Jordan moved to table the appeal to the December 5, 2006 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent.

This appeal was Tabled to the December 5, 2006 City Council meeting.

Sunbridge Villas R-PZD 06-2213 Appeal: An ordinance establishing a Residential Planned Zoning District Tiled R-PZD 06-2213, Sunbridge Villas, located northwest of Sunbridge Drive and Villa Blvd., containing approximately 20.92 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 November 7, 2006 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The applicant is requesting this item to be left on the second reading.

This ordinance was Left on the Second Reading.

NEW BUSINESS:

RZN 06-2291, HWY 16 Animal Hospital: An ordinance approving RZN 06-2291 submitted by Jorgensen and Associates for property located at 2805 East Huntsville Road, for approximately 3.42 acres, rezoning the subject property from RSF-1, Residential Single-Family, one unit per acre, R-A, Residential Agricultural, and C-1, Neighborhood Commercial to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance

Jeremy Pate gave a brief description of the rezoning. He stated Planning Commission voted 6-0 in favor of this request and Planning staff is recommending approval of this project.

Alderman Cook asked how this fits in with the Future Land Use for 2025.

Jeremy Pate stated it would be a city neighborhood area and would fit very well within that classification.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4947 as Recorded in the Office of the City Clerk.

R-PZD 06-1884, Westside Village: An ordinance establishing a Residential Planned Zoning District Titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 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 RPZD. Jeremy also explained the proposed conditions of approval for the project.

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

City Attorney Kit Williams read the ordinance.

Todd Jacobs, project manager gave a brief history of the project.

Richard Alexander, developer, also gave a brief history of the project and the process.

Mayor Coody: This is a big improvement over what could have been in this area. We appreciate your willingness to try to do a better design.

Alderman Lucas expressed her concern about the connectivity and the private versus public street.

Alderman Cook: I want to be clear before we approve this that connectivity will be provided.

A discussion followed on the parking and reduced street widths.

City Attorney Kit Williams discussed the stub outs. He proposed they dedicate and build out the streets within a foot of the property line so there is no question what is going to happen in the future.

Alderman Cook: Do we know what kind of uses will go into this commercial retail space?

Richard Alexander: We are anticipating a mixed use, live, work, office, commercial, a coffee shop, dry cleaning shop, light commercial use.

Alderman Jordan: This is not anything we can't work out. Compared to what we could have in there, this was shown at the Ward 4 meeting and everybody loved it. I think this is the kind of development we need.

This ordinance was Left on the Second Reading.

VAC 06-2290, Grubbs: An ordinance approving VAC 06-2290 submitted by Richard L. Grubbs for property located at Lot 6 Block 1 of the Northpoint Subdivision on Point Circle, vacating a portion of a utility easement on the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation. He stated 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 7-0. **Alderman Thiel** 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 7-0. **Alderman Thiel** was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4948 as Recorded in the Office of the City Clerk.

ADM 06-2252 Future Land Use Map: A resolution adopting the Future Land Use Map and associated text as part of the City Plan 2025 Comprehensive Land Use Plan for the City of Fayetteville.

Tim Conklin stated Planning Commission voted 6-1 in favor of the plan. He said public comments are included in the agenda packets.

Karen Minkel gave a PowerPoint presentation showing the map. She stated this map has gone through a lot of review.

Alderman Cook: What was the process to form the sector map and the zoning map to make this map that we are seeing?

Karen Minkel: We are not using this map to replace the sector map. We did use the sector map to look at areas that were targeted for growth.

A discussion followed on the different use areas of the map.

Alderman Lucas expressed her concern about needing more industrial areas.

Don Conner asked about an area on Mission Boulevard and the proposed use for that section.

Tim Conklin stated they thought there was an opportunity to look at how to incorporate within our City Plan 2025 Future Land Use Map the undeveloped area within east Fayetteville to create more of a complete plan.

Don Conner stated that area is designated by the Fayetteville Natural Heritage Association's study as urban forest. It is designated as being preserved yet it is being shown as dense development.

Alderman Ferrell: Is this something the Council voted on in the past?

Don Conner: No it never made it to Council.

Alderman Allen: I am confused about how the Future Land Map would be altered because of the possibility of a project that isn't approved.

Mayor Coody: We can change the zoning in the future.

Tim Conklin: That is correct. The map is a guide and can be changed.

Alderman Jordan moved to table the resolution to the December 5, 2006 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Thiel** was absent.

This resolution was Tabled to the December 5, 2006 City Council meeting.

Assign Annexed Territory to Ward 4: An ordinance to attach and incorporate approximately 1,419.3 acres of land into the corporate limits of the City of Fayetteville pursuant to the annexation election of October 10, 2006, assign all this territory to Ward 4 and to assign the zoning designation of R-A to all parcels.

City Attorney Kit Williams read the ordinance.

Alderman Cook asked if this affects the ward redistricting.

City Attorney Kit Williams: I have asked Mr. Conklin to provide me the census figures by precinct so we can look at them in the current ward situation and see if the population figures differ very much from ward to ward. If they are pretty similar between the wards, then we don't need to do anything, we can wait until 2010. If there is a large imbalance between the wards we will bring it to the City Council with some proposals and make some minor modifications between the wards to try to make the population figures fairly equal between the wards again. I do not have that information yet.

Alderman Cook: Is that something we as a city do.

City Attorney Kit Williams: The city does it.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4949 as Recorded in the Office of the City Clerk.

J.B. Hays and Charles Sloan Land Sale: An ordinance to waive the requirements of §34.27 of the Fayetteville Code of Ordinances and to authorize the sale of approximately 36.62 acres of the Westside Treatment Plant site to J.B. Hays and Charles Sloan for \$1,166,367.00.

City Attorney Kit Williams read the ordinance.

Alderman Cook: Persimmon will connect through?

Tim Conklin: It will continue through.

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

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 7-0. Alderman Thiel was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4950 as Recorded in the Office of the City Clerk.

Harmony Pointe and Copper Creek Playgrounds: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of playground equipment from Game Time by Southwest Parks & Playgrounds, L.P. in the amount of \$85,161.00 for Harmony Pointe and Copper Creek Parks.

City Attorney Kit Williams read the ordinance.

Mayor Coody: Why should we waive competitive bidding on this?

Connie Edmonston, Parks & Recreation Director: We are getting 50% off the list price of the playgrounds. That is pretty much unheard of. This company is very strong on helping to fight childhood obesity. We will bid the installation out.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4951 as Recorded in the Office of the City Clerk.

Solid Waste and Recycling Purchase: An ordinance waiving the requirements of formal competitive bidding indefinitely for the purchase of 2 to 8 yard dumpsters, roll-off style boxes, compactors and receiver boxes.

City Attorney Kit Williams read the ordinance.

Alderman Cook: How much do we spend a year on these boxes?

Brian Pugh: About \$160,000.

A discussion followed on the daily charge and the life of the boxes.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4952 as Recorded in the Office of the City Clerk.

RJN Group, Inc: A resolution approving Contract Amendment #4 to the agreement for Professional Engineering Services with RJN Group, Inc. in the amount of \$953,049.00 to provide design and construction phase services pertaining to technical design, engineering, Corps of Engineers and stormwater permit issues for the West Side and Farmington area Wastewater System Improvements Project (subprojects WL-10, WL-11 and WL-12); and approving a contingency in the amount of \$40,000.00.

Alderman Cook: I would like to table this until we get a sewer agreement from Farmington.

Alderman Cook moved to table the resolution to the December 5, 2006 City Council meeting. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent.

Robinson, Stafford and Rude, Inc: A resolution approving a contract for Professional Engineering Services with Robinson, Stafford and Rude, Inc. (RSR) in the amount of \$39,844.00 (to be wholly reimbursed by the City of Farmington) to provide value engineering services for the Farmington and West Fayetteville Area Wastewater System Improvement Project engineering design.

Alderman Cook: I would also like to table this until we get a sewer agreement from Farmington.

Alderman Cook moved to table the resolution to the December 5, 2006 City Council meeting. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Thiel** was absent.

This resolution was Tabled to the December 5, 2006 City Council meeting.

VAC 06-2337 Kevin Pittman: An ordinance approving VAC 06-2337 submitted by Kevin Pittman for property located at 1985 Purva Place, vacating a portion of the 25 foot utility easement located along the southern property line adjacent to New Bridge Road.

Alderman Jordan moved to move this item on the agenda from Item #12 to Item # 11. **Alderman Ferrell** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Thiel** was absent.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a description of the vacation. He stated a portion of the house that is encroaching on the east side will be required to be removed. Staff is recommending approval of this vacation request. Planning Commission voted 8-0 in favor of this vacation request.

Alderman Lucas: What happens if we deny this?

Jeremy Pate: They would be in violation of our city codes for a structure that is located within a utility easement. They would have the opportunity to appeal your decision to Circuit Court. Beyond that they would be required to remove that portion of the house.

Alderman Lucas: I brought this forward because it is an eyesore in the neighborhood. I ordinarily am not in favor of vacating encroachments like this but this has been an eyesore in the neighborhood for a year. They stopped building on this last December. I felt like it needed to be heard for the other neighbors. It needs to be constructed or torn down.

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

City Attorney Kit Williams read the ordinance.

April Pittman thanked the Council for helping them with this. She stated they thought the builder was doing all the things that was supposed to be done.

Alderman Jordan: How much did they get over?

Jeremy Pate: Approximately 17 feet.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4953 as Recorded in the Office of the City Clerk.

Proposed 2007 Annual Budget & Work Program: A resolution adopting the 2007 Annual Budget and Work Program as approved and amended.

Paul Becker, Finance Director gave a brief overview of the budget. He stated there is a working session scheduled for December 2, 2006.

Cyrus Young: The budget you are considering now is in balance and the first budget that was proposed was not in balance. He asked about why the city is trying to find money to run the city when the state has a huge surplus.

Mayor Coody: I would assume because the state gets a six cent sales tax and we get basically one might have something to do with it.

Alderman Jordan moved to table the resolution to the December 5, 2006 City Council meeting. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Thiel** was absent.

This resolution was Tabled to the December 5, 2006 City Council meeting.

Meeting Adjourned at 9:05 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - 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
Special City Council Meeting Minutes
November 28, 2006**

A meeting of the Fayetteville City Council was held on **November 28, 2006 at 4:30 PM in Room 326** 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, Allen, Rhoads, Ferrell, Lucas, Jordan, Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Mayor Coody

Pledge of Allegiance

UNFINISHED BUSINESS:

RJN Group, Inc: A resolution approving Contract Amendment #4 to the agreement for Professional Engineering Services with RJN Group, Inc. in the amount of \$953,049.00 to provide design and construction phase services pertaining to technical design, engineering, Corps of Engineers and stormwater permit issues for the West Side and Farmington area Wastewater System Improvements Project (subprojects WL-10, WL-11 and WL-12); and approving a contingency in the amount of \$40,000.00. *This item was tabled at the November 21, 2006 City Council Meeting.*

Alderman Cook: I appreciate you considering this today. The main component of this is the 15 year agreement with Farmington. The City of Farmington approved these two items last night. This is a timely agreement.

David Jurgens, Water and Wastewater Director gave a brief description of the contracts. He stated they appreciate Farmington's effort trying to get this done and signed as quickly as they did.

Alderman Reynolds: Has this been through our City Attorney and approved by him?

City Attorney Kit Williams: Yes, I looked at this before we sent it to Farmington. This is only a payment contract. It says they will pay \$480,000 and we will pay \$615,000. I am glad to see this because this will get the project under way.

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

Resolution 199-06 as Recorded in the Office of the City Clerk.

Robinson, Stafford and Rude, Inc: A resolution approving a contract for Professional Engineering Services with Robinson, Stafford and Rude, Inc. (RSR) in the amount of \$39,844.00 (to be wholly reimbursed by the City of Farmington) to provide value engineering services for the Farmington and West Fayetteville Area Wastewater System Improvement Project engineering design. *This item was tabled at the November 21, 2006 City Council Meeting.*

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

Resolution 200-06 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

Fayetteville/Farmington Inter-Local Agreement: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to establish terms of payment for Wastewater Engineering Services related to the Wastewater System Improvement Project in the West Fayetteville – Farmington area.

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

Resolution 201-06 as Recorded in the Office of the City Clerk.

Meeting adjourned at 4:40 PM

Dan Coody, Mayor

Sondra Smith, City Clerk/Treasurer

*Handed out at Agenda Session
12-12-06*

STADIUM CENTRE COTTAGES MASTER DEVELOPMENT PLAN (R-PZD)

November 03, 2006

(revised 11/15/06 per P.C. Conditions of Approval)
(Revised 12/11/06 per Ward 4 Mtg for C.C. appeal of P.C. Determination)



Owner / Applicant: Mathias Shopping Centers, Inc
P.O. Box 6485
Springdale, AR 72766

Representative: H2 Engineering, Inc.
2758 Millennium Dr.
Fayetteville, AR 72703

SUMMARY

Stadium Centre Cottages is a proposed Residential PZD located along the south side of Old Farmington Road just west of Sandra Street and is bound on the south by the Stadium Centre commercial development. This submittal reflects a proposed residential development with 17 single-family and two-family units positioned on 2.45 acres. The project will share a detention pond with the adjacent commercial development. The property currently has a split zoning consisting of both RSF-4 and R-A. Adjoining properties to the east are zoned both RSF-4 and R-A, but are bound to the south by C-2. Adjoining properties to the west are zoned R-A, but again, are bound to their west and south by commercial, office, and higher density residential zonings. Adjoining properties to the north, along Old Farmington Rd, are zoned RSF-4 and R-A.

Old Farmington Road has historically served as a local street with low density residential land uses. The boom in commercial development in this locale has resulted in a modification of traditional traffic patterns and land uses, which has resulted in a considerable increase in traffic on Old Farmington Road. The City has recognized the fact that Old Farmington Road will be used as a thoroughfare and has identified Old Farmington Road as a collector on the Master Street Plan.

The proposed project resembles a typical "infill" type development which transitions from a commercial use into a residential use. The proposed single-family and two-family units will be a minimum of 1100 sf. In order to help sustain a community feel, the units contiguous to Old Farmington Road will front to Old Farmington Road.

This project alone will have minimal traffic impacts on Old Farmington Road. At the Planning Commission level, this project was proposed with a connection to Sandra Drive to the east as well as a connection to the access drive coming from the commercial development to the south. The current configuration does not reflect the connection to Sandra Street due to the overwhelming disapproval voiced by the area residents. It is also important to note that cross-access has been provided both east and west for future connectivity through the commercial development.

General Project Concept

- **Street and Lot Layout** – The street configuration consists of a modified street cross-section reflecting a width of 22-feet. At the Planning Commission level, Street "A" was intended to be a one way street from east to west with parallel parking on the south side of the street. The proposed street, as currently configured, is accessed from the connection drive between Old Farmington Road and the Stadium Centre Commercial development only, with no connectivity proposed to Sandra Street. With out the connection to Sandra Street, it was necessary to make Street "A" two way, which did not leave enough room for on street parallel parking. To resolve this, buildings 1-10 were moved north 5 feet which allowed for sufficient room in the drive way of each dwelling for parking. This private street will provide access to the rear of the residential units located on lots 1-10 which face Old Farmington Road and have garages in the rear. A stub-out street is proposed to the south in order to access units 11-14 and to provide a connection to the pedestrian sidewalk within the commercial center. All streets are proposed as private streets and maintained by the Property Owners Association.

The lot configuration consists of 17, single-family and two-family units. Units 1-10 will front to Old Farmington Road. Lots 1-11 will be constructed as single-family units to provide transition to the adjacent subdivision. The street configuration of the stub-out street reflects an effort to minimize the number of units that will be contiguous to Lot 12 of Stapelton's Addition Subdivision, which is directly to our east. The overall proposed density is 6.94 units per acre (including the proposed right-of-way for Old Farmington Rd) or 8.29 units per acre (excluding the proposed right-of-way for Old Farmington Rd). *Please note that future references to the proposed density will include the proposed Old Farmington Rd right-of-way acreage for calculation purposes in this report as well as on the plat.

- **Site Plan** – See Master Development Plan Sheet
The development of this subdivision will require the construction of two new private streets. Standard improvements to Old Farmington Road include the dedication of right-of-way and widening.
- **Buffer Areas** – Lots 1-11 will be constructed as single-family residences to transition from the attached units to the RSF-4 subdivision to the east. The units contiguous to Lot 12 of Stapelton's Addition will be buffered by the construction of an approximate 140-foot long privacy fence running the length of the existing lot. Landscape trees will also be planted in that vicinity for additional buffering. The detention pond provides a nice buffer between the majority of the residences and the approved retail center.
- **Tree Preservation Areas** – None. The site plan reflects the meandering of the sidewalk along Old Farmington Road to help protect the existing tree canopy within the right-of-way. It should be noted that lot 15 and the detention pond will serve as a tree mitigation and buffer area.
- **Storm Water Detention Areas and Drainage** – Drainage generally flows across the site from the northeast. This water will be diverted into a storm water collection

system and directed to the southwest side of the site into a proposed detention pond. The detention pond, which is located on lot 16, will be designed to accommodate all detention requirements for both the residential and approved commercial developments.

- Undisturbed Natural Areas – The lots within this development will have a maximum buildable area of 60% of each lot area.
- Existing and Proposed Utility Connections and Extensions – An approved 8-inch water line is proposed to be constructed along the west property line to serve the commercial facilities. It is our intention to connect to the new 8-inch line and connect throughout the development. An existing 6" sanitary sewer line is located along the south side of Old Farmington Road and flows down the west side of our property. It is our intention to derive service from this existing infrastructure.
- Development and Architectural Design Standards –
 - It is the intent of the developer to construct all residential units.
 - The minimum dwelling size for the development is 1100 sf.
 - Architectural renderings are provided as Exhibit "A" within this submittal.
- Building Elevations – Architectural renderings are provided as Exhibit "A" within this submittal. The developer will utilize 80% brick or stone for each of the units. with approved wood, vinyl, or masonite siding to be used on gables, eaves, and under covered porches as well as for decorative features such as faux cedar shake siding the in the eaves and gables. Duplex units will be combinations of the architectural renderings in exhibit A. The "Hollister", "Joliet", or "Ansley" models may be combined to share a common single car garage. The "Greenwich" model may be mirrored to create a duplex as well.

Proposed Development Phasing and Time Frame

This project consists of 1 phase of development. This zoning ordinance allows 1 year from the date approval to obtain all permits and 3 years complete construction of the entire project. Please note that this development is subject to the standard 1 year expiration time frame for preliminary plats pursuant to Chapter 166 of the Unified Development Code.

Proposed Planning Areas with Proposed Zoning and Development Standards

STADIUM CENTRE COTTAGES – RESIDENTIAL PLANNED ZONING DISTRICT

(A) *Purpose.* The STADIUM CENTRE COTTAGES Residential PZD is designed to permit and encourage the development of attainable housing, utilizing attached single-family dwelling units, in a manner to preserve a community feel and to transition from a commercial development to residential.

(B) Uses.

1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings

2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and Recreational Facilities
Unit 24	Home Occupation

(C) Density.

	Single-family dwellings
Units per acre	6.94

* Acreage includes the proposed right-of-way for Old Farmington Rd for calculation purposes.

(D) Bulk and area regulations.

	Single-family dwellings
* Lot minimum width	40 ft.
Lot area minimum	1900 sq. ft.
Land area per dwelling unit	1900 sq. ft. (min)

* Lot width measured at building setback.

(E) Setback requirements.

Lot Number	Front (Street A)	Front (Street B)	Front (Old Farmington Road)	Side without Common Wall	Side with Common Wall	Rear
1	10 ft.	N/A	10 ft.	5 ft.	N/A	N/A
2	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
3	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
4	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
5	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
6	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
7	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
8	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
9	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
10	15 ft.	N/A	10 ft.	5 ft.	N/A	N/A
11	15 ft.	13 ft.	N/A	0 ft.	N/A	8 ft.
12	N/A	10 ft.	N/A	5 ft.	0 ft.	4 ft.
13	N/A	10 ft.	N/A	5 ft.	0 ft.	2 ft.
14	10 ft.	10 ft.	N/A	5 ft.	0 ft.	4 ft.

* Setbacks measured from building overhang.

(F) Height. 35 feet

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

Comparison of the Proposed Master Development Plan to the Current Zoning District Requirements

Description	Current Zoning (R-A) Requirements	Current Zoning (RSF-4) Requirements	Proposed Zoning (R-PZD) Requirements
Permitted Uses	Use Unit 1 – City wide Uses by right	Use Unit 1 – City wide Uses by right	Use Unit 1 – City wide Uses by right
	Use Unit 3 – Public protection and utility facilities	Use Unit 8 – Single-Family Dwellings	Use Unit 8 – Single-Family Dwellings
	Use Unit 6 – Agriculture		Use Unit 9 – Two-Family Dwellings
	Use Unit 7 – Animal husbandry		
	Use Unit 8 – Single-Family Dwellings		
	Use Unit 9 – Two-family Dwellings		
	Use Unit 37 – Manufactured Homes		
Conditional Uses	Use Unit 2 – City-wide uses by conditional use permit	Use Unit 2 – City-wide uses by conditional use permit	Use Unit 2 – City-wide uses by conditional use permit
	Use Unit 4 – Cultural and recreational facilities	Use Unit 3 – Public protection and utility facilities	Use Unit 4 – Cultural and recreational facilities
	Use Unit 20 – Commercial recreation, large sites	Use Unit 4 – Cultural and recreational facilities	Use Unit 24 – Home occupations
	Use Unit 24 – Home occupations	Use Unit 9 – Two-family Dwellings	
	Use Unit 36 – Wireless communication facilities	Use Unit 24 – Home occupations	
		Use Unit 36 – Wireless communication facilities	

Description	Current Zoning (R-A) Requirements	Current Zoning (RSF-4) Requirements	Proposed Zoning (R-PZD) Requirements
Density – Units per Acre (Permitted Use)	0.5	4 or less	6.94
Lot Width Minimum	200 ft.	70 ft.	40 ft.
Lot Area Minimum	2 acres	8000 sq. ft.	1900 sq. ft.
Land Area per Dwelling Unit	2 acres	8000 sq. ft.	1900 sq. ft.
Height Regulations	* See Below	None	35 ft.

*R-A Height requirements: There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

Comparison of Setback Requirements for Each Zoning District

Lot Number	Front (Street A)	Front (Street B)	Front (Old Farmington Road)	Side without Common Wall	Side with Common Wall	Rear
TSC PZD Lot 1-10	15 ft.	NA	10 ft	5 ft.	NA	NA
TSC PZD Lot 11	10 ft.	13 ft.	N/A	0 ft.	N/A	8 ft.
TSC PZD Lots 12-14	N/A	10 ft.	N/A	5 ft.	0 ft.	
RSF - 4 Zoning	25 ft.	25 ft.	25 ft.	8 ft.	NA	20 ft.

Analysis of the Site Characteristics

No environmentally hazardous, sensitive, or natural resource areas have been found on this site.

Recreational Facilities

Charles J. Finger Park (19 Acres) – Baseball, Hiking Trails, Picnic Shelter, & Restrooms

Holtz Park (.5 Acre) – Picnic Area, Playground

The Crown Apartments Park (6.5 Acres) – Trails

Reason for Zoning Change Request

The current zoning of the property is a combination of both R-A and RSF-4, which effectively restricts any serious development potential of the property. The use of a PZD to rezone this property allows for the design of higher density single-family and two-family units, indicative of a transition zone between residential and commercial uses.

The PZD provides appropriate assurances that the property is developed in a responsible manner.

Relationship to the Existing and Adjacent Land Uses

The development of this project provides a transition from the approved commercial development from the south to predominate residential uses along Old Farmington Road. The proposed density of 6.94 units/acre is higher than the historical residential densities along Old Farmington Road. The proposed materials for the units, along with the orientation of the homes fronting Old Farmington Road, will provide sufficient transition along Old Farmington Road.

The added traffic with this development is extremely minimal in comparison with current traffic generation. No signage is contemplated for this development.

Compliance with Fayetteville General Plan 2025

This development does comply with the Fayetteville General Plan 2025.

Traffic Study

No traffic study has been initiated and it is not expected that the minimal impact of this project would warrant a traffic study.

Impacts on City Services

There are no significant impacts to city services associated with this project.

STATEMENT OF COMMITMENTS

Dedication of Public Facilities

The streets within this project are being proposed as private streets consisting of a 22-foot back to back section within a 25-foot right-of-way to be maintained by the property owners association. Utility infrastructure will be dedicated to the City of Fayetteville and utility easements will be dedicated by the Final Plat.

On or Off-site Improvements

On-site improvements include the widening of Old Farmington Road, along the frontage of the project, to 18 feet from centerline to back of curb, including storm-drain and sidewalk. Due to concerns of the area residents regarding the excessive speed of traffic currently using Old Farmington Road, and the difficulty vehicles have negotiating turning movements onto One Mile Road, all offsite improvements were focused on improving those situations. The southwest radius of the intersection of One Mile Road and Old Farmington Road will be increased to the extent possible within available right of way. Additionally, the intersection will be made into a 3-way stop intersection to cause the vehicles traveling on Old Farmington Road to stop in an attempt to help regulate their speed. The development of on or off-site infrastructure necessary to serve this project shall be completed prior to Final Plat Approval.

Natural Resources and Environmental Sensitive Areas

There are no known natural resources or environmentally sensitive areas on this site.

Project Phasing Restrictions

This project shall be granted one (1) year from the date of City Council approval to receive all permits necessary for development with a one (1) year extension available.

Fire Protection

Stadium Centre COTTAGES will be served by the Fayetteville Fire Department. Station 6 is located approximately 0.75 miles away from the project on Hollywood Avenue.

Other Commitments Imposed by the City

There are currently no other commitments imposed by the City.

Parks, Trails and Open Space Commitments

Tree preservation and protection will be implemented in accordance with the City of Fayetteville code of Ordinances Title XV Unified Development Code: Chapter 167 Tree Preservation & Protection.

Proposed Preliminary Building Elevations

Conceptual architectural elevations are provided as Exhibit "A" and attached hereto.

DEVELOPMENT STANDARDS, CONDITIONS, & REVIEW GUIDELINES

Screening and Landscaping

A row of trees spaced every 25 feet is proposed to the east of Lots 11-12 in order to provide screening between this development and Lot 12 of Stapelton's Addition.

Traffic and Circulation

An entrance from The Stadium Centre access drive is proposed for this development with no connectivity proposed to Sandra Street. Increased traffic will be minimal while providing connectivity to the commercial development. Access easements have been recorded to the east and west from the parking lot of the commercial development, which will provide additional access to Hwy 62 as well as future access to One Mile Road.

The proposed connection between the Stadium Centre commercial development and Old Farmington Road has been provided and will help facilitate the circulation of local traffic. The developer is also proposing pedestrian access around both sides of the commercial development to encourage pedestrian and bicycle access for the convenience of the residents in this area.

Old Farmington Road is designated as a collector. Site specific traffic patterns can utilize Shiloh Drive to the east, One Mile Road (Finger Road) to the southeast, and Old Farmington Road to Hwy 62 to the west.

Parking Standards

Not applicable.

Perimeter Treatment

No perimeter treatment is planned.

Sidewalks

A sidewalk is proposed along Old Farmington Road as is required with typical street improvements. However, the sidewalk is meandered along the right-of-way so as to help protect the existing canopy within the right-of-way. Sidewalks are also proposed to connect around the east and west ends of the approved retail center to the south.

Street Lights

Street lights will be designed and constructed in accordance with the Unified Development Code.

Water

Water lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. An 8-inch water line is proposed for construction along the west property line, to which we are proposing to connect.

Sewer

Sewer lines will be designed and constructed in accordance with the City of Fayetteville Water and Sewer Specifications. A 6-inch sanitary sewer line is located along the south side of Old Farmington Road.

Streets and Drainage

The streets within this project are being proposed as private streets consisting of a 22-foot back to back section within a 25-foot right-of-way to be maintained by the property owners association. A storm water collection system will be installed with a detention pond located in the southwestern portion of the site.

Construction of Nonresidential Facilities

There will be no nonresidential facilities constructed on-site.

Tree Preservation

Tree preservation and protection will be implemented in accordance with Section 167 of the Unified Development Code.

Architectural Design Standards

Conceptual architectural renderings and floor plans are provided as Exhibit "A." The developer will require 80% brick or stone for each of the homes, with approved wood, vinyl, or masonite siding to be used on gables, eaves, and under covered porches as well as for decorative features such as faux cedar shake siding in the eaves and gables. Each unit is proposed as having a driveway specific for the unit, which adds more individuality to the units.

Signage

No signage is anticipated with this project.

View Protection

It is not anticipated that any improvements to this property will impact any view of surrounding properties.

Revocations

The developer understands causes for revocation and will take all measures necessary to avoid revocation.

Covenants, Trusts, and Homeowner Associations

The developer will create a Property Owners Association for the purpose of general maintenance and maintenance of the private streets. The developer will prepare Protective Covenants to establish homebuilding and ownership standards to sustain a quality environment.

Intent / Purpose of PZD Ordinance

The PZD Ordinance provides this project the ability to create a responsible design while providing an opportunity for attainable housing by virtue of a higher density development. The higher residential density for this project provides adequate transition between a contiguous commercial development and lower density residential.

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LSD 06-2278: Large Scale Development (THE SHOPPES AT SHILOH, 211):
Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at THE NE CORNER OF GREGG AND SHILOH. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 3.09 acres. The request is for a single story, 19,250 s.f. retail facility with associated parking.

Anthes: Item 6 --

Lack: Madame Chair.

Anthes: Yes, Mr. Lack.

Lack: I will recuse from the next item.

Anthes: Thank you. Item 6 is Large-Scale Development 06-2278 for The Shoppes at Shiloh. May we have the staff report?

Fulcher: Yes, ma'am. This is a large-scale development proposal for an approximately 19,000-square-foot retail facility and 84 parking spaces. The property is located at the northeast corner of Gregg Avenue and Shiloh Drive and is currently zoned C-2 Commercial. This has been heard at three previous Subdivision Committee meetings. I'm not sure if all commissioners were privy to those meetings, but I believe that most of them were and are somewhat familiar with this request. The reason this item was heard so many times previously at Subdivision Committee meeting was mostly due to waivers, discussion on Commercial Design Standards, and then some minor revisions. The applicants have addressed many of those revisions or most of those revisions and have tried, based on their design and their project proposal, to emit as many of the waivers as they began with or less than those waivers as much as possible, which is why staff recommended this item be forwarded to the full Planning Commission and why the Subdivision Committee forwarded this item on, so that these waivers and determinations could be reviewed by the Planning Commissioners. The four main items for the Planning Commission to determine this evening, the first one is Commercial Design Standards. There are some revised elevations which are fairly similar to everything you reviewed in the past. They have provided a little bit more articulation on the east and west facades. Comments have been made by various commissioners regarding those two sides, and I believe that everyone has been in agreement that the southern façade is well articulated and does meet Commercial Design Standards. Staff is supportive of the elevations as presented with the exception of the western façade, which does face Gregg Avenue. This property is in the Design Overlay District, and as it states in Chapter 161, the facades that face street rights-of-way should be articulated as a front façade, and that is done for a portion of

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that building face, and we've just requested that those same materials be carried the full length of that west building face to meet the requirement of the Design Overlay District. The next three determinations by the Planning Commission are waivers from the Design Overlay District standards. The first one is a waiver of greenspace. It does require 25 feet exclusive of the right-of-way. There's a unique circumstance in this location in that there's only 45 feet of right-of-way required by the Master Street Plan for Gregg Avenue, which is along the west property line of this property; however, the state right-of-way is greater than 45 feet. It varies where it's 50 to 55 feet. The applicants have provided 25 feet of greenspace exclusive of the city's Master Street Plan right-of-way; however, because they're not providing 25 feet exclusive of the state right-of-way, they were requesting a waiver and staff is supportive of that, finding the unique hardship on this property by the greater right-of-way that has been dedicated to the state already. The second waiver request is for the curb-cut separation from the intersection of Shiloh and Gregg. It's required to be 250 feet. It is approximately 198 feet. Again, staff is supportive of this waiver request, finding that adequate separation has been provided for safe turning movements into and out of this full access curb-cut. And the final waiver request by the applicants is the curb-cut separation between that curb-cut and the one to the north. It's at the north end of the site, also on Gregg. It's approximately 94 feet, I believe, from that southern curb-cut where 200 feet is required. Staff is not supportive of this waiver because of the amount of turning movements currently existing at that intersection combined with the full access turning movements from the southern curb-cut on Gregg Avenue. Even though the applicants have restricted this to an ingress only, those turning movements, and if you combine that with someone trying to enter into the drive-through on the west side of that building, if you come into the site from Shiloh you would not actually be able to access that drive-through. You would have to go back out to Gregg Avenue through the full access curb-cut and then turn back into the development again. So it's that coupled with the existing turning movements in this area is why staff is not supportive of this second curb-cut on Gregg Avenue. We've requested that the site be somewhat redesigned to allow full access behind the building, which would allow traffic to traverse behind that building and enter the drive-through and still only utilize two curb-cuts. And also the curb-cut on Shiloh, because of its -- it does meet the full separation required in the Design Overlay District, but it's in the area of traffic entering the turning lane to go southbound on Gregg, and so staff has recommended that that be a restricted access left in -- or right in/right out only, and I believe that is indicated by the applicants on the site plan. Overall, staff is supportive of this development and is recommending approval with 24 conditions of approval, one of those being the removal of the northern curb-cut on Gregg Avenue and also for the restricted access

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for the curb-cut on Shiloh. I believe the majority of the other conditions are fairly straightforward, but if you have any questions, please ask.

Anthes: Thank you, Mr. Fulcher. Would any member of the public like to address this large-scale development for The Shoppes at Shiloh? Good evening.

ThorntonC: Hello. My name is Carlene Thornton and we own the property at 3360 North Gregg. We've lived there for 26 years. It's been our home, we've loved it there, but it's a different environment, different community now, a whole lot different, and we would like to encourage you to allow them to have ingress and egress there on the front property because we see safety issues, because we see people driving on our sidewalk when they're making that turn already. It scares me to think about not allowing ingress and egress out of that property for safety reasons because it is very busy there, as you all know, and we like the looks of the property that they plan on building. We've had options throughout the years to do something else and we've chosen this facility because we think it would fit with our community and with the City of Fayetteville, because we love living here and it's our home. Jamie?

Anthes: So you own the property that this would be constructed on?

ThorntonC: Yes.

Anthes: Okay. So you're really actually part of the applicant team?

ThorntonC: Yes.

Anthes: Okay. Can I get you to sit down and wait until public comment is over?

ThorntonC: Oh. This is my son. He'll --

Anthes: Right, but I need to ask for the general public to talk first --

ThorntonC: Oh, I'm sorry.

Anthes: -- and then the applicant comes after that.

ThorntonC: Okay. I'm sorry.

Anthes: Would any other member of the public like to address this large-scale development for The Shoppes at Shiloh? Seeing none, I'll close the public comment section and ask for the applicant's presentation.

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ThorntonJ: My name is Jamie Thornton and I've lived in that house my entire life, and I'm 21 years old. I love Fayetteville and I've seen, you know, the kind of development that's been, you know, abundant around the north side of town, and I think that this facility would be a lot better than many of the other proposals that we've had proposed to us. We think it's going to be beautiful. I mean, it's going to have trees, it's going to have landscaping, which, you know, none of the other plans or any other, I guess, buyers were really excited about doing, and I think it will fit well with the northern side of town that we're building right now.

Anthes: Thank you very much. Is there any other part of the development team that would like to -- Hi. Good evening.

Morgan: Good evening. Mike Morgan with McClelland Consulting Engineers. I'm here tonight with Vennis Pollock with Miller, Boskus, Lack, and Mr. Brian Shaw with Sage Partners, and together we've looked at this piece of land. It's a very difficult three acres of land, approximately 13 feet of grade difference. Half of the property is in a floodway which cannot be disturbed, so we're very limited on what we can do to develop the land. While this possesses some hardships for our development, my client still wants to go in there and do what is necessary to create a highly-styled shopping (inaudible). Most of you all have seen this elevation here at the Subdivision Committee meetings and --

Anthes: Could I get you to take the microphone with you if you want to walk over --

Morgan: Okay, okay.

Anthes: Okay.

Morgan: Most of you all have seen the elevations and their evolution through a series of Subdivision Committee meetings, and I believe we've addressed the large majority of comments and concerns. But like I say, there's 13 feet of grade difference. There's a lot of fill that needs to be brought in. There's three existing curb-cuts along Gregg Avenue currently. We're proposing to reduce this to two along Gregg Avenue and one along Shiloh. The one on Shiloh would be, as Jesse mentioned, a right in/right out configuration. There would be one full access curb-cut on Gregg Avenue, the one approximately 200 feet from the intersection, and then the upper -- the second curb-cut would be an ingress only, not allowing for traffic to exit back in onto Gregg Avenue, so it would actually take traffic off of Gregg Avenue. But we're here to answer any questions that you all may have. Further, there's a railroad right-of-way on the west side of Gregg

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Street, so there's not any curb-cuts currently or would be proposed on the west side of this property. But again, we're here to answer any questions.

Anthes: If you could, would your representative from Miller, Boskus, Lack go over the elevations, particularly the one that has been called into question, which is the west elevation.

Pollock: I'm Vennis Pollock with Miller, Boskus, Lack. I guess the elevation in question is the west elevation, and from what I'm hearing, the only articulation of the west elevation that is different from the south would be the -- would be a panelized wall. And what we've done, the iterations of this panelized wall has been -- we originally were celebrating the wall as just a wall.

(Laughter)

Pollock: By adding articulation -- what we ended up doing is we -- I apologize -- we ended up articulating the panel --

Graves: I picked your party favors and things like that.

Pollock: I'm sorry?

Graves: I said I picked your party favors and things like that. I'm sorry. That's what we're laughing about -- celebrated.

Pollock: -- to make the wall -- getting the feedback that we were getting from the commissioners, to make the wall meet the requirements, we added panels, much like the panelization of the walls here, to get shadow line, to get, you know, depth, to get some solidity to that wall, but where that wall is occurring is in a location that normally in a retail development you have solid walls, you have storage to the back of the building, you have the toilet rooms to the back of the building, and so that's where that wall was occupying but as far as articulation like the south, that west side does in fact articulate just like the south. We have -- There is a projected element off of the -- And this is the old one here?

Pate: It is. I don't have another copy with me. I'm sorry.

Pollock: Where the south elevation has these higher elements that are changing in plane by about 4 feet at each location, we've done the same thing on the west, and so that articulation is the same, but where the glass storefront occurs, it turns the corner on the west. We have some trellis construction that is visible on the west. So the only -- the only section on the west elevation is this section here that is articulated differently than on the

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south, and that is, again, the back side of the retail development, where normally you have solid construction.

Anthes: Is this the correct elevation or the one you've just showed?

Pollock: That one is the revised one.

Anthes: Okay. So this is the latest, the one in our packet?

Pollock: Yes.

Anthes: Okay. Thank you. Commissioners?

Clark: Madame Chair.

Anthes: Commissioner Clark.

Clark: Well, maybe I'm not celebrating the wall the way I should be celebrating the wall, because to me the southern elevation, I think, is beautiful. I think it's an absolutely gorgeous design. But to say that this and this compare, when I've got -- yeah, that's the part I'm looking at. I mean, it just -- it seems to take away from an awful lot of the southern exposure, actually, and when you turn that corner it's just kind of stark and a little shocking. I mean, the northern elevations, which are the back of the building, I have no concern with because that's not going to show. But the east and the west ends of this building are definitely going to be high visibility because they're both on major thoroughfares. One is on Gregg and one is on Shiloh. So I'm still having a little bit of trouble with it, particularly the western elevation, and I think maybe if the east wasn't in the shadows I'd have problems with the eastern elevations as well because it's pretty much the same thing. And the last thing I would like people to see driving down those streets are just real white-looking walls. But I've been wrong about elevations before, so --

Myres: Madame Chair.

Anthes: Commissioner Myres.

Myres: I have to respectfully disagree with Commissioner Clark.

Clark: Please do.

Myres: The thing that makes this work for me is the fact of the careful repetition of the materials and the fact that all of those materials that are on the board are present in almost every elevation except the back. With the recessed

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panels and the line that repeats the rectangular openings in the rest of the structure, I think it's actually kind of a relief from all of the interest that's going on along the front, which is the south side, and you kind of scale back as you go around the corner and then as you go around the corner further then you get to the back elevation, which is very plain and very utilitarian. So there's a progression, to me, of the money side that slowly changes as it goes around the building to something that's much more functional. So I don't really have any problem with design standards on this. I think the changes that they've made meet the intent of the Design Overlay District requirements and I think it does meet Commercial Design Standards, at least it does for me.

Anthes: Does any other commissioner have comments on Condition of Approval Number 1, determination of Commercial Design Standards?

Harris: Madame Chair.

Anthes: Commissioner Harris.

Harris: I would add my approval of this, too. I find the -- I celebrate this wall, too.

Myres: Where is your hat?

Clark: You're the type.

Harris: I do. I know. I would be the type. I'm the demographic on this. But I do. I find it a welcome relief from the chotchskys that are going on in a lot of the buildings. I don't want to put any awnings on it. I don't want to put any doilies on it. I just want it to be what it is with a little articulation. It's good for the soul. It's nice pie *** way quencher. That's how I feel.

Myres: Boy, you're making me hungry.

Harris: I know.

Anthes: Condition of Approval Number 2, Subdivision Committee -- Oh, wait.

Pate: It should be Planning Commission.

Anthes: Yes. Planning Commission determination of street improvements. Are there any comments on that? No? Okay. Condition of Approval Number 3, 3(a). This is the waiver from the 250-foot separation and staff is supportive of this waiver. Is there any comment on it?

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Clark: That's for the southern entrance, isn't it, Jeremy?

Pate: Yes.

Clark: The first one.

Anthes: This is the one that will be 56 foot closer to the intersection of Shiloh and Gregg than is allowed by ordinance.

Myres: But it's okay.

Anthes: Is everybody okay there?

Myres: Yeah.

Anthes: Okay. 3(b). This is the waiver of the 200-foot separation between the two proposed curb-cuts on Gregg, and staff, I believe, is not supportive of this waiver and, in fact, I believe they want to do away with the second curb-cut altogether. Is that correct?

Pate: That is our recommendation, yes.

Anthes: Is there discussion?

Myres: I remember at Subdivision, and I think all of us had a chance to see this at Subdivision at one time or another, we discussed the issue of traffic safety, and I wish there were some other way to provide a second means of access off of Gregg without them being so close together, but I have to agree with staff, that even though it might be a one-way in, give the traffic that's out in that area that's only going to increase over time, I think another way to provide access to a drive-through is going to have to be found rather than a second curb-cut, because I can't support that because of the safety considerations.

Anthes: Well, my question is this. If we do find consensus on that item and want to consolidate to one curb-cut on Gregg, would we then find in favor of (a)?

Myres: Or (b)?

Anthes: Because if you were consolidating it, you know, you might want to move that back and not grant the waiver and meet all the ordinances with one way in on Gregg.

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- Myres: But then you've got people who might want to be accessing the parking lot having to do through the drive-through basically.
- Pate: Madame Chair.
- Anthes: Yes, Mr. Pate.
- Pate: I believe that option was drawn up and presented to at least one of the Subdivision Committees, I believe, and that would essentially move that driveway to come in at basically the building, which was -- certainly with the drive-through -- would not be advisable there, especially for stacking distance out of a commercial center. So we feel if that is removed that we would still support the waiver request as noted in your --
- Anthes: As (a). Okay.
- Myres: For Driveway A.
- Anthes: Anybody else have comments on (a) or (b)?
- Graves: Madame Chair.
- Anthes: Commissioner Graves.
- Graves: Well, I'm just -- I somehow avoided this on Subdivision. I'm not sure how if it was there three times, but I managed it. I was curious if there had been any discussion about things like speed bumps and so forth on the -- if the northern curb-cut were allowed and it was one way, if we had speed bumps along the side of the building it might discourage even further some use by the folks that aren't intended to be using it, if you're just talking about using it for delivery. I mean, I think that's the reason they want it, isn't it?
- Pate: Primarily, I think a lot of it has to do with the drive-through access, to get immediate access to the drive-through that's located on the west end of the building.
- Graves: Well, I was just thinking if there -- if there's something that slows you down from going through there, too, then people would be less likely to use it to actually get over the parking lot. I mean, they might use it at first, and when they figured out that they had to slow down to go over several speed bumps, they might start using the one that's intended to be used.

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Pate: Our concern was not necessarily, although it probably is a valid one, of speeding along the back side of this. Ours was more toward one stacking out into Gregg, especially if it's a popular drive-through.

Graves: Right. Part of it was, though, the turning movements required.

Pate: Right.

Graves: And if you're slowing them down, then the turning movements become less of a concern, I would think. I understand it doesn't alleviate the traffic part of it.

Pate: Secondly, another concern that we have was that if you -- in the site circulation that you have right now, if you enter the site at any place other than the actual entrance for the drive-through now, you cannot get to the drive-through. You cannot go against traffic along the one way to the back. So if you're actually going to the drive-through and do not know that that's the curb-cut for that, you have to get back out on a state highway and go through the intersection and get back out on Gregg to go back through that.

Graves: Right.

Pate: So in terms of internal circulation and our requirements under our parking/loading standards to have a development design there, internal circulation such that access is readily available, we felt it was important to allow that -- all access to be internal to the property without maneuvering outside onto the state highway to do that.

Clark: Madame Chair.

Anthes: Are you finished, Commissioner Graves?

Graves: Yes.

Anthes: Commissioner Clark.

Clark: Jeremy, you, or maybe you, Mr. Morgan, I'm a little confused in terms -- these access, we were the first Subdivision to see it, and these points of access were the problem at our Subdivision as well, and I don't know how to fix it. If you do away with the northern curb-cut and you only allow the south, I'm not sure how delivery traffic and this drive-through are going to coexist. If there's only one way in -- delivery traffic traditionally drops off in the back of the building -- how are they going to get out without

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- coming through the drive-through unless you prohibit a drive-through on that end, which is out of our jurisdiction. You've got to do that.
- Morgan: That would actually continue through the remaining back of the building and exit through the south. They wouldn't actually come through the drive-through.
- Clark: Well, if you don't have that northern entrance --
- Morgan: If we don't have the northern entrance, correct.
- Clark: Yeah. I mean, assuming we do away with the northern curb-cut completely, even if you move the southern curb-cut further north, it would still seem to be a conflict with the drive-through and delivery traffic. I mean, I'm almost inclined to allow you to have all the curb-cuts simply -- this is -- because of the uniqueness of this site, and that does not make me happy from a safety -- a traffic safety standpoint at all, but if you're going to have stacking for a drive-through, plus delivery traffic trying to circulate through here, I'm not sure how you do it with just one on -- one curb-cut on Gregg. And I also had another question while we're on this on the Shiloh, the right in/right out, which I think is absolutely necessary and absolutely correct, how do you design those so some person doesn't make a left-hand turn in?
- Morgan: This is a state right-of-way and they only allow for a 4-inch concrete divider. Ideally -- Your question is how do you prevent someone from turning left?
- Clark: Because I can see them doing it.
- Morgan: And they will do it. The highway design is so -- people will be people and they'll drive at speed across and not damage the vehicle. Of course, that's not what we're looking for here. We'd like to prohibit them from making that left turn. Signage, other such things like that. There's really no mechanical means that effectively prohibits people from doing it other than signage and just posting that they're not allowed to make that turn.
- Clark: Because we fixed this at Nelson's Crossing, if you all remember, out by the mall, and they did a right in/right out and I can't -- I saw it just the other day and it looked kind of functional, like it was really going to deter somebody trying to turn left, and I was wondering if you were going to try to employ some of that same --
- Morgan: I've seen people drive straight over landscaped medians in the middle of roads, and --

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Clark: Oh, yes.

Morgan: -- if they're going to try to cross it, they'll try to cross it, but hopefully the -- we're going to use the maximum deterrent allowed by the Highway and Transportation Department.

Clark: Okay. I'd like to hear more discussion about the two, how this piece of property is actually going to function with only one curb-cut on the Gregg and one curb-cut on Shiloh. I think this is a great commercial endeavor. It's a great use of that property that just traditionally floods. I love all of the trees that are going to the east of it, and I'm still kind of twitchy about that western elevation, but that's okay. But the curb-cuts concern me and how it's going to function.

Anthes: I'd like to follow that up with Mr. Pate if I could. Normally staff doesn't recommend removing something unless they've convinced themselves that they can solve the problem, and I know you're not in the business of designing projects for applicants, but have you convinced yourself that that interior circulation could be manipulated to work?

Pate: I believe so, and Jesse mentioned it would require some minor site design. It may require reducing the size of one of the units that are being proposed. The site layout is dictated in large part by the amount of square feet that is proposed on the site and the size of the building that's proposed, so either reducing some of the eastern curb-cut or reducing the size of one of those actual units that are being proposed to allow for two lanes of traffic on the west side, one dedicated for drive-through, one dedicated for actual through traffic, --

Clark: That will work.

Pate: -- I think that would potentially solve the problem. Now, Mike, of course, may smile because we have a lot more things that are involved with a redevelopment and redesign of a site than just, you know, talking about it at a Planning Commission meeting, so --

Clark: It sounds easy when they talk about it.

Pate: -- I'll certainly have to defer to him in terms of specifics on that.

Anthes: I'd like to direct a question to the applicant. Being that you've been to three Subdivision Committee meetings and this has been an issue for some time, have you drawn the site in the way that Mr. Pate suggests?

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Morgan: We have looked at several options for this site and changing the circulation has been one of them. The idea for the drive-through is a convenience. Typically what we're thinking is a possible drive-through cleaners, so you would drive in, drop your goods off, and drive away. To have someone actually circulate the rear of your building to get to a drive-through is in opposition of that. It's kind of like Wal-Mart having their pharmacy -- they put it out in the parking lot because it's easy to get to instead of having people drive around their loading docks and their delivery areas in order to get to the drive-through. If it's not convenient, people won't use it, and it might have well be taken out of the equation altogether. And mixing delivery traffic with your commercial traffic is never a -- or in this case, I don't believe it's the best option available to us for this site.

Anthes: But have you looked at the option to perhaps make the building slightly smaller to allow the two-way there?

Morgan: We shrunk the building east/west in order to allow for the 25-foot landscape buffer, and my client believes that he's at that point now that -- and we're losing so much square footage and we're having to put so much into the infill of the project, it makes it more and more difficult to have a project of this caliber on this land.

Anthes: Is there further discussion on 3(b)?

Clark: Madame Chair, that is my major focal point. I can get away with all the other waivers, but the curb-cuts are really the significant sticking point with me. And I do not want to deny it. I don't want to vote against this. I would much rather table it and let the architects work on the traffic flow and with staff on curb-cuts before -- I mean, I'll vote against it, because, I mean, that -- It's a safety issue. Gregg is terrible. That is a horrific corner. It's getting worse every day and I just -- I don't understand how it's all going to work safely, and I think it could with just a little more --

Myres: Madame Chair.

Anthes: Commissioner Myres.

Myres: If we deny a sub-condition of approval, that doesn't mean we're denying the whole project?

Anthes: That's correct.

Myres: We're just telling them they can't have that second curb-cut?

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Anthes: That's correct.

Myres: Okay.

Anthes: Which is staff's recommendation.

Clark: Well, which -- Okay.

Anthes: Let's move on to 3(c). Is there any discussion about the landscape waiver?

Myres: No. Okay with that.

Motion:

Anthes: Is there any other discussion? I'll move that we approve Large Scale Development 06-2278 subject to the conditions of approval as follows: finding in favor of Commercial Design Standards; finding in favor of the street improvements as recommended by staff; and then on Item 3, finding in favor of 3(a), striking or finding against 3(b), in favor of 3(c), in favor of 4, and all other conditions as stated.

Myres: I'll second.

Anthes: We have a motion to approve by Commissioner Anthes, a second my Commissioner Myres.

Morgan: Madame Chair, --

Anthes: I'm sorry, --

Morgan: -- may Mr. Brian Shaw speak for one second before we make a final vote on clarification of what exactly is being motioned?

Anthes: The motion on the floor is to accept the recommendation of staff on all of the points as outlined in your staff report.

Morgan: And this would prohibit the second curb-cut onto Gregg?

Anthes: Yes.

Morgan: Is there any place for a discussion with Mr. Brian Shaw?

Anthes: Well, normally we don't allow that during voting procedure. I think we're all pretty aware of what the issue is.

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Morgan: Thanks.

Anthes: Is there further discussion?

Graves: Madame Chair, just for purposes of the record, I think it's been stated, but I know that our city attorney talks about our abilities to vote up or down on a large-scale development. Of course, on this one it's just one particular waiver that's being requested, that the motion would contemplate voting down, but just for the purposes of the record I would say it's primarily a traffic issue, it sounds like, from staff, that there's a lot of concern about stacking and traffic movement and so forth., so it is a traffic concern with the commissioners.

Anthes: Thank you for that clarification. Is there further discussion? We have a motion to approve. Will you call the roll?

Roll Call: The motion to approve LSD 06-2278 carries with a vote of 7-0-1, with Commissioner Lack recusing. Commissioner Ostner is absent.



FINAL AGENDA

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

AGENDA FOR A MEETING OF THE PLANNING COMMISSION

Monday, December 11, 2006, 5:30 p.m.
Room 219, City Administration Building

The following items will be considered:

Consent:

1. Planning Commission meeting minutes from the September 25 and November 13, 2006 agendas.

2. VAC 06-2362: (SPRINGWOODS, LOT 2, 286): Submitted by H2 ENGINEERING, INC. for property located at LOT 2 OF THE SPRINGWOODS C-PZD, THE ARBORS AT SPRINGWOODS. The property is zoned C-PZD, Commercial Planned Zoning District, and contains approximately 25.23 acres. The request is to vacate utility easements that have been moved and replaced for the approved Large Scale Development, The Arbors at Springwoods within Lot 2 of the Springwoods, PZD.

Planner: Andrew Garner

3. ADM 06-2406: (EAST SQUARE DEVELOPMENT): Submitted by ROBERT SHARP ARCHITECTS for property located at the northwest corner of Mountain Street and College Avenue. The property is zoned C-PZD 05-1610, COMMERCIAL PLANNED ZONING DISTRICT and contains approximately 1.01 acres. The request is to extend the development approval for the issuance of building permits for a period of one year.

Planner: Suzanne Morgan

Old Business:

4. RZN 06-2344: (DUNNERSTOCK - WINDSOR S/D, 513): Submitted by DAVE JORGENSEN for property located at NE CORNER OF DOUBLE SPRINGS RD. AND SELLERS RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 34.50 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Planner: Andrew Garner

New Business:

5. R-PZD 06-2299: Planned Zoning District (RUSKIN HEIGHTS, 370): Submitted by COMMUNITY BY DESIGN, LLC for property located at WEST OF HWY 265/CROSSOVER RD., AND SOUTH OF MISSION BLVD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 28.92 acres. The request is for rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with a maximum of 295 attached and detached dwellings as well as 58,500 s.f. of non-residential space. The Preliminary Plat approval is for 67 lots containing 57 residential units and 19,182 s.f. of non-residential space.

Planner: Andrew Garner

THE APPLICANT REQUESTS THIS ITEM BE TABLED INDEFINITELY.

6. VAC 06-2363: (CRUZ BAY / 5th STREET R-O-W, 523): Submitted by MANDY BUNCH for property located at NW CORNER OF 5TH ST. AND S. LOCUST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.28 acres. The request is to vacate the right-of-way of 5th Street between S. School Ave. and S. Locust St.

Planner: Jesse Fulcher

7. VAC 06-2364: (CRUZ BAY / ALLEY, 523): Submitted by MANDY BUNCH for property located at NW CORNER OF 5TH ST. AND S. LOCUST. The property is zoned MSC, MAIN STREET CENTER and contains approximately .04 acres. The request is to vacate 150' of the 12' alley on the subject property.

Planner: Jesse Fulcher

8. CUP 06-2367: (TEMPLE SHALOM OF NWA, 442): Submitted by PARK CO. ARCHITECTS for property located at 699 N. SANG AVENUE, S END OF CLEVELAND. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.82 acres. The request is for a cultural/recreational facility (Use Unit 4) in the RSF-4 Zoning District.

Planner: Andrew Garner

9. CUP 06-2360: (POORE/TOWNSHIP, 294): Submitted by ALAN REID for property located at 3188 E. TOWNSHIP ST. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 7 acres. The request is for a tandem lot.

Planner: Suzanne Morgan

10. RZN 06-2366: (WONACOTT, 436): Submitted by MELISSA WONACOTT for property located at 655 AND 657 N. GENEVIEVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.50 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Planner: Suzanne Morgan

11. R-PZD 06-2349: Planned Zoning District (WESTBROOK VILLAGE, 284): Submitted by PROJECT DESIGN CONSULTANTS, INC for property located at SALEM ROAD, CLABBER CREEK DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.38 acres. The request is for a Residential Planned Zoning District containing 11 single-family lots.

Planner: Jesse Fulcher

12. ADM 06-2379: (Outdoor Lighting Ordinance Amendments): Submitted by Planning Staff to amend the City of Fayetteville Unified Development Code Chapter 176: Outdoor Lighting.

Planner: Leif Olson

13. ADM 06-2380: (Urban Residential Design Standards): Submitted by Planning Staff amending the Unified Development to add design standards as criteria for approval, applicable to townhomes, single-family attached, two-family, three-family and multi-family dwelling units. The request is to forward the urban residential design standards to the City Council.

Planner: Karen Minkel

All interested parties may appear and be heard at the public hearings. A copy of the proposed amendments and other pertinent data are open and available for inspection in the office of City Planning (575-8267), 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the petitions. Interpreters or TDD for hearing impaired are available for all public hearings; 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

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CUP 06-2295: Conditional Use Permit (DIDICOM, 396): Submitted by DIDICOM, LLC for property located NE OF WEDINGTON AND DOUBLE SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.83 acres. The request is to allow a telecommunications tower with cellular antennas on the subject property.

Anthes: Item 3 is old business, Conditional Use Permit 06-2295 for Didicom. May we have the staff report?

Fulcher: Yes, ma'am. This is a conditional-use request for a 150-foot monopole cellular tower located northeast of the corner of Wedington Drive and Double Springs Road. This was heard at the previous Planning Commission meeting on November 13th. It was tabled that evening, mostly to allow staff to formalize some conditions for this request, also to allow time for the applicants of this proposal to meet with the applicants of a tower proposed in the county which is under review at the Washington County Planning Office. That is for a 195-foot monopole tower approximately 300 to 500 feet north and east of this request. On Page 13 of 42 we did include an e-mail that was forwarded to us from the applicants. It has some correspondence between the two parties of these two towers, and I believe that both parties are available tonight to answer questions as far as their discussions regarding working together on these two tower proposals. Staff is supportive of this request due to a few reasons, mostly that the applicants have demonstrated that there is a coverage deficiency in this area, and also a capacity issue in this area. The nearest cellular towers are three miles away -- approximately three miles away -- and if you've been to the area there are no structures higher than one or two stories to co-locate on currently. We did speak with the Washington County Planning Director this afternoon. One of the issues that was brought up regarding the tower in the county is that the Washington County Planning Director was awaiting the NEPA report, which was the final item that they needed to receive to approve the tower in the county. When we spoke with her this afternoon, she had received that NEPA report; however, based on her schedule for that afternoon, she was not able to review that and give us an approval letter of any sort, although she said she would review that tomorrow and would have a decision on that tower in the county tomorrow morning. However, given that there is not currently a tower or another structure in the area that's approved for this applicant to co-locate on, staff is recommending approval of this request. Had there been an approved cellular tower or some other form of co-location available, staff would not be in support of finding that the applicants should put forth the effort to co-locate if possible to cover their coverage and capacity issues in this area. So staff is recommending approval of this request and we have provided the

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planning commissioners with 10 conditions of approval. If you have any specific questions, please ask.

Anthes: Thank you, Mr. Fulcher. Would any member of the public like to address this item, Conditional Use Permit 06-2295 for Didicom? Please come forward. Are you part of the application or are you the general public?

Ludwig: Excuse me?

Anthes: Are you with the applicant or are you with the general public?

Ludwig: I'm with the general public, actually, representing Smith Communications.

Anthes: Okay. Let me wait on the Smith Communications part until we take the applicant, if we might.

Ludwig: Okay. Sure. Not a problem.

Anthes: In fact, you might not sit down because we might not have any public -- oh, maybe we do. Please come forward.

Taylor: I'm Joel Taylor. I represent Didicom, the applicant, and yes, we do agree to the --

Anthes: Oh, you're with the applicant?

Taylor: Yes.

Anthes: Okay. I'm asking for public comment just right now. Sorry for the confusion. I'm going to ask for public comment one more time on this cell tower request. Okay. Seeing none, I'm going to close the floor to public comment and I'm going to ask for Mr. Smith to give their comments -- or Smith Two-Way to give their comments after the applicant. If the applicant would come forward.

Taylor: I was just going to say, we do agree with the 10 stipulations placed by the planner on our tower.

Anthes: Can you clarify a little bit your conversations with the Washington County applicant for us? Didn't you make some gestures -- we had asked you to go back and talk to them and --

Taylor: I personally did not. Our carrier, Alltel, did.

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Anthes: Okay. Can anybody here clarify what happened in that conversation, because this body tabled this request and asked you to go back and make contact, so we need to understand what happened.

Taylor: Nothing happened more than what was in the letter that you have.

Anthes: Okay. Thank you very much. Can we hear from Smith Two-Way?

Ludwig: Good evening. Actually, the company that I'm representing is Smith Communications, LLC, just for the record. My name is Gary Ludwig. Just a little background, I've been around since about '86 building towers, doing site acquisition. I've worked for basically the major carriers as a consultant, site acquisition consultant, etcetera. I won't bore you with the details, but I've worked in Florida and Alabama and Minnesota, Arkansas and various other states. After reviewing the November 13th video, we noted several things that seemed to be communications or inaccuracies. I'd like to bring to the Board's attention -- I'll not go into depth into all of these, but will review the ones we feel will give you enough information to deny the current application. One, and I quote the city attorney from the November 13th meeting, "Smith may, might, if, sometime in the future, build a site." The fact is that we applied to the county, we have a permit from the county contingent upon the NEPA, and I have a copy of that and some other documents that I can hand out at this time if you wish to have a copy of these. And really it says, "contingent upon receipt of the NEPA." The NEPA is complete and we did deliver that today, not only NEPA, but we have a complete site survey, and we have all of the other documents that need to go into building a site. Literally, we could go start digging a hole tomorrow and do construction on the site. And I'm sure that the county will have time constraints on their part this afternoon due to meetings, etcetera, that they couldn't look at this form in depth. Do we have those copies? Will you pass those around? Thank you. Two, Smith Communications, again, did not just jump into building this site at the last moment. According to the carrier that we're working with, they shared proprietary information with us regarding future cell sites. A map with those sites was provided to this commission and to the city attorney's office approximately six months ago, so we have known about this site, we have been looking at other sites. Not until early October, I believe, did we become aware that there were other people working in that area. Because of the difficulty that we've had in the past to get a site zoned in the city, I respect your rules and your regulations, some of them need to be looked at a little closer. Your attorney referred to the Federal Communications Act in the last meeting, and there are some areas of your code that probably need to be looked at a little closer to be in line with that code. That proprietary information, we had permission from our carrier to share, and we did do that, so we have been working on this for quite a

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while. Number three, like every tower that I ever worked on, it's real estate. It's location, location, location. Where is that tower going to be? How is it best going to suit the public and the carrier? What kind of communications are they going to be able to provide? The tower that we have proposed is 760 feet from Wedington Road. Didicom's tower is 600 feet from Wedington Road. The tower that we're proposing is 600 feet from Double Tree Road and the Didicom tower is 300 feet from Double Tree Road. Didicom's tower is in the middle of a five-acre field. Smith Communication's tower is bordered by, on two sides, a nice buffer of woodland. In your code, Section F, Page 163(10), you ask the applicant to "describe your efforts" to co-locate their "facilities on existing poles," etcetera. There are three towers, in reviewing the application of the applicant, that are within visual sight of Didicom's proposed site, and I see nothing from their RF stating that these towers would give them or not give them coverage. They are Dinsmore Tower, Hash Communications Tower, and the Deane Solomon Tower. Their carrier, Alltel, is not on any of these towers, so I don't know, you know, from their application whether or not they provided coverage to show if that would happen. When I'm doing site application or site work, I'm usually required by the carrier to not only look at what the site is, but to look at sometimes up to five miles in a radius of a particular site. Even if we're down to three miles, these sites that I just mentioned would have come into play and would have to have been addressed by the RF people. And I'm glad that you asked that question earlier about the good-faith effort to communicate. The last communication that we had with the carrier was on November 10th -- that was a telephone communication -- and there were a couple of e-mails before that, but we have heard nothing from them since that date. Lastly -- and I'm not an attorney. I'll defer to your city attorney -- there was a suggestion by the Board that carriers and the construction companies should get together to discuss so that this would not be a problem, and I'm assuming here a little bit that the problem would be that people wouldn't be building towers close to each other, there wouldn't be a proliferation of towers. We respectfully note that in the business world today that that would be considered collusion, and we can't be talking to the other guys, telling them what we're doing and how we're doing it, and -- I mean, it's just not done. Lastly, you know, we talk about the co-location. This site is going to be a 195-foot monopole. It will be in the county, but with respect to the surrounding area we have tried to locate it an area that will be buffered a little bit. It is out of sight a little bit, better than the Didicom tower. There are pictures attached here where we superimposed a tower on it at the height that it will exist and it also shows up in the different views of the different roads. With those items I feel that the application for the site that is before you should be denied. Do you have any questions of me?

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- Anthes: Thank you very much. Would the applicant like to make a response?
- Taylor: Yes. As far as -- well, you can plainly see through his speech that this is what happens when somebody gets to the game a little bit late and they're trying to save the --
- Anthes: Would you please -- We don't need to be --
- Taylor: Okay.
- Anthes: -- calling anybody's character into question. Just talk about the development proposal, if you would.
- Taylor: Well, our co-location attempts, we are on the three adjacent towers: east, south and west. We're not on the two towers he mentioned. We're on the tower just across the highway intersection of Wedington on that hill, so the other two towers were too close. We did write back a letter saying that the tower on Deane and Moore would not serve our purpose. The towers in town are about a mile or mile and a half apart. We're talking being at three miles, so this cover at five miles and -- for a co-location just won't work when your coverage area is just as small as ours is, about three miles. Both sites are buffered, you might say. They are scrambling to get their documents in. I know my landowner called me last week and said that their geo-tech truck had just showed up on our property and was getting ready to test drill and he referred them to the other site. If I would have known -- if he would have had some public record, some recording, some lease, or anything, we would have known --
- Anthes: Can you just talk about your proposal and what your options are as far as your options for co-location on any other tower and your decision to choose this site?
- Taylor: Well, I'm the contractor and the owner of the tower. Our client, Alltel, has chose to do business with us and has had a commitment with us for this site for over six months and we've been working on it and gone through the process, and because of the Washington County rules their site didn't meet setbacks, but they were able to go to adjacent landowners and get a signature from the closest residential structures to their tower and that overrode their setback requirement and so that's how they were able to get an administrative approval, but it's still contingent upon their deals and --
- Anthes: Can you talk about your proposal, your development proposal for your tower for Didicom? I mean, that's the item we're voting on tonight, not the one in Washington County.

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Taylor: You're right, and I've said I agree to the contingencies. I am for my tower and we'll do a good job and we'll build a tower that will be camouflaged and tricolor and there's no public resentments and you're not against our site and we ask for approval.

Anthes: Okay. Thank you very much. I have a question for Mr. Williams before we start our discussion. Can you clarify the city's policy about co-location?

Williams: When we talk about co-location in our ordinance, we talk about, for example, under -- in subsection (f) it says, "Describe your efforts to co-locate your facility on one of the poles or towers that currently exist." Well, there is none at this point in time. There is a proposed tower. They talk about -- they also say you "should have a survey of all existing structures that might be feasible sites." Again, we don't really have an existing structure, but there is one proposed. It does say to "contact other wireless communication facilities and share information if feasible about co-location." And it looks like from the packet that the other group -- or the groups are not very receptive to sharing information and to co-locating to a single site. We obviously have no jurisdiction within the county to require anything. The tower in the county is 45 feet taller than we would allow in the city. 150 feet, of course, is our limit in the city, and sometimes we've had a shorter limit than that in certain locations, and they're proposing, from what I've seen in their packet, 195 feet. We can also require certain alleged stealth technology, whether that's effective or not, and I do think there is going to be another cell tower proposal coming forward in the near future near Old Wire Road and 265 with a proposal of a tree stealth technology. It might be the first large tree we have. There's a background of trees there, so it might actually be fairly effective in that location as opposed to just standing out in the middle of a field and looking like an unusual tree. But I think that the problem we have here in trying to force a co-location is that there is simply no existing tower that is there. And I would also invite our planning and zoning administrator to comment about what he might think in relation to this particular chapter, because I think actually he is the official interpreter of the use conditions chapter and so his interpretations would take precedence over mine.

Anthes: And, Mr. Pate, when you give us your comments would you also state whether staff looked at this Dinsmore, Hash and Deane Solomon towers that are within three miles and evaluated those for co-location.

Pate: We did not look at any individual tower -- we rarely do -- and evaluate them for co-location. We depend upon the applicant to provide that information. That's essentially the drawings that -- the survey that's

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required in Number 1 there, the existing structures, any co-location opportunities. They do provide that in the packet, which is in your staff report. We provided that for you. And they've indicated that those are not -- they would not function for what they're looking for in this particular location, which is essentially coverage. As I stated at the agenda session, I think this is one of the stronger cases for coverage that we've seen in the city, just in other applications. We've discussed the coverage looks fine. It's a capacity issue, and proving capacity issues is oftentimes difficult, but I think in terms of just the maps that are provided, it's easily -- obviously two carriers are attempting to provide in the same area, coverage for this particular area. With regard to the rest of the information, as discussed at the last -- November 13th meeting, we did go through and make findings on all these, as we had previously. We had simply recommended that it be tabled at the last one. While I believe the communication could be better, this is always a sticky situation with every application that comes forward for a cellular tower, and I think it's just the industry standard, unfortunately, that we get into. We've had common meetings between multiple carriers. Mr. Williams and I sat in one of those meetings. We were able to get to some common ground, but obviously a lot of information could not be shared also. So I feel that the applicant has done their due diligence. They've gone through a process of 40 days plus two weeks, actually, now, because it was tabled, in their application process. They've met what we require in terms of a conditional-use permit for a telecommunication tower. Essentially it's not up to the Planning Commission to decide which tower is better in this application, it's whether you feel this is an appropriate use for this site and that this is an appropriate location in this conditional-use permit, and if the conditions that are proposed alleviate any potential detrimental impact that you feel is going to occur because of this.

Anthes: One other question, Mr. Pate. At the last meeting there was an indication that there was a three- to six-month process to obtain this NEPA certification in the county level and that it wasn't expected for some time. Have you verified that that has been filed with the county and that they do have the letter now?

Pate: They do have. We spoke with the county planner this afternoon, as Jesse mentioned. They do have a NEPA report. They've not reviewed that to see if that's actually an approval from that level, though, so that's something that we cannot confirm yet at this time.

Anthes: Thank you. Commissioners?

Graves: Madame Chair.

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Anthes: Commissioner Graves.

Graves: When I read the report from the county planning office it doesn't say that it has to go through any further review. It says it's been approved contingent upon getting a copy of the NEPA report, and we've been told now that the NEPA report has been provided to the county, which would lead me to conclude that it's a formality, that she's got to look at it, obviously, to see that that's what it is, but this letter doesn't say that there's any further approval process involved once that report is received. It says the tower application "has been approved contingent upon your providing this office with a copy of the NEPA report for this tower/site. Please understand you can't construct related to this tower on this site until the county has received a copy of the NEPA report and notified you you may proceed." It doesn't say notify you that we've approved the NEPA report or that we've reviewed the NEPA report. It just says once we get a copy of it, then we're going to tell you that you can proceed with construction. So that's the hang-up I have here, now that we've been told, and we've got no information or evidence to the contrary that what we've been told is true, that the NEPA report was provided to the county.

Ludwig: Excuse me. There is a copy of the NEPA report in the package.

Graves: I understand that.

Anthes: We understand.

Graves: Thank you. So we've been told that that copy -- that a copy of that report has been provided to the county planning office. That's been confirmed by our city planning staff. And we've got a letter from the county saying that it was approved contingent on them getting a copy of that report, which they have now gotten, which would lead me to believe it's been approved now, or it's as good as approved, which then gets me back to the staff's recommendation that says if this tower in the county has been approved then we would be recommending denial of the subject request, finding that co-location is available and that the applicant has not demonstrated a good-faith effort to co-locate with another carrier. I, in looking at the ordinances, don't think we're required to cast aside, totally, common sense, you know, all evidence to the contrary sometimes from the courts. I don't think that we have to ignore the fact that there's going to be a tower in the county located less than 500 feet away from where this proposal is located. We now know that that proposal has been approved by the county, or as good as approved, and we've got this applicant still wanting to build a tower less than 500 feet away. Under those circumstances I'm not going to support the conditional-use permit

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application and I just don't -- I don't see any reason to pretend like that other tower is not going to get constructed, because it is.

Anthes: Is there further discussion? Commissioner Clark.

Clark: I have a question for staff. Is the issue of two competing towers simply co-location or proximity, cluttering the landscape? What is -- why shouldn't we have two towers?

Pate: I think it's a combination of both of those things. One, if you provide one singular tower it would probably lessen the impact of -- the visual impact in that area. Secondly, with a 150-foot tower, which is the maximum allowed, several carriers can be located on the same tower, so that would hopefully accommodate multiple carriers in this area, aside from just Cingular and Alltel, who are looking for the two towers currently.

Clark: So, okay. I'm interested in what the rest of the commissioners are thinking, because looking through the information in the packet it seems very obvious that co-location between these two entities is not going to happen. We've got one company that is building inside the city limits and going 150 feet maximum. We have another that's gone outside in the county, where they can go higher. That might be where they can build, that's fine. I don't -- I'm very uncomfortable playing the city versus the county game. We're the city. Is this what we want here in this place for this applicant? We have agonized over cell tower applications in the past that have been more centralized in the city, with neighbors coming out saying, "We don't want this here. This is not a good place. Take it out." All right. They've taken it out. Now we're saying you have to defer to another tower that's 500 feet away in the county, where we have absolutely no jurisdiction whatsoever. I'm also looking through the packet, and if I'm not mistaken, I've found some indication that another company would be willing to co-locate -- and maybe Mr. Taylor can comment on this -- another company is already willing to co-locate on their new tower -- Cingular. So that indicates to me that Alltel is at least looking for people to play nicely with them on their tower and they already have potential partners. I guess I'm coming back to why -- what stops us -- and maybe, Mr. Williams, you can tell me -- what stops us with our ordinances from agreeing to this, since we're not the county?

Williams: Well, certainly nothing prevents you from granting this conditional use, and cities are granted some powers by the federal government in the cell tower act to use aesthetics to consider whether or not to grant an application, but there should be some pretty strong evidence on aesthetics before an application is turned down. You know, certainly you can look toward the fact that there probably will be another tower in the area that

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might be willing to accommodate another cell tower -- I mean, a cell company, and therefore, maybe you could say you would be reducing cell tower clutter and that would be a strong enough aesthetic base, but we haven't heard very much from citizens. There was one citizen last week that said, "I don't like that." There was nothing else. And so that's a pretty weak amount of evidence for the commission to have to say, "Well, aesthetically it's unacceptable and we're going to turn it down." So it's not based just on what our code says. Our code, we try to do a conditional use, try to conform with the federal law as best we could, but the cities do have a fairly strong burden to show that there's real reasonable aesthetic considerations that require this to be turned down, and most of the cases I've seen on that is when the -- there's been a lot of neighborhood opposition and a lot of citizen opposition, it's been close to schools or historic structures, other situations like that, and we don't have that in this particular case. We have one family that came out and said -- and I would probably agree with them -- "I don't want to see that when I walk out my front door."

Clark: But they didn't know also we could provide landscaping around it and stuff like that.

Williams: Well, this does require landscaping. That's one of the conditions of approval that the planning department put in.

Graves: Madame Chair.

Clark: I have one more question, Mr. Graves.

Graves: Okay. I just wanted to respond. You asked for -- I would like to clarify my rationale for you while you're hashing it out.

Clark: That's fine. I understand, but I've got one more question. Jeremy, in the past have we not put a condition in the cell tower conditional-use applications that require them to go shorter if technology becomes available?

Pate: In some applications we've seen a condition added by the Planning Commission at the meeting not to go shorter but to remove the tower if some technology comes about in the future that simply does away with this type of technology.

Clark: Okay.

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Pate: That is a condition that sometimes is added. We don't make a finding on that in our conditions of approval, but that has been added -- not to all applications, but to some applications.

Clark: But to some? Okay. Well, all right. Now, James -- Mr. Graves.

Graves: Madame Chair. Just to clarify, in light of the city attorney's comments, my comments were not based on aesthetics. My comments are based on coverage. If we've got another 195-foot cell tower that's going to be located in the county and it's been approved, then the coverage issue that we've been told exists in that area will no longer exist, and again, at that point we've also got a need for an explanation besides "We can't get along" and "We haven't talked" or no evidence whatsoever that co-location is not a feasible option there. And we've put the question directly to the applicant on this piece of property about co-location and we got, "Well, my carrier made a call, I didn't make the call, and I don't know what they said," even though we specifically, apparently at the last meeting, asked to get that information. So my rationale is completely based on coverage. If you've got a 195-foot cell tower that's going to be built less than 500 feet away, the coverage issue that apparently exists in that area goes away and this is not then an appropriate location, in my estimation, for a cell tower.

Anthes: To follow up on Commissioner Graves' comments and the city attorney's comments earlier, I believe our ordinance does address when a tower exists, as you pointed out, but not one that doesn't exist yet; however, I'm following Commissioner Graves' line of thinking, and one that has been permitted can be seen in some way to exist, and that's, I think, where we're kind of stuck. Because our ordinance doesn't say that that possibility for co-location has to be entirely within the City of Fayetteville. In effect, I think there are federal laws that cover cell towers, which are, you know, crossed far beyond our city limits, and so I guess I'm questioning, a permitted tower, is that -- can we figure that as something that exists?

Williams: Let me give you one other caveat, and I think I've probably told you this before. Zoning ordinances, which this is one, are called in derogation of the common law; in other words, they did not exist in common law, and therefore, if there is any ambiguity within them, they are construed not in favor of the city, but in favor of the property owner, in this case the applicant, who is seeking a conditional use. So if there is ambiguity about whether a tower currently exists because it has been approved by another entity, then that would be construed against us by the courts, so I just think you should know that if there is some confusion, and I agree with Commissioner Graves, that you can certainly use common sense in most

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cases, but sometimes the courts will look at something and construe it very carefully and the court will look at the phrase "currently exists" and maybe say that doesn't mean proposed and approved. So I think that I do understand the well-reasoned statements of Commissioner Graves, I think he makes a lot of sense, but in interpreting our ordinance and looking at the federal decisions that have taken away some of the cities' powers in relation to cell tower regulation, I would have to say I would be concerned, still, with a rejection of this conditional use. Not to say that you can't do it, and I will do everything possible if there would be a challenge to that, and I don't think it's, you know, a hopeless case at all. I think Commissioner Graves has made very strong, persuasive arguments that I would attempt to use if something happened.

Harris: Madame Chair.

Anthes: Commissioner Harris.

Harris: I think my bit of confusion right now is that I don't feel as though -- and help me if I'm wrong on this -- I don't feel as though we have any more information tonight than we did two weeks ago, because as a commission we asked the applicant to come back with some information, and I would agree with Commissioner Graves on this, I do not feel as though we had those questions answered. So if our reservations two weeks ago were valid, legitimate reservations, I feel as though we still have those, that they haven't been addressed in some way.

Anthes: Yes, but the last time we heard this item we were under the impression that it was going to take three to six more months to understand whether or not the county tower would get their letter and be approved, and now, from what we understand, that approval is eminent, so it even takes the pressure further away from this item.

Trumbo: Madame Chair.

Myres: Madame Chair.

Anthes: Commissioner Trumbo.

Trumbo: A question for the representative for Smith Communications. The letter you provided us said that -- I'm not going to repeat what Commissioner Graves said, but it says you need to wait until you've been notified by the county to proceed. Have you all been notified that you can proceed?

Ludwig: I guess I'll refer to the letter from the county stating contingent upon providing the NEPA report.

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Trumbo: So you haven't been notified that you can proceed?

Ludwig: I have not been notified officially by the county that we can proceed, but again, I'm referring to their letter which states on the contingent of providing that information.

Anthes: But Mr. Fulcher --

Ludwig: We also provided the -- I mean, there's surveys, Phase I, NEPA, all of the things that -- that they didn't ask for.

Trumbo: But you haven't been notified --

Ludwig: Excuse me?

Trumbo: You haven't been notified that you can proceed?

Ludwig: Correct. We expect -- we expect to have that tomorrow morning.

Anthes: Mr. Fulcher said that he thought they would have that tomorrow, I believe. Is that true?

Fulcher: Based on the e-mail from the Washington County planning director, they received the NEPA report today. Based on her time schedule, she could not review that. Ultimately, she said she would have a letter, I assume, of approval for them tomorrow when she had a chance to review that.

Ludwig: One other thing that I heard in as far as towers are concerned, and I just make this point --

Anthes: I'm sorry, if we haven't directed a question to you, that section is closed.

Ludwig: All right. Thank you.

Trumbo: I guess following up with Commissioner Harris, there's -- the rub to me is I understand Commissioner Graves, where he's coming from, and I've heard Mr. Williams, where he's coming from, and to me, without full approval I don't see a project as having been approved until they've been notified, and they haven't been notified tonight, so we're certainly on a thin line here with what we decide and I'm not satisfied or sure which way I will vote yet, but that's the rub with me and that's the issue. I understand tomorrow we're going to get letters, but being and doing what I do, those letters sometimes don't come. I expect them all the time, and they don't, so, you know, that's the thin line, so I probably, now that I've kind of hashed this out loud, I probably will be in favor -- well, I won't allow this

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Smith Communications tower to influence my decision on the conditional-use permit in front of us. I'm going to put it aside like it hasn't been fully approved and move on to the use at hand, the conditional-use permit at hand.

Anthes: Thank you, Commissioner Trumbo. Commissioner Myres.

Motion:

Myres: I think I've forgotten what I wanted to say, to let me see if I can -- you can't let me wait too long. I've certainly had problems with other cell tower applications in the past, but I do feel that this one is a different proposition. I agree with both Commissioner Clark and Commissioner Trumbo that the possibility of a cell tower 600 feet away, or whatever it is, in the county really shouldn't influence particularly whether or not I think that a cell tower in this location in the city is appropriate or needed. It's just as likely that no accommodation will be forthcoming from either cell tower provider to any other carrier, so that it's certainly likely that they could co-locate on the county tower, but it's just as likely that they will not make the effort or that they will be denied access to it or, you know, any number of possibilities that that location wouldn't happen, and in the meantime we've got a gap in coverage, a fairly significant one. And as Mr. Pate said, this is one of the first applications that we've had where that coverage issue was very clearly demonstrated, so I have to go with Commissioner Trumbo and act as if the county isn't even there and the possibility of this other cell tower is not even a possibility. Having said that, I would like to go ahead and make a motion to approve Conditional Use 06-2295 for Didicom, and certainly discussion can continue after that motion.

Clark: I'll second.

Anthes: We have a motion to approve by Commissioner Clark -- I mean Myres, with a second by Commissioner Clark. I have a couple of questions of staff. Would you please verify that there no structures within the fall zone of this tower?

Fulcher: There are no residential structures within the 150-foot fall zone. I believe that there is one residential structure just beyond 150 feet, but none within the 150-foot radius.

Anthes: Okay. Condition of Approval Number 5, you talk about the transitional paint scheme. We all know of the tower that sits in the middle of a field with the transitional paint scheme and it looks bizarre because there's nothing around it to transition out of. In this case, because of the

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landscape buffer that's being proposed in Condition 7, is the height of that transition on the paint scheme queued to the mature height of the proposed buffer so that it actually would work?

Pate: That is the intent of the height of that transitional paint scheme. The actual height is similar to the height of a mature evergreen species that we previously approved for these sites.

Anthes: So there would be the trees and it would be green and then it would transition to the blue above that height?

Pate: Additionally, if you look at other towers in the city that have been permitted with the light blue or light blue-gray colors, they actually contrast more with the surrounding vegetation. If there are no trees, then they tend to contrast more below the tree line than above the tree line so that your visual -- the visual impact at a certain level is actually more than the transitional paint scheme.

Anthes: And I don't know who can answer this, but it's about sort of the business of cell towers and that -- you know, I don't really have a problem with either one of these towers, but I really wish that there could be one, and I don't care which one it is. It's just that, you know, all of our guidance says, you know, you put up a tower and then everybody looks at their coverage maps and then it appears that if a tower is already there they get together and they figure it out, because you can hang like five different carriers on one pole, from what I understand. So today they don't talk to each other, but once one is constructed it seems like there is an imperative to talk. How does that work? Does anybody know?

Williams: I think it probably does work when there are existing towers. We have written this ordinance to try to force that to work. But again, that requires an existing structure or an existing tower that is within the area that they need. Of course, a lot of the co-location was to try to encourage them to be on water tower sites and other sites that are maybe already visually impaired so we don't scatter out the visual impairedness to a large area. But anyway, we still hope that -- you know, I agree with you, it would be much nicer if there was going to be a single tower in this location serving all of the companies, if they can. Of course, there are now a large number of companies and it might be that a single tower would not even serve all the different companies that are in existence and coming into this area.

Harris: Madame Chair, may I ask a follow-up?

Anthes: Commissioner Harris.

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Harris: Mr. Williams, if the permission had already been -- if the permission to proceed had already been granted, if we were at 10 o'clock tomorrow morning instead of the time we are tonight, would that count -- would that constitute an already-existing tower for you in terms of co-location and the imperative to do so?

Williams: I think if you're going to interpret "currently existing," then you can see it.

Harris: Okay.

Williams: It's not that there's been an approval. And as this Board is well aware, you've approved many, many subdivisions and they ain't been built, and sometimes they never get built. Sometimes they come back like a couple tonight where they asked for administrative approval to get extensions because they have not been built or the vacation hasn't been approved or something. So, no, I don't think it's the same. I think approval and being currently existing means the same thing.

Harris: Okay.

Graves: Madame Chair.

Anthes: Commissioner Graves.

Graves: You know, I'm not really trying to parse the language of "currently exists" because I wouldn't try to argue that a tower that's not there yet currently exists, but I do think that the rationale for the federal statutes regarding cell towers is to make sure that there's sufficient coverage by cell companies, by providers of those services, and when there's an approved tower in the county that's going to be there, then the need and the rationale behind those federal statutes protecting cellular communications is no longer there. The reason that they rein in cities from saying you can't build towers because they know the towers aren't pretty to look at and they know cities are going to be inclined to not allow those towers in the city limits, and so the reason for those statutes is to make sure that purely on aesthetic reasons that a city can't turn down repeatedly cell towers and then as a result the citizens don't have coverage available by providers. In this situation we know that there's going to be a tower in the county, we've got the letter saying it's as good as approved and, you know, we could parse the letter, too, I guess, but it's approved and we all know it's approved, so, you know, the rationale for reigning in the cities then evaporates. There is going to be coverage there through that tower and that's the reason why I don't support the conditional-use permit. It's purely on coverage, which is the reason for the federal statutes in the first place. There's going to be coverage there, it's already been

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approved, and there's not a need for a tower at this location within the city anymore because there's going to be a tower out there in the county.

Ludwig: Madame Chair.

Anthes: I'm sorry, you cannot --

Ludwig: We had asked the question about tower*** business. I want --

Graves: I'm in the middle of talking, for one thing, but --

Ludwig: Oh, I'm sorry.

Graves: Maybe I'm going on too long and you weren't interested in hearing anything else I had to say, but the other problem I have then is we've been asked for the maximum tower that the city allows, a 150-foot tower. I guess I have a question for the motioner and those inclined to support the motioner. Am I also not only supposed to pretend like that tower is not going to be there, but now I'm supposed to pretend like it's not going to have any providers on it and, therefore, this provider needs the maximum height? I don't know if I can stretch my imagination that far and I would prefer not to and that's another reason for me not to support it. I would not be in support for certain of a maximum-height cell tower less than 500 feet away from a 195-foot cell tower in the county. That doesn't make any sense to me, either, and I don't want to stretch my imagination to the point of trying to guess or speculate on what the appropriate height would be when there's going to be a 195-foot tower there, unless, I suppose, I'm supposed to pretend like it's not going to be there.

Anthes: I have a question of staff. Isn't it true that the taller a tower is the more possibilities for co-location exist?

Page: That's correct. In most instances it allows for the minimum separation, so therefore, more carriers could operate at a height that's desirable.

Anthes: So how many carriers theoretically will fit on a 150-foot pole; do you recall?

Pate: I don't know the answer to that offhand.

Anthes: Okay. I guess, you know, I have to go back to what we're going to end up with at the end of all this, and we're either going to end up with two towers right next to each other that have Alltel on one and Cingular, maybe, on the one with Alltel, and then the Smith folks on the other.

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Myres: Possibly no towers.

Anthes: Or else there's going to be one that has everybody on it, because something will be built, whether it's one or the other, and for that reason I'm of the mind to say let's see if that Washington County tower gets built and ask Alltel to go to that tower and locate on it, but I would not want to deny the conditional-use permit because I would want the applicant to have the opportunity to come back to us in a shorter amount of a time of a year if the Washington County deal fell through. So it's kind of -- it's a matter of timing and I feel like if Washington County is ready to approve, they're ready to build, and that tower can start construction, then Alltel can co-locate on that tower. If that tower doesn't happen, if it's not constructed within six months, I would be much more happy with tabling this request so that we could hear it again if that -- and not have it be denied outright, which means we couldn't hear it again for a year.

Clark: Madame Chair.

Anthes: Isn't that -- is that the case?

Pate: That's correct.

Anthes: Commissioner Clark.

Clark: I'm going to play devil's advocate a little bit here because if I'm not mistaken the first time we heard this application two weeks ago Mr. Taylor indicated this was the last -- the last thing, and if they get their conditional use they could break ground tomorrow. So let's reverse everything you've just said. Let's approve the conditional use tonight, let Alltel start construction tomorrow, and maybe the Smith Communication folks will flock to them and co-locate. I suspect that we're building in the county because it's 195 feet. That's just my supposition. We have a moratorium in this -- we have a rule in our city that's 150 feet, but these aren't my businesses. These are their choices. We're here to do what is prescriptive in our code book, which is to deal with city -- with inside the city limits, so I'm still, you know, back at a rational reason that overwhelmingly convinces me to make this business that has done due diligence, done everything they're supposed to do, not build because somebody is doing something in the county. Does that mean we don't build a subdivision across the street from a subdivision in the county, because, gosh, there's already one there and they've got houses available. That rationale doesn't -- it doesn't work for me. So I'm going to, you know, err on the side of possibly safety and say these folks have done what they're supposed to do, they've brought us a complete application, they talked to these other folks about co-locating. That's not going to

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happen. So I'm still going to support the conditional use and will let businesses do what businesses do. If they want to waste the money to build two different towers, well, you know, people have wasted a lot of money before in business and it's not going to be the first nor will it be the last, but possibly rational heads will prevail and whoever breaks ground first -- let's all rush out and start digging -- can convince the other guys to come to it. Because I don't know what's going to happen. My crystal ball broke a long time ago. So all I'm going to do is what we're supposed to do. This is out in the middle of nowhere. This is not downtown Fayetteville. They've done what they wanted to do, what we've asked them to do, and it's a coverage issue, so that's my rationale and let's let the Alltel wars begin.

Lack: Madame Chair.

Anthes: Commissioner Lack.

Lack: I saw the same thing in the letter that some of my colleagues have that the "report and notified you that you may proceed," and I think that that sentence or that part of that sentence would not be in the article if there was not some review of the document. I'm not qualified to review that document. I don't know if that's a viable document. It's pretty. That's the extent of my knowledge on that -- for that document. So I can't predict whether or not that is a -- whether or not that will be approved, and I think that the code of ordinances that we are here to uphold, as much as I would like to not have two cell towers so close together, tells us that if there's not a tower in existence that we should, if the applicant has met our requirements, approve their tower. And so I will be voting for this, again, as much as I hate to see two towers, and I would hope that, for the better good and a feeling of camaraderie, that the carriers could get together no matter what the outcome of this vote is, and I would ask the motioner and the seconder if a 11th requirement -- recommendation could be placed that required removal of the tower if technology supercedes the use of this --

Myres: And I'm perfectly fine with that. We can add that. Thank you for reminding me.

Anthes: We have a motion and a second to approve this application for a conditional-use permit with 11 conditions of approval, the addition of the one Audy just outlined. Is there further discussion?

Pate: Madame Chair, I just want to remind the commission that it does take five affirmative votes to approve a conditional use because you have one member absent tonight.

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Ludwig: Madame Chairman, can I still answer that question that you asked earlier?

Anthes: I don't think we need to.

Ludwig: Okay. Thank you.

Anthes: Will you call the roll?

Roll Call: The motion to approve CUP 06-2295 carries with a vote of 6-2-0, with Commissioners Anthes and Graves voting no. Commissioner Ostner is absent.

Anthes: Thank you.

Added at Agenda Session
12-19-06
CITY ATTORNEY AGENDA REQUEST

D. 8
Fayetteville Downtown Partners Contract
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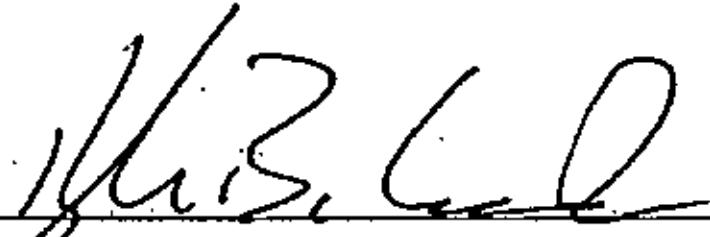
FOR: COUNCIL MEETING OF DECEMBER 19, 2007

FROM:
KYLE COOK, ALDERMAN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

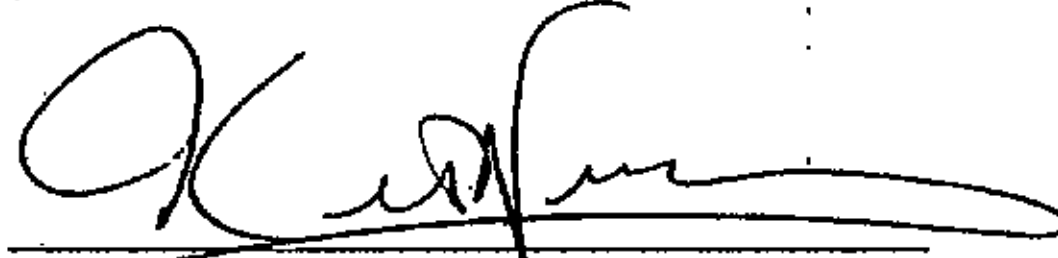
An Ordinance Waiving The Requirements Of Formal Competitive Bidding And Approving A Contract For Services With Fayetteville Downtown Partners In The Amount Of \$40,000.00 To Assist In The Implementation Of The Downtown Master Plan

APPROVED FOR AGENDA:



Kyle Cook, Alderman

12/12/06
Date



City Attorney

12-12-06
Date

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT FOR SERVICES WITH FAYETTEVILLE DOWNTOWN PARTNERS IN THE AMOUNT OF \$40,000.00 TO ASSIST IN THE IMPLEMENTATION OF THE DOWNTOWN MASTER PLAN.

WHEREAS, Fayetteville Downtown Partners is the only organization that currently exists that represents the entire area that is included in the Downtown Master Plan; and,

WHEREAS, Fayetteville Downtown Partners is therefore, uniquely qualified and capable of performing the identified contractual services for the City of Fayetteville.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding and hereby approves a contract for services with Fayetteville Downtown partners in the amount of \$40,000.00 to assist in the implementation of the Downtown Master Plan. A copy of the contract for services is attached hereto marked Exhibit "A" and made a part hereof.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

CITY OF FAYETTEVILLE CONTRACT FOR SERVICES

This agreement is entered into on this _____ day of December, 2006, between the City of Fayetteville and Fayetteville Downtown Partners, an Arkansas not-for-profit corporation, hereinafter known as FDP. This contract is for services to be provided during 2007.

Whereas, FDP and the City of Fayetteville recognize that the geographical region defined within the Downtown Master Plan is undergoing significant change; and

Whereas, this change is creating challenges and opening opportunities for the City, residents, businesses, landowners and developers; and

Whereas, the City desires to assist a partner that will work with the City to maximize opportunities resulting from these challenges and changes; and

Whereas, FDP is the downtown organization that supports both the philosophy and implementation of the Downtown Master Plan and coordinates multiple, interrelated partners - businesses, residents, elected officials, City staff, cultural institutions and the University of Arkansas - on those initiatives that affect downtown stakeholders; and

Whereas, FDP is uniquely qualified and capable of assisting the City in carrying out the objectives identified above.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE CITY OF FAYETTEVILLE AND FAYETTEVILLE DOWNTOWN PARTNERS AGREE TO THE FOLLOWING:

1. Fayetteville Downtown Partners agrees to perform the following services for the City of Fayetteville.

Strengthen the infrastructure of Downtown Fayetteville

- FDP will provide assistance to City staff in the facilitation of public meetings and public relations as requested, for initiatives impacting the Master Plan area, with specific initiatives including downtown parking and wayfinding;
- FDP staff and/or board members will meet with City staff and/or elected officials as appropriate to coordinate efforts to implement the Downtown Master Plan vision.

Create a Cultural District in downtown Fayetteville

- Provide staff support for Planning Commission, City Planning staff and the City Council to establish the boundaries and define the services of the Cultural Arts District.

- Research and develop appropriate policies, ordinances or codes that support the services and/or boundaries associated with the Cultural Arts District;
- Promote and market arts and cultural events in downtown Fayetteville.

Manage downtown banner program

- FDP will continue the banner policy to coordinate the installation of banners on downtown light poles and across Dickson Street pursuant to the City's Sign Ordinance.

Establish a Downtown Improvement District (DID)

- Collect signatures of property owners representing two-thirds (67%) of the total assessed downtown property value;
- Request City Council approval for the creation of the DID;
- Install the necessary structures to initiate the DID in 2007, with initial DID funding beginning in 2008.

2. In addition to the above services rendered to the City, FDP will continue to work towards implementing the larger philosophy and vision of the Downtown Master Plan with all downtown stakeholders.

Fayetteville Downtown Partners services to downtown stakeholders may include, but are not limited to:

Supporting downtown businesses

- FDP will work with the various economic development groups to support economic development efforts within the Downtown Master Plan boundaries;
- Collect, coordinate and manage downtown specific information, including demographics, psychographics, existing business profiles, retail and business trends, available office and retail space and site configurations, traffic counts, and other information that supports business recruitment and retention .

Engaging downtown neighborhoods

- Work with the Fayetteville Council of Neighborhoods as it pertains to issues that fall within the boundaries of the Downtown Master Plan;
- Partner with the five downtown neighborhood associations to facilitate input into all initiatives that effect downtown stakeholders;
- Support the goals of the City of Fayetteville's Neighborhood Program and provide assistance to the program's staff by promoting a higher resident participation in community groups/organizations.

Marketing the downtown experience

- FDP will continue to develop strategic marketing opportunities for the downtown district that is consistent with the overall image campaign for the City of Fayetteville and the Advertising and Promotion Commission.
3. FDP will provide written documentation and offer a verbal presentation to the Mayor and City Council during an agenda session two times a year in June and December to delineate accomplishments undertaken during the preceding period on the services pursuant to this contract of services.
4. FDP will make available all records for review by the City and City auditors as requested. FDP agrees to comply with the Arkansas Freedom of Information Act as applicable. If the City of Fayetteville requests an independent audit of FDP, then that audit must be requested at least one month prior to audit and at the City's expense.
5. For the purpose of this agreement, the primary liaison for the City will be the Planning and Development Management Director. The contact for City related services as identified in this contract will be the Executive Director of Fayetteville Downtown Partners. Communications pertaining to this agreement will be through the respective representatives for the City and FDP.
6. FDP will hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the performance or nonperformance of the services or subject matter of this agreement.
7. Budget – The City agrees to pay FDP \$20,000 by January 15th, 2007 and the remaining \$20,000.00 by July 15, 2007.
8. FDP will invoice the City for requests for payments as stated in this contract under Item 7.

In agreement with all terms and conditions set out above we sign below:

**FAYETTEVILLE
DOWNTOWN PARTNERS, INC.**

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: _____

By: _____

DAN COODY, Mayor

(Printed Name)

ATTEST:

By: _____

SONDRA SMITH, City Clerk

(Title)



THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Director of Planning and Development Management *T.C.*
DATE: December 12, 2006
SUBJECT: **APPROVAL OF A CONTRACT AND BID WAIVER ORDINANCE
FOR FAYETTEVILLE DOWNTOWN PARTNERS IN THE
AMOUNT OF \$40,000 WITH PROPOSED FUNDING FROM THE
WILSON SPRINGS LAND SALE PROCEEDS**

RECOMMENDATION

Staff recommends approval of a contract and bid waiver ordinance for Fayetteville Downtown Partners in the amount of \$40,000. This is the third year in a three-year funding request for Fayetteville Downtown Partners.

2005 Budgeted	\$150,000 Completed
2006 Budgeted	\$ 90,000 Completed
2007 Proposed	\$ 40,000 Proposed
Total	\$280,000 (Entire Three-Year Project)

Fayetteville Downtown Partners (FDP) is uniquely qualified and capable to perform the identified contractual services for the City of Fayetteville. Fayetteville Downtown Partner's primary mission to assist the City in the implementation of the Downtown Master Plan. This is the only organization that currently exists that represents the entire area that is included in the Downtown Master Plan.

BACKGROUND

The City Council has proposed a line item in the 2007 budget to contract with Fayetteville Downtown Partners. Downtown Partners has developed an interim business plan with the goal to become self sufficient within three years, with reduced City funding over the next year. Specifically, the 2007 scope of work includes:

- Strengthen the infrastructure of Downtown Fayetteville
- Create a Cultural District in downtown Fayetteville
- Manage downtown banner program
- Establish a Downtown Improvement District (DID)

BUDGET IMPACT

The City Council reviewed this request for funding in the 2007 budget process as part of the non-profit funding requests and approved a line item in the proposed 2007 budget. The proposed \$40,000 funding is from the Wilson Springs Land Sale Proceeds.

FAYETTEVILLE DOWNTOWN PARTNERS

P.O. Box 3573 Fayetteville, Arkansas 72702 (479) 571-3337
www.fayettevilledowntown.org www.fayettevillearts.org

MEMORANDUM

TO: Fayetteville City Council
FR: Fayetteville Downtown Partners
RE: 2007 Contract for Services
DT: December 8, 2006

Fayetteville Downtown Partners is an innovative, independent, nonprofit entity whose unique focus is the heart of our city – the 350 acres of downtown Fayetteville. By leading the continual creation of the Fayetteville Downtown Experience, our organization provides the tools and services needed to protect and enhance this vital area. We believe that it is possible to tackle our infrastructure needs, build a diverse business environment, protect residential neighborhoods and nurture a dynamic culture of arts and entertainment without compromising the spirit of Fayetteville.

That belief has been built into everything our organization does. Whether we work to ensure stakeholders have up-to-date and relevant information on downtown initiatives; support active downtown neighborhood associations; provide resources to downtown investors and businesses; or work with City staff and officials or individual citizens, Fayetteville Downtown Partners is a group of citizens that care deeply about our community.

Since our inception in early 2005, a portion of our funding has come from a contract-for-services with the City of Fayetteville. Fayetteville Downtown Partners has worked hard to deliver on each contract and hopes we have gained your trust. Our organization looks forward to continuing to provide our unique resources to the benefit of the City and all downtown stakeholders.

Please let us know if you have any questions regarding our past contracts or the services outlined in the 2007 contract.

FAYETTEVILLE DOWNTOWN PARTNERS

Fayetteville Downtown Partners is committed to providing opportunities for all downtown stakeholders to have a voice in our organization. Our Board of Directors reflects this philosophy.

2006 Board of Directors

President - Steve Davis, *Fineberg and Associates*
Vice President - Daniel Keeley, *DK Designs*
Treasurer - Brandon Kam, *Jammin' Java*
Secretary - Jill Anthes, *University of Arkansas Planning Department*
Brittany Adair, *Romance Diamond Company Jewelers*
Jeannette Balleza, *Scribe Marketing*
Cathy Bass, *Highroller Cyclery*
Bob Christiansen, *Certified Public Accountant*
Jeff Collins, *UA Center for Business and Economic Research*
Greg House, *Houses, Inc.*
Cindy Kalke, *Transplace*
Tim Klinger, *Historic Preservation Associates, LLC*
Sarah Lewis, *University of Arkansas student*
Tom Overbey, *Overbey, Graham, Strigel & Westbrook, PLC*
John Pearson, *Brewski's Draft Emporium*
Chrissy Sanderson, *Bordinos Restaurant*
Helena Gadison, *EMW Enterprises, Inc.*
Robert Baker, *Edward Jones Investments*
Ron Woodruff, *Woodruff Law Firm*

Ex-Officio Members

Chamber of Commerce - *Bill Ramsey, CEO*
City Council
City Planning Department - *Tim Conklin, Director of Long Range Planning*
Fayetteville Convention and Visitors Bureau - *Allyson Twiggs, Executive Director*
Fayetteville Council of Neighborhoods - *Mark*
Fayetteville Economic Development Council - *Steve Rust, CEO*
Fayetteville Public Library - *Louise Schaper, Executive Director*
Office of the Mayor - *Dan Coody, Mayor*
University of Arkansas - *Mike Johnson, Associate Vice Chancellor for Facilities*
Walton Arts Center - *Terri Trotter, Vice President of External Affairs*
Past Presidents - *Sharon Hoover, Leslie Belden*

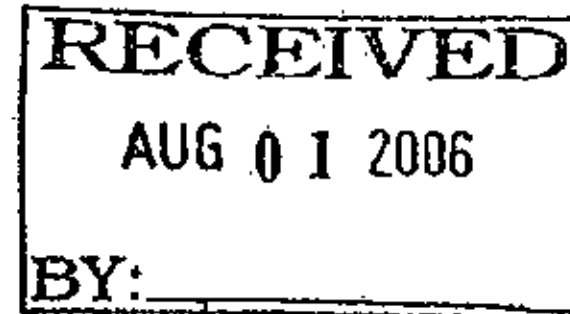
Staff

Daniel Hintz, *Executive Director*
Doug Walsh, *Project Manager*

Fayetteville Downtown Partners

Funding requests and recommendations for FY 2007 are illustrated below. The table also shows the agency's funding history since FY 2004.

	Actual 2004	Actual 2005	Budgeted 2006	Requested 2007	Percent Increase 2006/2007	Recommended Funding 2007
Wilson Springs Direct Support	\$ 4,197	\$ 150,000	\$ 90,000	\$ 40,000	-55.56%	\$ 40,000
Total Request	<u>\$ 4,197</u>	<u>\$ 150,000</u>	<u>\$ 90,000</u>	<u>\$ 40,000</u>	<u>0.00%</u>	<u>\$ 40,000</u>



City of Fayetteville
Request For Public Funds
FY 2007

Agency: Fayetteville Downtown Partners

Address: 230 N. Block

Fayetteville, AR 72701

Mailing Address (if different from above):

P.O. Box 3573

Fayetteville, AR 72702

Telephone: 479-571-3337

Fax: _____

Agency Director: Daniel Hintz

Telephone: 479-571-3337

Fax: _____

E-mail: daniel@fayettevilledowntown.org

Funding requested for FY 2007: \$40,000

Is this a nonprofit organization? ☒ Yes ☐ No

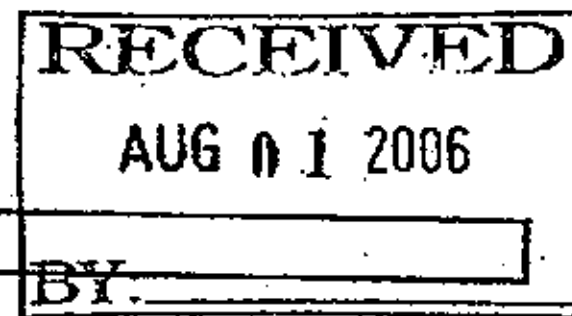
Tax Exempt Status and Federal ID Number: 71-0800252

Fiscal year end: December 31st

Program/Agency Description

(Provide an overview of your program/agency).

Fayetteville Downtown Partners is non-profit entity ensuring the vitality of our downtown, city and region. Our focus areas include strengthening the cultural environment, implementing economic development initiatives, facilitating capital improvements, developing strategic marketing opportunities, supporting downtown neighborhoods and enhancing the downtown business environment.



Budget Information
Provide line item detail for each category below.

Personnel Services

	FY 2005 Actual	FY 2006 Budget	FY 2007 Request
Salaries	\$ 52,664	\$ 112,000	\$ 40,000
Employee Merit	-	-	-
Social Security	6,414	16,800	-
Other	74,580	7,500	-
Total Personnel Services	\$ 133,658	\$ 136,300	\$ 40,000

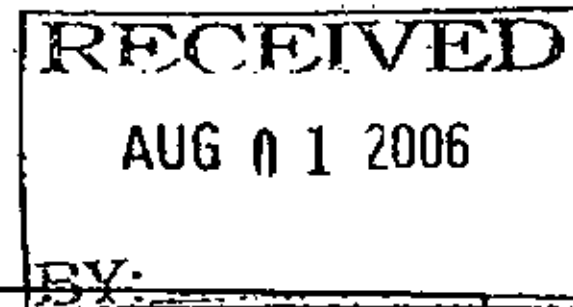
Operating Expenses

	FY 2005 Actual	FY 2006 Budget	FY 2007 Request
Telephone	\$ 1,447	\$ 1,500	\$ -
Printing & Publishing	3,200	1,000	-
Postage	829	1,000	-
Advertising	23,000	11,000	-
Travel	1,369	1,500	-
Rent	3,000	4,000	-
Utilities	-	-	-
Technology	801	2,500	-
Materials/Supplies	2,130	2,500	-
Other	49,974	125,792	-
Other	-	-	-
Total Operating Expenses	\$ 85,750	\$ 150,792	\$ -

Total Operating Budget	\$ 219,408	\$ 287,092	\$ 40,000
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Salary Disclosure (attach an additional sheet if necessary)

Agency Positions	Compensation (\$)	Percent Funded by COF
Executive Director	67,000	30%
Project Manager	45,000	44%
	-	
	-	
	-	
	-	
	-	
	-	
	-	
	-	



Budget Information

Funding requested from the City of Fayetteville: \$40,000

Indicate whether the amount being requested is for specific program, project, or agency expenses:

 Funding for specific program or project Funding for agency

 Requesting funding primarily for personal services

 X Requesting funding primarily for operating expenses

Proposed Funding Period (from) 1/1/07 (to) 4/30/07

Personnel Services

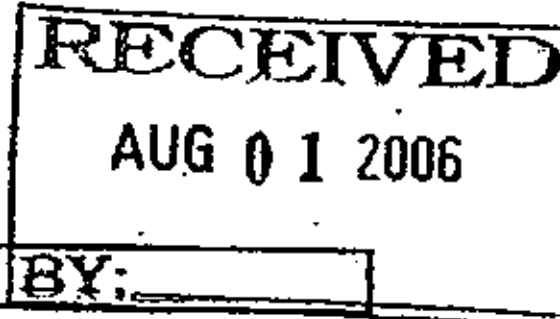
	City Funds (Funds requested from the City of Fayetteville)	Other Funding Sources (Funds received directly from other sources)	TOTAL
Salaries	\$ 40,000	\$ 72,000	\$ 112,000
Employee Merit	-	-	-
Social Security	-	16,800	16,800
Other	-	7,500	7,500
Total Personnel Services	\$ 40,000	\$ 96,300	\$ 136,300

Operating Expenses

	City Funds (Funds requested from the City of Fayetteville)	Other Funding Sources (Funds received directly from other sources)	TOTAL
Telephone	\$ -	\$ 1,500	\$ 1,500
Printing & Publishing	-	1,000	1,000
Postage	-	1,000	1,000
Advertising	-	11,000	11,000
Travel	-	1,500	1,500
Rent	-	4,000	4,000
Utilities	-	-	-
Technology	-	2,500	2,500
Materials/Supplies	-	2,500	2,500
Other	-	125,792	125,792
Other	-	-	-
Total Operating Expenses	\$ -	\$ 150,792	\$ 150,792

Total Operating Budget	\$ 40,000	\$ 247,092	\$ 287,092
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(This amount represents your funding request for FY 2007).



Budget Information

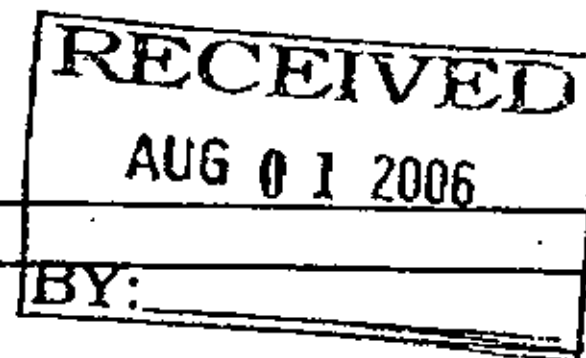
Please address Question 1 below only if your agency received funding for FY 2006 and is requesting a change in funding level for FY 2007. All respondents must answer Question 2:

1. What is the reason for the requested increase or decrease in funding level?

The three-year decrease in funding was part of a three-year contract agreement with the City of Fayetteville.

2. If City funding is allocated for only one year, what strategies do you have in place to sustain your program? Indicate plans for obtaining funds outside of City funding.

Fayetteville Downtown Partners continues to develop multiple funding mechanisms to support both operations and special projects. Earned revenue, grants and direct fundraising efforts provide the foundation of our funding and our organization aggressively pursues all avenues of revenue development available to a nonprofit organization.



Budget Information

If City funding is denied, describe the impact on your program.
(Please limit your response to this page only).

Fayetteville Downtown Partners has been instrumental in leading the continual creation of the Fayetteville Downtown Experience. Whether it is promoting clear and effective communication between City staff, elected officials and downtown stakeholders; fostering a vibrant cultural, arts and entertainment experience; promoting downtown as a unique destination; developing and supporting innovative downtown initiatives and projects; empowering groups and individuals to participate in the public dialogue; and addressing issues of gentrification and workforce housing, our organization offers unparalleled opportunities to make things happen in the heart of our community. Because of the three-year funding commitment established with the City in 2005, we have structured our revenue development goals around this contractual agreement. If we do not receive the \$40,000 investment, our ability to provide the base level of services in the first quarter of 2007 would be compromised.

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Program Information

BY: _____

Mission Statement: (if you do not have a mission statement, please indicate)

To lead the continual creation of the Fayetteville Downtown Experience

Vision Statement: (if you do not have a vision statement, please indicate)

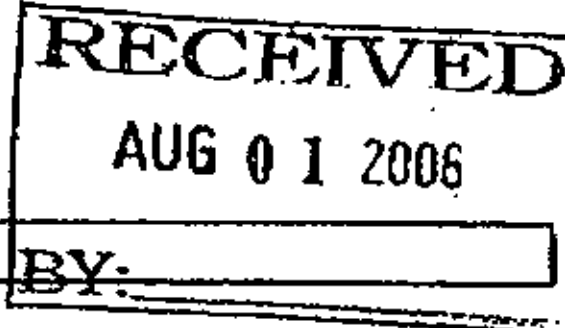
To achieve visible results that make a positive difference in downtown; to build strong community partnerships; attract and retain volunteers; sustain credibility within the neighborhoods and community at large; promote active outreach to and involvement of all downtown stakeholders; and develop diversified funding sources.

Provide a description of the services provided by your agency or program, including a description of the persons or groups who will benefit from the services.

Our services include, but are not limited to, facilitating the implementation of the Downtown Master Plan; promoting clear and effective communication between City staff, elected officials and downtown stakeholders; fostering a vibrant cultural, arts and entertainment experience; promoting downtown as a unique destination; developing and supporting innovative downtown initiatives and projects; empowering groups and individuals to participate in the public dialogue; and addressing issues of downtown workforce housing – everything that enhances the downtown experience. Our stakeholders include downtown merchants, bars, restaurants, businesses, residents, artists, and property owners; Walton Arts Center; Fayetteville Public Library; University of Arkansas; Northwest Arkansas Council; Fayetteville Economic Development Council; Fayetteville Convention and Visitors Bureau; Fayetteville Chamber of Commerce; Fayetteville Council of Neighborhoods; and the City of Fayetteville.

Which City focus areas do your program services or activities support?

☒ Public Safety ☒ Recreational Activities ☒ Transportation ☒ Economic Development



Program Information

Describe how your agency's or program's activities or services support the City Focus Area(s) identified on the previous page. (Insert additional rows as needed).

In accordance with the mission and goals established by the 2005 Fayetteville Downtown Partners Board of Directors and with the recommendations in the Downtown Master Plan, FDP is projecting to provide the following services to the community:

- **FACILITATE the Downtown Master Plan** – As recommended in the Downtown Master Plan, FDP will assist the city in implementation of the Master Plan through identification of community projects and promotion of guidelines set forth in the Downtown Master Plan. (public safety, recreational activities, transportation, economic development)
- **FUNDING** – FDP will investigate various funding mechanisms such as Business Improvement Districts, and grant monies for projects such as public infrastructure, streetscape and landscape maintenance, security, district-wide marketing, special projects, and operating expenses. (public safety, recreational activities, transportation, economic development)
- **DESIGN ASSISTANCE** – Assist the city in developing infill strategies for the district.
- **ATTAINABLE HOUSING** – Advocate for high-diversity housing and identify and create opportunities for high-diversity housing projects within the area. (economic development)
- **CULTURAL DISTRICT DESIGNATION** – Create an arts and cultural district that celebrates and supports our cultural assets and promotes downtown Fayetteville as the "experience" destination of Northwest Arkansas (recreational activities, economic development)
- **FESTIVALS** – Promote and produce events and festivals that meet our mission to promote downtown Fayetteville (recreational activities, economic development)
- **DISTRICT COORDINATOR** – FDP will serve as district coordinator among the various groups within the district such as the Merchants' Association, the neighborhood associations, Advertising & Promotions Commission, the Chamber of Commerce, FEDC, the UA, and others to ensure that the downtown image and message are consistent. FDP will also coordinate events or construction projects to ensure traffic controls meet the needs of the downtown community. (public safety, recreational activities, transportation, economic development)
- **REAL ESTATE INVENTORY** – Maintain a current real estate inventory and data as we recruit and retain downtown businesses. FDP will work with the Chamber of Commerce, the Fayetteville Economic Development Council, the City, and the University of Arkansas to recruit new business to the district and will serve as a central resource for real estate inventory and data for the district. (transportation, economic development)
- **Business Development Resource Center** – Develop a Business Development Resource Center with programs to assist small businesses in their expansion and capital improvement projects by providing access to information, resources and low-cost loans and financial incentives. (economic development)

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AUG 01 2006

Program Goals & Objectives

Provide a description of your program's or agency's goals and objectives.
(Add additional rows if necessary).

- To lead in the implementation of a comprehensive plan for shaping the infrastructure of the downtown district to impart a compelling sense of place and identity.
- To develop and apply a cohesive promotional strategy to establish the downtown district as the premier cultural and entertainment destination in Northwest Arkansas.
- To encourage mixed-use development and adaptive reuse and promote historic preservation.
- To support a healthy and diverse mix of businesses within the downtown district.
- To promote healthy and unique downtown living.
- To promote and encourage the unique atmosphere of the downtown district.

Describe how projects will be evaluated (add additional rows if necessary).

For general evaluations, Fayetteville Downtown Partners has created an extensive feedback process that opens opportunities for all downtown stakeholders to submit questions, concerns and solutions to the organization through public meetings, emails, websites and other forms of communication. The FDP Board of Directors evaluate projects based on their ability to meet the end goals of the organization as described throughout this document and the Downtown Master Plan. Staff assesses each project through relevant data collection (demographics, revenue vs. expense, outreach numbers, real vs. perceived impact and benefit), the end goals as set by the Board of Directors, the needs/response loop offered by downtown stakeholders and the Downtown Master Plan. FDP staff also conducts research on national best practices using the successes and failures of other organizations as a roadmap for developing and implementing new projects.

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AUG 01 2006

TERMS AND CONDITIONS

BY: _____

This application does not commit or guarantee receiving public funds. The purpose of completing this form is for budgetary purposes only. If City Council approves a budget containing funding for this request, your organization agrees to abide by the following terms and conditions:

- 1) A contract for services must be negotiated and approved by your organization and the City prior to any disbursements of public funds.
- 2) To provide the City of Fayetteville with an annual audit or an annual compilation and review prepared by a licensed certified public accountant within six months after the fiscal year end or after the completion of the project;

or

- 3) To provide an annual Balance Sheet and a Statement of Revenues and Expenses and, upon request by the City of Fayetteville, access to your organization's financial records by City auditors within six months after the fiscal year end or after the completion of the project.

CERTIFICATIONS

Applicant agrees to comply with all State and City purchasing policies and procedures (available from the City Purchasing Office).

Applicant certifies that the project will comply with all nondiscrimination statutes and will be fully handicapped accessible.

Name of Applicant: Daniel Hintz Date: 8/1/06

Signature of Applicant:  _____

Title: Executive Director

Organization: Fayetteville Downtown Partners

Added at Agenda Session 12-19-06
CITY ATTORNEY AGENDA REQUEST

D. 9
Morningside Drive and Fletcher Street
Page 1 of 6

FOR: COUNCIL MEETING OF DECEMBER 19, 2006

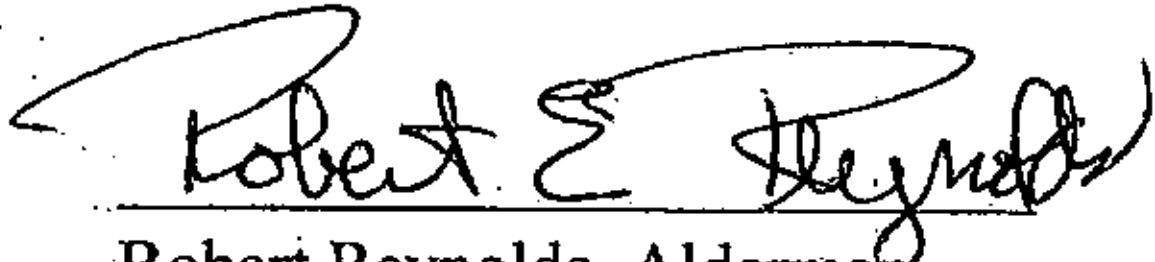
FROM:

ROBERT REYNOLDS, ALDERMAN

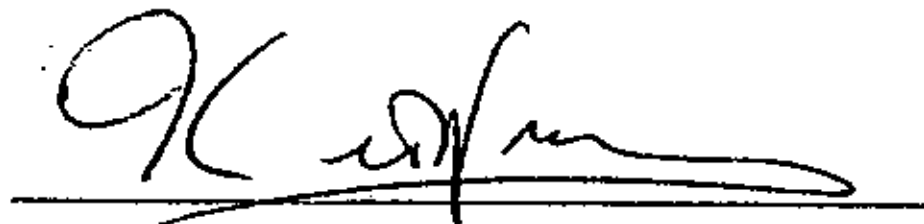
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Vacate The Street Right-Of-Way Obtained For The Connection Of
Morningside Drive And Fletcher Street

APPROVED FOR AGENDA:


Robert Reynolds, Alderman

12-11-06
Date


City Attorney

12-11-06
Date

ORDINANCE NO. _____

**AN ORDINANCE TO VACATE THE STREET RIGHT-OF-WAY
OBTAINED FOR THE CONNECTION OF MORNINGSIDE DRIVE
AND FLETCHER STREET**

WHEREAS, two or three decades ago the City of Fayetteville planned to connect Fletcher Street over Mt. Sequoyah to Morningside and the South Industrial Park; and

WHEREAS, to accomplish this and to obtain right-of-way for a large water main to serve two newly constructed water tanks on Mt. Sequoyah, the City of Fayetteville condemned or purchased all the land needed for this road and water main; and

WHEREAS, substantial public opposition to this proposed street connection resulted in the Planning Commission recommending removal of this proposed street from the Master Street Plan in the mid 1990's; and

WHEREAS, the City Council agreed to this amendment and removed the Fletcher Street extension and later passed a Resolution forbidding a street connection over Mt. Sequoyah; and

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 "to vacate (streets) or ... such portions thereof as may not for the time being be required for corporate purposes" A.C.A. §14-54-104 (2).

**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 land acquired by the City of Fayetteville to extend Fletcher Street to Morningside Drive as shown in Exhibit "A" is not required for corporate purposes and is therefore vacated under the conditions stated below.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation is conditional upon the City retaining a fifty foot wide utility easement for its water main located within this property and that this utility easement shall be adjusted by adjoining owners when feasible so that the water main is located near the center of this fifty foot utility easement.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

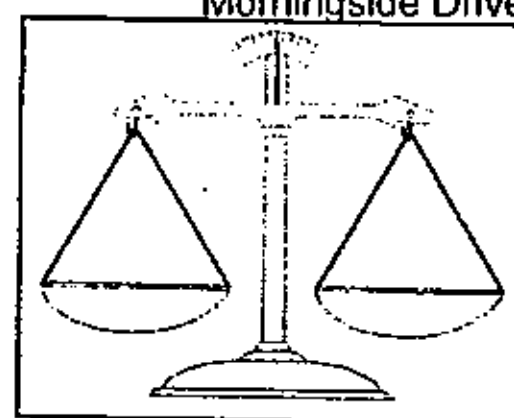
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

D. 9
Morningside Drive and Fletcher Street
Page 5 of 6



LEGAL DEPARTMENT

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

FROM: **Kit Williams, City Attorney**

DATE: **December 12, 2006**

RE: **Alderman Reynolds' Proposed Vacation of
Fletcher Street extension to Morningside Drive**

Thirty (or so?) years ago, the City Administration thought extending Fletcher Street to Morningside Drive so trucks could access the Industrial Park was such a good idea that it acquired the necessary right-of-way. Neighborhood opposition (especially on Fletcher Street) was so intense that the plans were soon dropped. However, the land was used to lay a large water main to access the two newly constructed water tanks on Rogers Drive (which were partly upon what used to be my parents' land).

Time passed and finally the Planning Commission decided to review the entire Master Street Plan in the mid 90's. After numerous long and very well attended and intense Planning Commission meetings, the Planning Commission recommended removal of the Fletcher Street extension from the Master Street Plan. The City Council accepted this recommendation and so the Fletcher Street extension has been officially nonexistent for ten years.

When a proposal to extend Rockwood Trail to Manor Drive (or elsewhere) surfaced somewhat later, the public protested in the hundreds and the City Council passed a Resolution forbidding connecting streets over Mt. Sequoyah. This Resolution also prohibits the Fletcher Street extension previously removed by the Planning Commission from the Master Street Plan.

Since the land was acquired for a corporate purpose which was later expressly rejected by the Planning Commission and City Council, this City Council has a right to vacate the street right-of-way of the Fletcher Street extension as proposed by Alderman Reynolds. However, the City needs to retain a substantial easement for its large water main serving the Rogers Drive water tanks.

Alderman Reynolds has requested that the City pass this vacation ordinance which I have drafted. This ordinance maintains a fifty foot easement for the City's water main. This easement would actually be an improvement on the current situation because the current location of the water line is not centered within the right-of-way (making maintenance and repairs more difficult).

The City Council does have the right to vacate right-of-way when it is not needed for corporate purposes pursuant to A.C.A. §14-54-104. Since the City has rejected one of the two initial purposes to acquire this land (the road right-of-way), it can be vacated as long as an easement is retained for the other city purpose, the water main.

Please note that a substantial part of this right-of-way bisects land owned jointly by my brothers and me, and a small part may be on my personally owned three acre lot. We would be willing to adjust the easement granted to the city so that the fifty foot right-of-way would now be centered on the water main rather than mainly to the east of it.

Added at Agenda Session

D. 10

New World Systems - Handheld
Electronic Ticketing Devices
Page 1 of 14

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

12/12/06

12/5/2006

City Council Meeting Date

Greg Tabor
Submitted By

POLICE
Division

POLICE
Department

Action Required:

City Council award a contract to New World Systems in the amount of \$176,016.00 for electronic ticketing devices and software. Also approve annual maintenance in the amount of \$19,509. Ordinance #4474 waives the competitive bidding requirements for this purchase. This contract will replace the contract awarded in September of 2006.

\$ 195,525.00

Cost of this request

see attached

Category / Project Budget

Electronic Ticketing

Program Category / Project Name

see attached

Account Number

\$ -

Funds Used to Date

Police Safety Improvements

Program / Project Category Name

06025

Project Number

\$ -

Remaining Balance

Sales Tax Capital Improvement

Fund Name

Budgeted Item ☐ XXX

Budget Adjustment Attached ☐ XXX

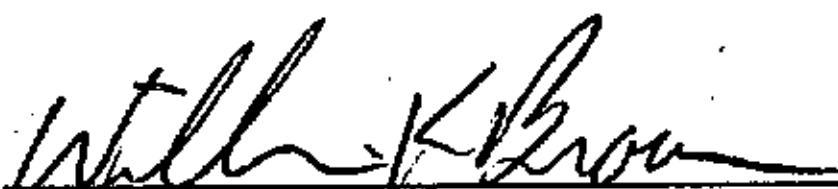
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office

Received in Mayor's Office


Department Director

12-1-06
Date


City Attorney

12/12/06
Date


Finance and Internal Service Director

12-12-06
Date

Mayor

Date

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING A REVISED CONTRACT FOR THE PURCHASE OF HANDHELD ELECTRONIC TICKETING DEVICES, SOFTWARE, AND SOFTWARE MAINTENANCE FROM NEW WORLD SYSTEMS CORP. IN THE AMOUNT OF \$195,525.00; AND APPROVING THE ASSOCIATED BUDGET ADJUSTMENTS.

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 revised contract for the purchase of Handheld Electronic Ticketing Devices, software, and software maintenance from New World Systems Corp. in the amount of \$195,525.00. A copy of the revised 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 the associated budget adjustments, attached hereto as Exhibit "B" and made a part hereof.

PASSED and APPROVED this 19th day of December 2006

APPROVED

By: DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk



Fayetteville Police Department
New World Systems - Handheld
100-A West Rock
Fayetteville, AR 72701
Telephone: (479) 587-3555
Fax: (479) 587-3563

D. 10

Page 3 of 14

Departmental Correspondence

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police *CTB*
WB

DATE: December 1, 2006

SUBJECT: Award Contract to New World Systems for APS Ticketing and Citations

Recommendation:

City Council approve resolution authorizing Mayor Coody to sign a contract with New World Systems utilizing bid waiver Ordinance # 4474 for the purchase of software and three handheld pocket citation devices at a total cost of \$176,016.00. Also approve an increase of annual maintenance of \$19,509.00 and a budget adjustment.

Background:

Fayetteville Police Officers write approximately 25,000 handwritten tickets annually. These tickets must then be entered into the Court software. It takes approximately 5 minutes to enter a ticket into the Court System. Many times these tickets are not legible for various reasons. The tickets must be sorted and filed by clerks. Officers give 20,000 verbal warnings each year but they are not currently documented in our records management system.

In September the City Council approved a resolution awarding a contract to New World Systems for the purchase of ten (10) hand-held ticketing devices in the amount of \$107,274. For an additional \$88,251 (\$77,744 Sales Tax Capital Improvement and \$10,507 General Fund) the police department will be able to purchase three (3) hand-held units and outfit all 32 police vehicles with laptop-based software for electronic ticketing.

Discussion:

This system will allow officers to swipe the driver's license to populate the personal information and utilize drop down menus for charges and other necessary information. With this automated system officers will be able to spend more time observing the motorist and his surroundings increasing officer safety. Also, it will take less time to produce an automated citation or warning versus the handwritten or verbal type.

This purchase will allow all police vehicles to be similarly equipped and the process for issuing tickets will be identical.

Clerical time will also be saved due to improved legibility and automated filing of these citations. With the new Court system on-line we can begin to contract for an interface to allow for the uploading of this information into their system as well as the police system.



New World Systems
The Public Sector Software Company

December 5, 2006

ADDITIONAL SOFTWARE LICENSE AGREEMENT

Ms. Judy Cohea
Fayetteville Police Department
100 West Rock Street
Fayetteville, AR 72702

Dear Ms. Cohea:

New World Systems is pleased to license you additional software per your request.

The attached forms (Exhibits A, B and Appendix 1) are to be reviewed and approved by you and/or your authorized representative. They describe the additional software and services you have requested along with the related fees.

Other than for the purposes of internal review, we ask that you treat our fees as confidential information. This is due to the competitive nature of our business.

The General Terms and Conditions from our original License Agreement are incorporated and continue to apply. Any taxes or fees imposed from the course of this Agreement are the responsibility of the Customer.

We thank you for your continued business with New World Systems. We look forward to working on this project with you.

ACKNOWLEDGED AND AGREED TO BY:

NEW WORLD SYSTEMS® CORPORATION
(New World)

By: _____
Larry D. Leinweber, President

Date: _____

FAYETTEVILLE POLICE DEPARTMENT, AR
(Customer)

By: _____
Authorized Signature Title

By: _____
Authorized Signature Title

Date: _____

Each individual signing above represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met.

EXHIBIT A
LICENSED STANDARD SOFTWARE AND FEES

1. License Fee for Licensed Standard Software And Documentation Selected By Customer:

<u>Application Package</u>	<u>Cost</u>
<u>LAW ENFORCEMENT RECORDS</u>	
1. Aegis/400 Third Party LE Records Interface Software ¹	
- APS Ticket Writer Interface	\$20,000
<u>CLIENT SOFTWARE²</u>	
2. Aegis Law Enforcement Mobile Unit Software (32 Units)	
APS Ticket Writer Interface	\$150 ea. 4,800
NEW WORLD STANDARD SOFTWARE LICENSE FEE	24,800
LESS DEMONSTRATION SITE DISCOUNT	(2,480)
TOTAL SOFTWARE LICENSE FEE^{3,4}	<u>\$22,320</u>

Note: Year 1 Standard Software Maintenance Agreement (SSMA) fees of \$3,968 for the above software will be added to Customer's current SSMA fees and will commence 90 days after delivery of the software; year one cost to be prorated to run concurrently with Customer's existing SSMA. Subsequent year SSMA fees will be consistent with the SSMA agreement currently in effect.

ENDNOTES

- ¹ Does not include any required third party hardware or software unless specified in Appendix 1 of this Agreement.
- ² Budgeting estimate for laptops: \$8,000 for ruggedized includes laptop, external modem mounted in vehicle and mounts; pricing estimates do not include installation of mounts.
- ³ Prices assume that all software is licensed.
- ⁴ Any taxes or fees imposed are the responsibility of the purchaser and will be remitted when imposed.

Exhibit A / LICENSED STANDARD SOFTWARE AND FEES

2. License Fee Payment Schedule for Licensed Standard Software and Documentation

a)	DOWN PAYMENT	\$11,160
	50% of the total Exhibit A cost	
	[Invoiced upon receipt of signed	
	<i>Standard Software License and Services Agreement.</i>]	
b)	DELIVERY PAYMENT	\$11,160
	50% of each application cost	
	[Invoiced as each Exhibit A Licensed Standard	
	Software package is delivered to Customer.]	
	TOTAL LICENSED STANDARD SOFTWARE PAYMENTS DUE.....	<u>\$22,320</u>

ALL PAYMENTS ARE DUE WITHIN THIRTY (30) DAYS FROM RECEIPT OF INVOICE

PRICING VALID THROUGH DECEMBER 22, 2006.

EXHIBIT B
INSTALLATION AND TRAINING SUPPORT SERVICES AND FEES

1. Interface Installation Service Fees

A flat rate fee is charged for the installation of selected interfaces on Exhibit A. This fee does not include hardware and/or third party product costs. Whenever possible, this work will be done remotely, resulting in savings in travel costs. If on-site installation and training is required, Customer will be responsible for the actual travel costs. Installation includes the following interfaces with these corresponding fees.

a) APS Ticket Writer Interface	\$6,000
TOTAL INTERFACE INSTALLATION SERVICE FEES	<u>\$6,000</u>

2. Support Service Fees Estimate

Based on the services suggested above, the Interface Installation Services costs will be a total of \$6,000. (Plus all actual and reasonable travel expenses incurred by New World divided proportionately between all New World customers visited on a single trip and actual employee travel time for Installation and Training up to but not exceeding four (4) hours per Customer visit.)

Additional services are also available at the rate of \$140 per hour. This rate is guaranteed for work performed on this contract within 6 months of acceptance. Beyond that date, these and any additional services will be provided at your then current rate.

3. Additional Services Available

Other New World services may be required or requested for the following:

- a) additional software training;
- b) tailoring of Licensed Standard Software by New World technical staff and/or consultation with New World technical staff;
- c) New World consultation with other vendors or third parties;
- d) modifying the Licensed Standard Software;
- e) designing and programming custom software; and
- f) maintaining modified Licensed Standard Software and/or custom software.

Customer may request these additional services in writing using New World's Request For Service (RFS) procedure (or other appropriate procedures mutually agreed upon by Customer and New World).

4. Payments for Interface Installation Services

Interface Installation Services will be billed as follows:

a) 50% of the total amount is due upon Agreement being signed	\$3,000
b) 50% of each Interface amount is due upon completion of the individual installation	3,000

TOTAL INTERFACE INSTALLATION SERVICES FEE**\$6,000**

Exhibit B / PROJECT MANAGEMENT, INSTALLATION AND TRAINING SUPPORT SERVICES AND FEES

5. Payments for Installation and Training Support Services and Travel Costs

All hours for installation and training support services and all travel costs will be billed weekly for services provided in the previous calendar week.

Note: Any taxes imposed from the course of this Agreement are the responsibility of the Customer and Customer agrees to remit when imposed. If an exemption is claimed by the Customer, an exemption certificate must be submitted to New World.

ALL PAYMENTS ARE DUE WITHIN THIRTY (30) DAYS FROM RECEIPT OF INVOICE.



APPENDIX 1
AGREEMENT AND AUTHORIZATION FOR PROCUREMENT
OF THIRD PARTY PRODUCTS AND SERVICES

December 5, 2006

This agreement (Agreement) between Fayetteville Police Department, Arkansas (Customer) and New World Systems® Corporation, (New World) is to cover the procurement of Third Party products and services by New World for Customer.

The attached configuration (Exhibit 1) describes the Third Party products and services that Customer will be obtaining through New World. By their written approval below, Customer authorizes New World to order the Exhibit 1 products for delivery to:

*Fayetteville Police Department
Attn: Judy Cohea
100 West Rock Street
Fayetteville, AR 72702*

Upon execution of this Agreement, a down payment of 50% of the Exhibit 1 cost is due. The balance is due upon delivery of the Third Party products. Customer agrees that failure to pay the amount billed within thirty (30) days will result in a daily finance charge equal to .1% (.001) of the Exhibit 1 cost. If applicable, the finance charge will be computed and invoiced separately based on the receipt of Customer's payment to New World for Exhibit 1 amounts due. Customer agrees to pay all applicable finance charges (if any) promptly.

Customer is responsible for the site preparation and related costs to install the Exhibit 1 products. Customer is responsible for any returned product charges, including re-stocking and shipping fees, for all Third Party products ordered by New World on the Customer's behalf. Actual and reasonable travel expenses incurred by New World and actual employee travel time up to but not to exceed four (4) hours per Customer visit, are in addition to the Exhibit 1 cost and will be billed weekly as incurred.

Any taxes or fees imposed from the course of this Agreement are the responsibility of the Customer and Customer agrees to remit when imposed. If an exemption is claimed by the Customer, an exemption certificate must be submitted to New World.

After execution of this Agreement, the Exhibit 1 components and cost may be changed by mutual agreement of both parties. If a change order in the configuration requires additional costs, New World shall notify Customer of the additional costs and with Customer's approval these costs shall be borne by Customer. Without such approval, the change order will not be processed.

Customer shall or may be required to execute selected Agreements with vendors and New World shall not confirm the ordering of any Exhibit 1 products without Customer's authorized signature on the Agreements. Customer shall receive the benefit of all warranties, services, etc. provided for in the Agreements.

ACKNOWLEDGED AND AGREED TO BY:

NEW WORLD SYSTEMS® CORPORATION
(New World)

By: _____
Larry D. Leinweber, President

Date: _____

FAYETTEVILLE POLICE DEPARTMENT, AR
(Customer)

By: _____
Authorized Signature Title

By: _____
Authorized Signature Title

Date: _____

Each individual signing above represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met.

**AGREEMENT AND AUTHORIZATION FOR PROCUREMENT
OF THIRD PARTY PRODUCTS AND SERVICES**

December 5, 2006

**EXHIBIT 1
CONFIGURATION**

1. APS Ticketing and Citations (10 units)

Virtual Partner Engine			\$5,000
QuickData (RMS)	7,500	ea.	22,500
QuickVoice	349	ea.	11,168
QuickCommand	349	ea.	11,168
QuickTicket	349	ea.	11,168
DL Magstripe Reader (software only)	79	ea.	2,528
Microphone (Array) for voice recognition	299	ea.	9,568
QuickNumber Database	7500	ea.	7,500
QuickPrint	5000	ea.	5,000
PocketCitation Bundle	4,550	ea.	13,650
Symbol MC50w/2D Imager, Mag & Zebra RW420, 110 vt			
Zebra RW420 Printer (w/12-volt power supply)	975	ea.	31,200
Zebra RW420 Cable (USB)	23	ea.	736
Zebra Compatible Thermal Paper Case	142	ea.	1,420

2. Project Management 4,155

3. Shipping and Handling 901

TOTAL THIRD PARTY COSTS	\$137,662
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Customer is responsible for on-going maintenance of 3rd party products directly with the 3rd party vendors. For reference purposes the below costs are provided for maintenance costs beyond those included with the initial purchase.

3RD PARTY SOFTWARE MAINTENANCE		
ITEM	DESCRIPTION	INVESTMENT
1.	APS Tickets / Citations Maintenance (Per Year Cost)	\$14,436

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

D. 10
New World Systems - Handheld
Electronic Ticketing Devices
Page 11 of 14
Adjustment Number

Budget Year 2006	Department: Sales Tax Capital Improvements Division: Program:	Date Requested 12/1/2006
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Project or Item Added/Increased: Funding for the proposed change in electronic ticketing project. Reduce handheld units from 10 to 3 and add 32 software packages along with printers and cables.	Project or Item Deleted/Reduced: None
---	---

Justification of this Increase: The additional software and hardware will provide equipment in all marked police vehicles. Therefore all officers will be able to utilize the electronic ticket function instead of just 10 officers.	Justification of this Decrease: These funds are received due to state and federal forfeitures. The funds have not been obligated until now.
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	4470	9470	5801	00	76,639	06025	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Transfer from General	4470	0947	6602	01	76,639	06025	1

Approval Signatures

Requested By	Date
	12-1-06
Budget Manager	Date
	12-12-06
Department Director	Date
	12-12-06
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only

Type:	A	B	C	D	E
Posted to General Ledger	Initial	Date			
Posted to Project Accounting	Initial	Date			
Entered in Category Log	Initial	Date			

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

D. 10
New World Systems - Handheld
Electronic Ticketing Devices
Page 12 of 14

Budget Year 2006	Department: Police Division: Police Program: Support Services	Date Requested 12/1/2006	Adjustment Number
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Project or Item Added/Increased: Additional funds for maintenance of electronic ticketing software and hardware. Also recognizing both federal and state forfeitures to complete the funding of this project	Project or Item Deleted/Reduced: None
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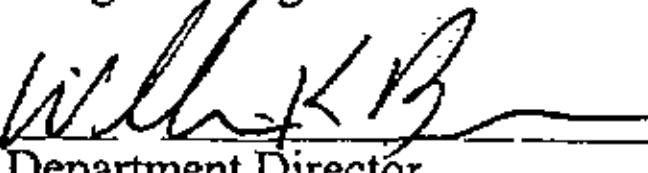
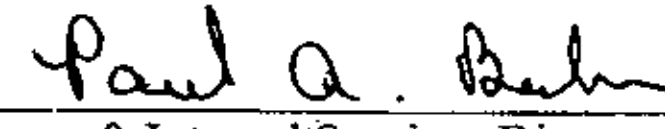
Justification of this Increase: This completes the accounting from the General Fund to Sales Tax Capital Improvement Fund	Justification of this Decrease: Replacement charges budget is sufficient to cover the maintenance expense and the transfer to Capital Improvements is funded by recognizing forfeiture revenue.
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number					Amount	Project Number	
Office machine maint	1010	2900	5401	00		10,507		
Transf to Cap Improvement	1010	6600	7602	47		38,751	03045	1
Transf to Cap Improvement	1010	6600	7602	47		37,888	03046	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number					Amount	Project Number	
Police Law Enforce Trust	1010	0001	4308	02		38,751	03045	1
Federal Forfeitures	1010	0001	4504	00		13,117	03046	1
Replacement charges	1010	2940	5331	01		10,507		
Vehicles and equipment	1010	2900	5802	00		24,771	03046	1

Approval Signatures	
Requested By	Date
	12/1/06
Budget Manager	Date
	12-12-06
Department Director	Date
	12-12-06
Finance & Internal Services Director	Date
Mayor	Date

Budget Office Use Only					
Type:	A	B	C	D	E
Posted to General Ledger					
	Initial			Date	
Posted to Project Accounting					
	Initial			Date	
Entered in Category Log					
	Initial			Date	

ORDINANCE NO. 4474

**AN ORDINANCE TO WAIVE THE COMPETITIVE
BIDDING REQUIREMENTS TO ENABLE THE CITY TO
PURCHASE COMPUTER SOFTWARE FROM NEW
WORLD SYSTEMS**

WHEREAS, the City of Fayetteville has been successfully using New World computer software since the early 90;s and it would be inefficient and unwise to commingle software from another supplier; and

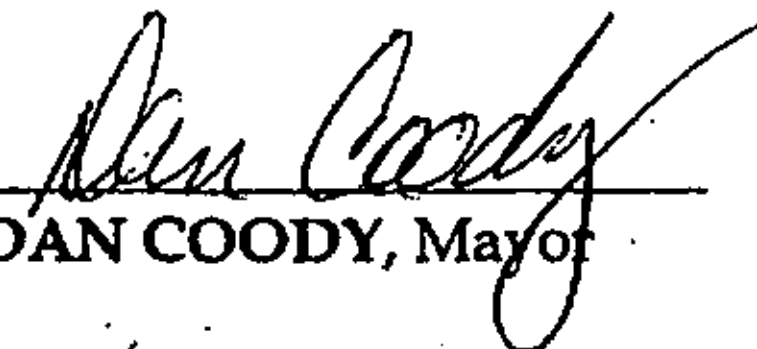
WHEREAS, the City Council of the City of Fayetteville determines that purchasing computer software from New World is an exceptional situation in which the normal, statutory competitive bidding procedure is not feasible or practical.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of competitive bidding for computer software when the City Administration is updating, supplementing, improving, or enlarging its use of New World computer software. This waiver of competitive bidding shall be in full force and effect until December 31, 2006 unless repealed by subsequent ordinance.

PASSED and APPROVED this the 1st day of April, 2003.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
Sondra Smith, City Clerk





THE CITY OF FAYETTEVILLE, ARKANSAS

Handed Out at
the City Council
Meeting 12/19/06

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning
Date: December 19, 2006
Subject: Westside Village R-PZD – Determinations on Waiver Requests

Should the City Council choose to approve R-PZD 06-1884, Westside Village, the following determinations need to be made regarding requested waivers:

Condition #2 – Connectivity and Stub-outs.

- **Staff Recommendation:** Staff recommends approval of the connectivity as indicated. Recommends all street and drive-aisle stub-outs be constructed to the property line.
- **Planning Commission Recommendation:** Full stub-outs shall be constructed to the north property lines in all cases. An assessment shall be paid to the City for the construction of the stub-outs to the east, in an amount to be approved by the City Engineering Division prior to building permit. The applicant shall coordinate with the City Engineering and Transportation Divisions prior to construction to agree upon appropriate signage to indicate future street extensions, but still be aesthetically compatible with the development. The applicant shall work with the City Attorney's Office to carefully write an easement document to prevent large utility trucks from accessing the street stub-outs to the east. The intention of the easement document is to prevent using the streets in this development as a cut-through. This easement shall be recorded prior to building permit and referenced by document number on the easement plat.
- **Street Committee Recommendation:** Full stub-outs shall be constructed to the north property lines in all cases. The City Council agrees to the contract attached as Exhibit "D" to the ordinance as well as the amended plat presented to the City Council on December 19, 2006, which allows construction of the stub-outs to the east one foot from the eastern boundary line with proper signage on the barricade indicating a future street to be constructed.

Condition #3 – Street Design Waivers

(b) Curb Return Radius (CRR)

- **Staff Recommendation:** Staff recommends a 20-foot CCR in all instances
- **Planning Commission Recommendation:** Recommended the requested 15-foot CCR in all instances
- **Street Committee Recommendation:** Recommended 20-foot CRR in all instances

(c) Street Cross Sections

- **Staff Recommendation:** Staff recommends the requested cross sections. Staff recommends Street #2 be a private street, in that it functions as a parking lot and drive aisle.
- **Planning Commission Recommendation:** Recommended the requested cross sections. Recommended Street #2 to be a public street, to be dedicated and maintained by the City in its entirety.
- **Street Committee Recommendation:** Recommended the requested cross sections. Recommended Street #2 be public, with the bioswales within the right-of-way to be maintained permanently by the owner or assigns.

Condition #5 – Street and Drive Aisle Width Waivers (Ch. 166 and Ch 172)

- **Staff Recommendation:** Staff originally recommended denial of the various cross-sections, recommending a 24-foot back-of-curb to back-of-curb dimension be utilized for all driveways, drive aisles, public streets and private streets where two-way traffic is proposed. Should the City Council approve the 20-foot CRR, staff would recommend the cross-sections be reduced to 23 feet in total width.
- **Planning Commission Recommendation:** Recommended the various cross-sections as requested.
- **Street Committee Recommendation:** Recommended a 23-foot back-of-curb to back-of-curb dimension be utilized for all driveways, drive aisles, public streets and private streets where two-way traffic is proposed.

CONTRACT

Comes now Westside Development Company, LLC, John Nock, Richard Alexander, Rob Merry-Ship, and their heirs and assigns as the owners/developers of Westside Village PZD (hereinafter "Westside Village") and the City of Fayetteville, Arkansas which all agree as follows:

The City of Fayetteville will allow Westside Village not to extend the two platted stubout streets all the way to its eastern border upon the following conditions agreed to by Westside Village:

(1) Westside Village agrees to build both stubout street sections up to one foot of the eastern border of the Westside Village PZD and properly dedicate them as city streets.

(2) Westside Village agrees to construct a barricade at the end of each stubout section to prevent vehicular traffic from crossing the one foot unbuilt section of the stubout street. This barricade will contain an advisement that is large enough to be clearly legible from the adjoining north/south street stating: "This stubout city street shall be extended to the East when that property is redeveloped residentially or commercially."

(3) Westside Village agrees to dedicate to the City the one foot section on both stubout street sections upon request by the City when the property adjoining Westside Village to the East is being redeveloped either residentially, commercially or as a PZD.

(4) Westside Village also agrees to remove or to pay to remove the barricades and to pay (as a cost share with the developers of the eastern

property) the construction costs for these one foot city street sections upon request by the City.

The City of Fayetteville agrees to waive its normal requirements that the stubout streets be fully constructed all the way to the property border and dedicated to the City during the initial construction of Westside Village. Furthermore, the City will attempt to require construction traffic for the redevelopment of the land to the east of Westside Village to access the property from major city streets such as Wedington or Persimmon rather than through Westside Village if practicable.

In Agreement with all the terms and conditions above, we sign our names on this 5th day of December, 2006.

**WESTSIDE
DEVELOPMENT COMPANY, LLC**

By: _____

Printed Name: RICHARD ALEXANDER

Title: MANAGING MEMBER

**Personal guarantees for themselves
and heirs and assigns:**

John Nock
JOHN NOCK

Richard Alexander
RICHARD ALEXANDER

Rob Merry-Ship
ROB MERRY-SHIP

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____

DAN COODY, Mayor

Attest:

By: _____

SONDRA SMITH, City Clerk

Added at City Council
AGENDA REQUEST FORM Meeting
12/19/06

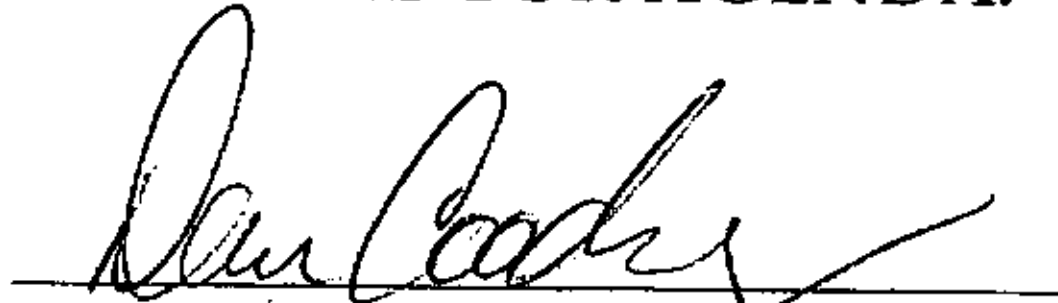
FOR: COUNCIL MEETING OF 12/19/06

FROM: DAN COODY, MAYOR

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Accepting A Perpetual Conservation Easement From Frank Sharp As Trustee Of The Sharpridge Trust Of An Approximately Twenty (20) Acre Significant Natural Area On Behalf Of The People Of The City Of Fayetteville, Arkansas

APPROVED FOR AGENDA:



Dan Coody
Mayor

12/15/06
Date



Kit Williams
City Attorney (as to form)

12-15-06
Date

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A PERPETUAL CONSERVATION EASEMENT FROM FRANK SHARP AS TRUSTEE OF THE SHARPRIDGE TRUST OF AN APPROXIMATELY TWENTY (20) ACRE SIGNIFICANT NATURAL AREA ON BEHALF OF THE PEOPLE OF THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, promoting widespread deployment of conservation easements is a key element in achieving the City Plan 2025 goal of assembling an Enduring Green Network in the City of Fayetteville; and,

WHEREAS, Frank Sharp, as Trustee of the Sharpridge Trust, has generously offered the invaluable gift of preserving in perpetuity approximately 20 acres of naturally forested hillside for the common benefit of the citizens of the City of Fayetteville.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, on behalf of a grateful citizenry, hereby accepts the perpetual Conservation Easement which Frank Sharp has so generously granted to the City of Fayetteville. A copy of the Conservation Easement, marked Exhibit A, is attached hereto and made a part hereof.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

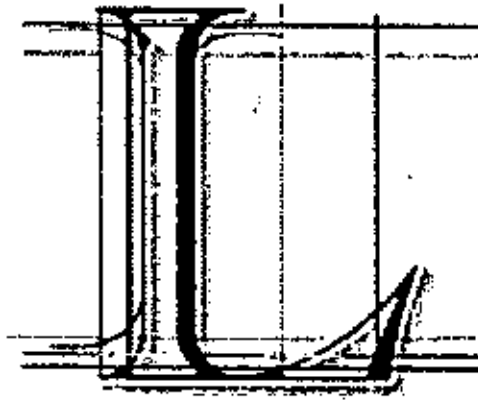
By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk



LISLE LAW FIRM, P.A.

JOHN LISLE (of counsel)
CHRIS LISLE
DONNIE RUTLEDGE
STEVE LISLE

1458 Plaza Place, Suite 101
Springdale, AR 72764-5273
479-750-4444
Fax 479-751-6792

JAN THORNTON
JIM HATCHER
ROBERT D. BRANDON
DOROTHYANNE BARRY
GENE A. FRANCO
MONA J. TEAGUE
JOHN D. YOUNG

December 14, 2006

Mr. David Whitaker
City of Fayetteville
Fayetteville, AR 72701
Hand Delivery

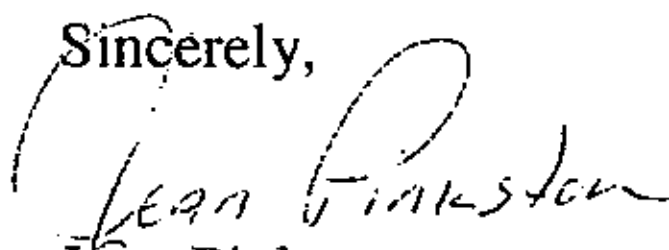
Re: Conservation Easement

Dear Mr. Whitaker:

Please find enclosed *two sets* of paperwork for the Conservation Easement for Mr. Frank Sharp. Please sign both sets and then call Mr. Sharp and he will pick up his copy of the signed documents. His number is 957-4069. Please remember that time is of the essence.

Thank you for your assistance and cooperation. If you have any questions, please do not hesitate to give us a call.

Sincerely,


Jean Pinkston
Legal Assistant

Enclosure

AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF

December 19, 2006

FROM: DAN COODY, MAYOR

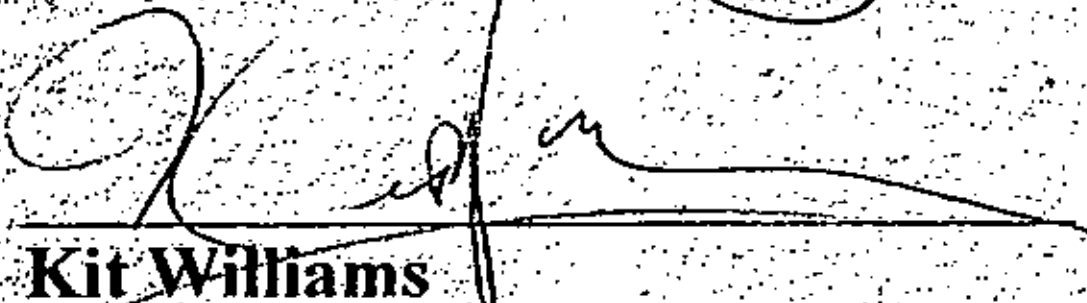
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution Accepting A Perpetual Conservation Easement From Frank Sharp As Trustee Of The Sharpridge Trust Of An Approximately Twenty (20) Acre Significant Natural Area On Behalf Of The People Of The City Of Fayetteville, Arkansas

APPROVED FOR AGENDA:


Dan Coody
Mayor

12/19/06
Date


Kit Williams
City Attorney (as to form)

12-15-06
Date

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A PERPETUAL CONSERVATION EASEMENT FROM FRANK SHARP AS TRUSTEE OF THE SHARPRIDGE TRUST OF AN APPROXIMATELY TWENTY (20) ACRE SIGNIFICANT NATURAL AREA ON BEHALF OF THE PEOPLE OF THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, promoting widespread deployment of conservation easements is a key element in achieving the City Plan 2025 goal of assembling an Enduring Green Network in the City of Fayetteville; and,

WHEREAS, Frank Sharp, as Trustee of the Sharpridge Trust, has generously offered the invaluable gift of preserving in perpetuity approximately 20 acres of naturally forested hillside for the common benefit of the citizens of the City of Fayetteville.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, on behalf of a grateful citizenry, hereby accepts the perpetual Conservation Easement which Frank Sharp has so generously granted to the City of Fayetteville. A copy of the Conservation Easement, marked Exhibit A, is attached hereto and made a part hereof.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By:

DAN COODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

CONSERVATION EASEMENT

This **CONSERVATION EASEMENT** made this 19th day of December, 2006.

RECITALS:

A. Frank Sharp, Trustee of The Sharpridge Trust u/d May 17, 1974, as amended, residing at, 2062 Smokehouse Road, Fayetteville, Arkansas, ("Grantor") is the owner in fee simple of certain real property, (the "Protected Property") that is described on Exhibit "A" that is attached hereto and incorporated by reference herein, and which constitutes approximately 20 acres, is undeveloped and has ecological, scientific, educational and aesthetic value in its present undeveloped state.

B. The Protected Property is a significant natural area that qualifies as a "...relatively natural habitat of fish, wildlife, or plants, or similar ecosystem," as that phrase is used in P.L. 96-541, 26 USC 170(h)(4)(A)(ii), as amended, and in regulations promulgated thereunder. More specifically the Property is a naturally forested hillside with shagbark hickories, red and white oaks, ash trees, and other aesthetically pleasing and beneficial vegetation as noted in a written report by John V. Crone, Professor of Landscape Architecture at the University of Arkansas in Fayetteville, and is in an area of the City of Fayetteville that is rapidly being transformed into commercial and residential developments.

C. The condition of the Protected Property as of the date of this grant is documented in a Baseline Documentation Report, prepared by the Grantor and signed and acknowledged by the City of Fayetteville, Arkansas ("Grantee") and which includes reports, maps, photographs, and other documentation.

D. On or about July 17, 2006, Grantee adopted the "City Plan 2025," which included the goal of assembling an "Enduring Green Network" (as that term is defined therein), a copy of which is included in the Baseline Documentation Report, which includes "large scale preserves for stabilizing hillsides, protecting natural habitats & water quality, and scenic vistas-accelerate public acquisition of open space and parks-promote widespread deployment of conservation easements, transfer of development rights and cluster development-maximize City influence over development and preservation in outlying unincorporated areas."

E. The Grantor and Grantee have the common purpose of conserving the Protected Property in perpetuity as set forth below, and the State of Arkansas has authorized the creation of conservation easements pursuant to the Arkansas Conservation Easement Act, codified at §15-20-401 *et seq.*, and Grantor and Grantee wish to avail themselves of the provisions of that law.

F. The Grantor and Grantee believe that conserving the Protected Property in perpetuity as set forth below would provide a significant open space for the scenic enjoyment of the general public, which would provide a significant public benefit, pursuant to 26 USC 170(h)(4), and the regulations promulgated thereunder, particularly in light of the increasing urbanization of the properties surrounding the Protected Property and other property that is subject to conservation easements in the area which together provide a greater benefit to the public than any single tract would alone.

NOW, THEREFORE, the Grantor, for and in consideration of the facts recited above and of the mutual covenants, terms, conditions and restrictions contained herein and as an absolute and unconditional gift with no consideration, hereby gives, grants, bargains, sells and conveys unto the Grantee a Conservation Easement in perpetuity over the Protected Property of the nature and character as follows:

1. **Purpose.** The purpose of this Conservation Easement is to ensure that the Protected Property will be retained forever predominantly in its present condition as of the date this Easement was granted, except for minimal future trail expansion as set forth more fully below; to protect the plants, animals, or plant communities on the Protected Property; and to prevent any use of the Protected Property that will significantly impair or interfere with the conservation values or interests of the Protected Property described above. The Grantor intends that this Conservation Easement will restrict the use of the Protected Property to only such activities as are consistent with the purpose of this Conservation Easement.

2. **Prohibited Uses.** Any activity on or use of the Protected Property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, except as provided in paragraph 3 below:

2.1 No Construction. There shall be no constructing or placing of any buildings, tennis or other recreational court, landing strip, mobile home, swimming pool, fence or sign (other than those required by the Grantee for appropriate management), asphalt or concrete pavement, billboard or other advertising display, antenna, utility pole, tower (including but not limited to cellular telephone), conduit, line, sodium vapor light or any other temporary or permanent structure or facility on or above the Protected Property.

2.2 No Excavation. There shall be no ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, nor any building of roads or change in the topography or surface hydrology of the Protected Property in any manner, except as necessary to construct a formal walking trail from the informal walking path that is presently located on the Protected Property as set forth in §2.9 and §3.3 below.

2.3 No Cutting. There shall be no removal, harvesting, destruction or cutting of trees, shrubs or plants, planting of trees, shrubs or plants, use of fertilizers, plowing, introduction of non-native animals, grazing of domestic animals, or disturbance or change in the natural habitat in any manner, except Grantor may, as set forth more fully below, periodically remove dead trees, limbs, vegetation, etc., as reasonably necessary for long-term preservation of the Protected Property, and except as necessary to construct a formal walking trail from the informal walking path that is presently located on the Protected Property as set forth in §2.9 and §3.3 below.

2.4 No Dumping. There shall be no storage or dumping of ashes, trash, garbage, or other unsightly or offensive material, hazardous substance, or toxic waste, nor any placement of underground storage tanks in, on, or under the Protected Property; there shall be no changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall activities be conducted on the Protected Property or on adjacent property, if owned by the Grantor, that could cause erosion or siltation on the Protected Property.

2.5 No Pollution. There shall be no pollution, alteration, depletion or extraction of surface water, natural water courses, lakes, ponds, marshes, subsurface water or any other water bodies, nor shall activities be conducted on the Protected Property or on adjacent property, if owned by Grantor, that would be detrimental to water purity or that could alter the natural water level or flow in or over the Protected Property.

2.6 No Vehicles. There shall be no operation of mountain or other bicycles, snowmobiles, dune buggies, motorcycles, all-terrain or off-road vehicles, hang gliders, aircraft, jet skis, motorized boats or any other types of mechanized vehicles, even on the walking trail as described more fully below, except as required to maintain the Protected Property, and except on that portion of the Protected Property on which the present city street – Smokehouse Trail – is situated, which is owned and maintained by the Grantee as set forth more fully in §3.5 below.

2.7 No Subdivision. The Protected Property may not be divided, partitioned, or subdivided, nor conveyed except in its current configuration as an entity.

2.8 Density. Neither the Protected Property nor any portion of it shall be included as part of the gross area of other property not subject to this Conservation Easement for the purposes of determining density, lot coverage, or open space requirements under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Conservation Easement shall be transferred to any other lands pursuant to a transferrable development rights, scheme cluster development arrangement or otherwise; provided, however, that with prior written permission of the Grantee, this paragraph shall not preclude such transfer of development rights resulting from the destruction or demolition of any existing residential building on the Protected Property.

2.9 Trails. The parties acknowledge that existence of an informal walking path that is located on the Protected Property as of the date of this Easement, as shown on Exhibit "C" attached hereto and incorporated by reference herein. This path shall be improved into a soft surface natural nature trail by Grantee and its agents and volunteers in conjunction with the overall construction and improvement of the Kessler Mountain Trail that will be located on adjacent properties. All such improvements shall be to the existing informal walking path in its present location. No asphalt or concrete shall be allowed. The public shall have access to this trail as a walking path, both as now existing and as improved as set forth above; provided, however, that the public shall not have access to any other portions of the Protected Property except as may otherwise be provided herein. One or more of Grantor's trustees shall be consulted and shall approve all improvements to the trail from time to time. No mountain biking, motorcycle riding, or other activities shall be engaged in on the path or the trail except pedestrian walking. Pets shall be allowed thereon.

3. **Grantor's Reserved Rights.** The Grantor hereby reserves the following rights:

3.1 Existing Uses. The right to undertake or continue any activity or use of the Protected Property not prohibited by this Conservation Easement. Prior to making any change in use of the Protected Property, the Grantor shall notify the Grantee in writing to allow the Grantee a reasonable opportunity to determine whether such change would violate the terms of this Conservation Easement.

3.2 Transfer. The right to sell, give, mortgage, lease, or otherwise convey the Protected Property, provided such conveyance is subject to the terms of this Conservation Easement.

3.3 Trail. To make improvements to and maintain the present informal walking path and the formal trail in the same location as it is constructed.

3.4 Diseased Trees. The right to cut and remove dead, diseased, or exotic trees, shrubs, or plants and to cut firebreaks at Grantor's discretion.

3.5 Existing Road. The right to continue using the existing road (Smokehouse Trail) through the Protected Property.

3.6 Utility Easement. The right to construct and maintain one or more utility easements through the Protected Property to provide any utilities (in the broadest sense of the word) to any property located outside of the Protected Property.

3.7 Grantor's Access. The right to allow the Sharp family and its guests and invitees to continue to access the Protected Property from time to time as they may determine in their discretion.

3.8 Certain Third Party Access. The right to grant written permission to certain non-profit third parties such as, without limitation, the University of Arkansas, school districts, City of Fayetteville, etc., and the right for those entities and their employees, students, etc. to access the Protected Property, for educational uses that do not unreasonably interfere with the purpose of this easement.

3.9 Enforcement. The right (but not the obligation) to enforce the terms of this Conservation Easement, it being understood that Grantee has the same right and obligation.

3.10 Cut Wood. The right to cut wood from time to time as long as it does not substantially alter the Protected Property.

3.11 Agricultural Use. The right to use up to two acres on the south end of the Protected Property for agricultural purposes, which includes without limitation the right to erect agricultural fencing to prevent grazing animals from accessing the remainder of the Protected Property.

4. Grantee's Rights and Obligations. To accomplish the purpose of this Conservation Easement, subject to the remaining terms set forth herein, the following rights are conveyed to the Grantee by this Conservation Easement:

4.1 Right to Protect. The right to preserve and protect the conservation values of the Protected Property.

4.2 Right of Entry. The right to enter the Protected Property at all reasonable times for the purposes of: (a) inspecting the Protected Property to determine if the Grantor is complying with the covenants and purposes of this Conservation Easement; (b) enforcing the terms of this Conservation Easement; (c) taking any and all actions with respect to the Protected Property as may be necessary or appropriate, with or without order of court, to remedy or abate violations

hereof; (d) making scientific and educational observations and studies and taking samples in such a manner as will not disturb the quiet enjoyment of the Protected Property by the Grantor; and (e) monitoring and management as described below.

4.3 Monitoring and Management. The right, but not the obligation, to monitor the condition of any rare plant and animal populations, plant communities, and natural habitats on the Protected Property, and to manage them, to the extent deemed appropriate by the Grantee to ensure their continued presence and viability on the Protected Property. Such activities shall be in accordance with management practices of the Grantee, which may include but not be limited to, mowing, fencing, trapping, or prescribed burning.

4.4 Enforcement. The right and obligation to prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Conservation Easement and to require the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use, pursuant to paragraph 10.

4.5 Discretionary Consent. The Grantee's consent for activities otherwise prohibited under paragraph 2 above, or for any activities requiring Grantee's consent under paragraph 3 above, may be given under the following conditions and circumstances. If, owing to unforeseen or changed circumstances, any of the activities listed in paragraph 2 are deemed desirable by both the Grantor and the Grantee, the Grantee may, in its sole discretion, give permission for such activities, subject to the limitations herein. Such requests for permission, and permission for activities requiring the Grantee's consent under paragraph 3, shall be in writing and shall describe the proposed activity in sufficient detail to allow the Grantee to judge the consistency of the proposed activity with the purpose of this Conservation Easement. The Grantee may give its permission only if it determines, in its sole discretion, that such activities (1) do not violate the purpose of this Conservation Easement and (2) either enhance or do not impair any significant conservation interests associated with the Protected Property. Notwithstanding the foregoing, the Grantee and Grantor have no right or power to agree to any activities that would result in the termination of this Conservation Easement or to allow any residential, commercial or industrial structures or any commercial or industrial activities not provided for above.

4.6 Annual Inspection and Report. To inspect the Protected Property at least annually and prepare an annual report regarding the results of the inspection, including any significant changes to the Protected Property or violations of this Conservation Easement, and any action that will be taken in response thereto. A copy of each annual report will be maintained at City Hall and a copy will be mailed to the fee owner of the Protected Property.

4.7 Trail Improvements. To improve the existing informal walking path into a formal walking trail as set forth in §2.9 above.

5. Access. Nothing contained in this Conservation Easement shall give or grant to the public a right to enter upon or to use the Protected Property or any portion thereof except for the

existing Smokehouse Trail and the present informal walking path and any improvements thereto, as shown on Exhibit "C" attached hereto.

6. **Costs and Liabilities.** The Grantor and its successors and assigns retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including without limitation all trails located thereon, and it shall make all decisions regarding these issues at its sole discretion; provided that Grantor shall keep the Grantee's interest in the Protected Property free of any liens arising out of any work performed for, materials furnished to or obligations incurred by the Grantor.

Each party agrees to release and absolve the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that one party may suffer or incur as a result of or arising out of the activities of the other party on the Protected Property, provided that nothing herein shall be construed to alter, limit or otherwise compromise that immunity afforded the City of Fayetteville under the Constitution and Statutes of the State of Arkansas.

7. **Taxes.** The Grantor shall to pay any real estate taxes or other assessments levied on the Protected Property.

8. **Title.** The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Protected Property in fee simple and has good right to grant and convey this Conservation Easement; that the Protected Property is free and clear of any and all encumbrances, including but not limited to, any mortgages not subordinated to this Conservation Easement, and that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.

9. **Hazardous Waste.** The Grantor covenants, represents and warrants to the Grantee that no hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, or deposited in or on the Protected Property, and that there are not now any underground storage tanks located on the Protected Property.

10. **Grantee's Remedies.** If the Grantee becomes aware of a violation of the terms of this Conservation Easement, the Grantee shall give notice to: (a) the person(s) responsible for the violation, and (b) the Grantor or the fee owner of the Protected Property if Grantor is no longer the owner (hereafter the "Owner"), at the Owner's last known post office address, of such violation, and request corrective action sufficient to abate such violation and restore the Protected Property to its previous condition at the time of this grant. Grantor agrees that the Baseline Documentation Report shall be deemed to provide objective information concerning the Protected Property's condition at the time of this grant. Failure by the responsible party to abate the violation and take such other corrective action as may be requested by the Grantee within thirty (30) days after receipt of such notice shall entitle the Grantee or Grantor to bring an action at law or equity in a court of competent

jurisdiction to enforce the terms of this Conservation Easement; to require the restoration of the property to its previous condition; to enjoin the non-compliance by ex parte temporary or permanent injunction in a court of competent jurisdiction; and/or to recover any damages arising from the non-compliance; provided however that Grantor shall in no way and under no circumstances be responsible for any damages. Such damages, when recovered, may be applied by the Grantee only to corrective action on the Protected Property. Grantee shall be entitled to recover its attorney's fees and costs in any successful action to enforce the terms of this Conservation Easement, or the violation thereof, against anyone but Grantor, the members of the Sharp family or their permitted guests or invitees on the Protected Property.

10.1 Failure to Act or Delay. The Grantee does not waive or forfeit the right to take action as may be necessary to insure compliance with this Conservation Easement by any prior failure to act and the Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act or delay by the Grantee, its successors or assigns, in acting to enforce any restriction or exercise any rights under this Conservation Easement.

11. Parties Subject to Easement. The covenants agreed to and the terms, conditions, and restrictions imposed by this grant shall not only be binding upon the Grantor but also its lessees, agents, personal representatives, successors and assigns, and all other successors to Grantor in interest and shall continue as a servitude running in perpetuity with the Protected Property. No third party right of enforcement exists. Only the Grantee and/or the trustees of the Grantor can enforce this Conservation Easement.

12. Subsequent Transfers. The Grantor agrees that the terms, conditions, restrictions and purposes of this grant or reference thereto will be deemed to be contained within any subsequent deed or other legal instrument by which the Grantor divests either the fee simple title or possessory interest in the Protected Property; and the Grantor further agrees to notify the Grantee of any pending transfer at the time of the transfer or within a reasonable time thereafter.

13. Merger. The Grantor and the Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Protected Property.

14. Amendment. In the event that the property is affected by unusual and unforeseen circumstances and conditions, Grantor and Grantee by mutual consent may amend this easement; provided that the amendment is not inconsistent with the conservation purpose of this easement; will not result in a net degradation of the conservation values of the property; will not affect the enforceability of the easement; and is accomplished in compliance with any applicable state statute and with section 170(h) of the Internal Revenue Code and all regulations applicable thereto, as they may be in effect at the time. Any such amendment shall be recorded in the official land records where the Protected Property is located.

15. **Assignment.** The Grantor may assign its interest hereunder by selling the fee interest in the Protected Property. The Grantee may not assign its interest hereunder without the express written consent of the fee owner of the Protected Property; provided that only those entities that are qualified organizations as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, that is organized and operated primarily for one of the conservation purposes specified in Section 170(h)(4)(A) of the Internal Revenue Code, shall be permitted, and the transferee or assignee will be required to continue to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance.

16. **Extinguishment.** The Grantor hereby agrees that, at the time of the conveyance of this Conservation Easement to the Grantee, this Conservation Easement gives rise to a real property right, immediately vested in the Grantee, with a fair market value of the Conservation Easement as of the date of the conveyance that is at least equal to the proportionate value that this Conservation Easement at the time of the conveyance bears to the fair market value of the property as a whole at that time, as the same are set forth on Exhibit "B" that is attached hereto and incorporated by reference herein.

That proportionate value of the Grantee's property rights shall remain constant and as set forth on Exhibit "B." When a change in conditions takes place which makes impossible or impractical any continued protection of the Protected Property for conservation purposes, and the restrictions contained herein are extinguished by judicial proceeding, the Grantee, upon a subsequent sale, exchange or involuntary conversion of the Protected Property, shall be entitled to a portion of the proceeds at least equal to that proportionate value of the Conservation Easement as set forth on Exhibit "B." The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes set forth herein or for the protection of a "relatively natural habitat of fish, wildlife, or plants or similar ecosystem," as that phrase is used in and defined under 26 USC 170(h)(4)(A)(ii), as amended and in regulations promulgated thereunder.

18. **Eminent Domain.** Whenever all or part of the Protected Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor and the Grantee shall join in appropriate actions at the time of the taking to recover the full value of the taking and all incidental or direct damages resulting from it, and the proceeds shall be divided in accordance with the proportionate value of the Grantee's and Grantor's interests as of the date this Easement was granted, and Grantee's proceeds shall be used as specified above. All expenses incurred by the Grantor and the Grantee in such action shall be paid out of the recovered proceeds.

19. **Miscellaneous Provisions.**

19.1 **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the

provisions of this Conservation Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

19.2 Successors and Assigns. The term "Grantor" shall include the Grantor and the Grantor's heirs, executors, administrators, successors and assigns and shall also mean the masculine, feminine, corporate, singular or plural form of the word as needed in the context of its use. The term "Grantee" shall include the City of Fayetteville, Arkansas, and its successors and assigns.

19.3 Re-recording. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Easement; for such purpose, the Grantor appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any necessary instrument on its behalf. Without limiting the foregoing, the Grantor agrees to execute any such instruments upon request.

19.4 Captions. The captions herein have been inserted solely for convenience of reference and are not a part of this Conservation Easement and shall have no effect upon construction or interpretation.

19.5 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

19.6 Notices. Any notices required in this Conservation Easement shall be sent by certified mail to the following address or such address as may be hereafter specified by notice in writing:

If to Grantor:

Frank Sharp, Trustee of
The Sharpridge Trust u/d May 17, 1974
P.O. Box 37
Farmington, AR 72730

If to Grantee:

City of Fayetteville, Arkansas
Attn: Office of the Mayor
113 W. Mountain Street
Fayetteville, AR 72701

TO HAVE AND TO HOLD, the said Conservation Easement unto the said Grantee forever.

IN WITNESS WHEREOF, the Grantor has executed and sealed this document the day and year first above written.

Witness:

Paula Edwards

Grantor:

Frank Sharp
Frank Sharp, Trustee of
The Sharpridge Trust u/d May 17, 1974

ACKNOWLEDGEMENT

STATE OF ARKANSAS)

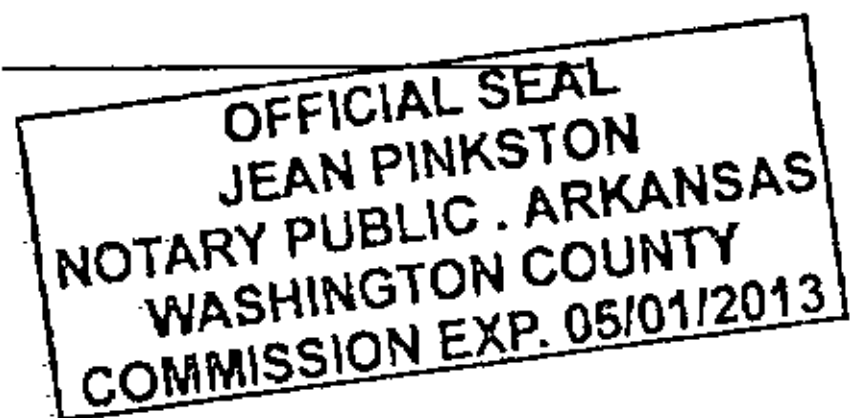
COUNTY OF WASHINGTON)

On this the 14th day of December, 2006, before me,
Jean Pinkston, the undersigned officer, personally appeared R. Frank Sharp,
known to me or satisfactorily proven to be the persons described as Trustee of the Sharpridge
Trust w/d May 17, 1974 in the foregoing instrument, and acknowledged that he executed the
same in the capacity therein stated and for the purposes therein contained.

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

Jean Pinkston
Notary Public

My commission expires:



ACCEPTANCE

The undersigned does hereby, on behalf of the City of Fayetteville, Arkansas, consent to and accepts the interest and Conservation Easement granted and conveyed to it under and pursuant to the foregoing grant and agrees to observe and perform all obligations imposed on it thereunder. In consideration of the making of such grant of Conservation Easement, the undersigned further agrees as follows:

1. That should it or its successors or assigns acquire the fee simple interest in and to the Protected Property, it shall not cause or permit the merger of such fee simple interest and the Conservation Easement;

2. Not to release the Conservation Easement to the holder of the fee interest unless such holder is an agency of the State of Arkansas, a unit of local government or a not-for-profit corporation or trust whose primary purposes include the conservation of land, natural areas, open space or water areas, or the preservation of native plants or animals, or biotic communities; and

3. That any subsequent conveyance of the Conservation Easement by it or its successors and assigns shall be in accordance with the terms of an Act relating to Conservation Rights in Real Property, Act 567 of 1983, as set forth at A.C.A. § 15-20-401 et seq., as such Act may be amended from time to time, and shall not be in exchange for money, other property or services, but shall be for no consideration and each instrument of subsequent conveyance shall expressly set forth the same requirements.

The undersigned agrees that this acceptance and its covenants and agreements hereunder shall be binding upon the undersigned and its successors and assigns.

In witness whereof, the undersigned has executed and delivered this acceptance on this the ____ day of December, 2006.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS

)

SS.

COUNTY OF WASHINGTON

()

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **DAN COODY** and **SONDRA SMITH**, to me well known as the Mayor and City Clerk of the City of Fayetteville, Arkansas, who have executed the foregoing document, and who 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 December, 2006.

My Commission Expires:

Notary Public

Exhibit "A"
Legal Description of Protected Property

The West half (W ½) of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) of Section Twenty-four (24) in Township sixteen (16) North of Range thirty-one (31) West, Washington County, Arkansas, containing 20 acres, more or less, less and except the right of way owned by the City of Fayetteville, Arkansas, for Smokehouse Trail, a city street.

Exhibit "B"
Conservation Values

Percentage of overall value for Conservation Easement: _____%

Percentage of overall value for remaining property rights: _____%

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 - Nancy Gordon Allen
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
December 19, 2006**

A meeting of the Fayetteville City Council will be held on December 19, 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**

Fayetteville Public Library Board of Trustees Recommendation - given by Mayor Coody

Nominating Committee Report

A. CONSENT:

- 1. Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.**
- 2. IBM AS400 Records Management System Server:** A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.
- 3. T-G Excavating, Inc:** A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.
- 4. Garver Engineering, Inc:** A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase Services associated with construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.00.

5. **Document Retention Schedule:** A resolution to adopt the Document Retention Schedule, to authorize the City Clerk to destroy documents older than this retention schedule and to adjust the document retention schedule to comply with changes in state law.

B. PUBLIC HEARINGS:

1. **Revoke Permit for Casa Torres:** A resolution to revoke the license of Miguel Torres d/b/a/ Casa Torres to sell alcoholic beverages within the City of Fayetteville.

C. UNFINISHED BUSINESS:

1. **R-PZD 06-1884, Westside Village:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
2. **Proposed 2007 Annual Budget & Work Program:** A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
3. **ADM 06-2322 North Street ROW Dedication Variance:** A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. *This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
4. **Stadium Centre Cottages Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the December 5, 2006 City Council meeting.*
5. **Easement Vacation for Archer (VAC 06-2289) Appeal:** An ordinance approving VAC 06-2289 submitted by Crafton Tull and Associates for property located at the west end of Markham, west of Sang Avenue, vacating a 0.35 acre portion of a right-of-way on the subject property. *This ordinance was left on the Second Reading at the December 5, 2006 City Council meeting.*

D. NEW BUSINESS:

1. **RZN 06-2336 Sloan-Broyles and Persimmon:** An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.
2. **ADM 06-2382 House Vacation Extension:** An ordinance approving ADM 06-2382, for property located at the southwest corner of St. Charles Avenue and Watson Street, repealing ordinance No. 4807 and vacating drainage easements as indicated on the attached map and legal description.
3. **Amend Chapter 34, Purchases and Contracts:** An ordinance to amend §34.23 of the Fayetteville Code Purchases and Contracts not in excess of \$20,000.00 by enacting a sole source subsection.
4. **Fayetteville Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2007.
5. **LSD 06-2278 Shoppes at Shiloh Appeal:** An appeal of the Planning Commission decision regarding LSD 06-2278 The Shoppes at Shiloh.
6. **CUP 06-2295 DIDICOM Appeal:** An appeal of CUP 06-2295: Conditional Use permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.
7. **Community Access Television Contract Renewal:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007.
8. **Fayetteville Downtown Partners Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract for services with Fayetteville Downtown Partners in the amount of \$40,000.00 to assist in the implementation of the Downtown Master Plan.
9. **Morningside Drive and Fletcher Street:** An ordinance to vacate the street right-of-way obtained for the connection of Morningside Drive and Fletcher Street.
10. **New World Systems - Handheld Electronic Ticketing Devices:** A resolution approving a revised contract for the purchase of handheld electronic ticketing devices, software, and software maintenance from New World Systems Corp. in the amount of \$195,525.00; and approving the associated budget adjustments.

E. INFORMATIONAL:

City Council Tour: None

Nominating Committee Report
Meeting: Thursday, December 7, 2006
Room 111, City Hall 5:00 p.m.
Members Present – Kyle Cook, Shirley Lucas, and Brenda Thiel

The following is being submitted to the entire City Council for consideration.

Airport Board

The Committee recommends the following candidates for appointment:

- *Tim McCarley* – One aeronautical term ending 12/31/11.
- *Otto Loewer* – One U of A term ending 12/31/11.

Audit Committee

The Committee did not receive any applications.

Environmental Concerns Committee

The Committee recommends the following candidates for appointment:

- *Kay Duval* – One unexpired community citizen at large term ending 6/30/09.
- *Nancy Varvil* – One community citizen-at-large term ending 12/31/09.
- *Phillip Penny* – One local industry term ending 12/31/09.

The Committee recommends the following adjustments:

- *Scott Longing* – Move to one unexpired science discipline term ending 6/30/08.
- *Joyce Hale* – Appoint to one unexpired citizen-at-large term ending 12/31/08.

Parks and Recreation Advisory Board

The Committee recommends the following candidates for appointment:

- *Jay Davidson* – One term ending 12/31/08.
- *Valerie Biendara* – One term ending 12/31/08.
- *Craig Mauritsen* – One term ending 12/31/08.
- *Steve Hatfield* – One term ending 12/31/08.

Telecommunications Board

The committee recommends the following candidate for appointment:

- *Fred Cusanelli* – One unexpired term ending 6/30/07.

Tree and Landscape Advisory Committee

The Committee recommends the following candidates for appointment:

- *Paula Larson* – One community citizen-at-large term ending 12/31/08.
- *Cynthia Cope* – One forestry, landscaping or horticulture term ending 12/31/08.
- *Linda Barker* – One unexpired business term ending 12/31/07.
- *Fred Cusanelli* – One community citizen-at-large term ending 12/31/08.

Youth Activities Committee

The Committee did not receive any applications.

The Mayor must make a recommendation for the Fayetteville Public Library Board of Trustees. Listed below is a recommendation from the Nominating Committee.

Fayetteville Public Library Board of Trustees

The Committee recommends the following candidate for appointment:

- *Don Marr* – One unexpired term ending 4/1/08.

The Fayetteville Housing Authority Board of Commissioners must make a recommendation for the Housing Authority Board of Commissioners. Listed below is a recommendation from the Nominating Committee.

Housing Authority Board of Commissioners

The Committee recommends the following candidate for appointment:

- *Mark Kinion* – One term ending 12/28/11.

Add to City Council
Minutes 12/19/06

FAYETTEVILLE HOUSING AUTHORITY

#1 North School Ave.

Fayetteville, AR 72701-5928

PH: (479) 521-3850 FAX: (479) 442-6771

E-MAIL: fayettevilleha@moregti.net

December 18, 2006

Mayor Dan Coody &
Fayetteville City Council Members
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Dan Coody & Fayetteville City Council Members:

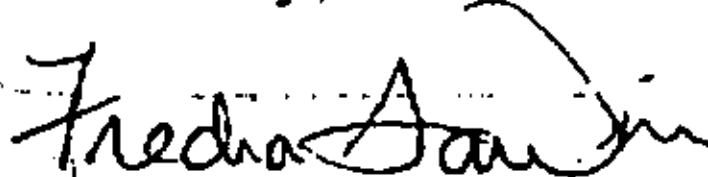
This letter is to confirm that the Fayetteville Housing Authority Board has elected a new commissioner at its December 18th, 2006 Regular Meeting.

Mr. Mark Kinion has been elected to serve a five year term from 12/28/06 to 12/28/11.

The Fayetteville Housing Authority Board requests that Mayor Dan Coody and the Fayetteville City Council Members place this new commissioner on their next City Council Meeting Agenda to be formally confirmed by the municipality's governing body in accordance with the Arkansas State Statute #14-169-208.

If you have any questions pertaining to this matter, please feel free to call or e-mail the Fayetteville Housing Authority's Executive Director.

Sincerely,



Fredia Sawin
Executive Director

fs

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 - Nancy Gordon Allen
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
December 19, 2006**

A meeting of the Fayetteville City Council will be held on December 19, 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**

Discussion Item: Monuments, Art & Memorials on Public Property. – Agenda Session Only

Nominating Committee Report

A. CONSENT:

- 1. Approval of the November 21, 2006 City Council minutes and the November 28, 2006 Special City Council meeting minutes.**
- 2. IBM AS400 Records Management System Server:** A resolution approving the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.
- 3. T-G Excavating, Inc:** A resolution approving Change Order No. 2 to the construction contract with T-G Excavating, Inc. in the amount of \$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street.

4. **Garver Engineering, Inc:** A resolution approving an amendment to the contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase Services associated with construction of the east side lines and lift stations of the Wastewater System Improvements Project; and approving a contingency in the amount of \$40,000.00.
5. **Community Access Television Contract Renewal:** A resolution approving a contract in the amount of \$93,000.00 with Community Access Television, Inc., to operate the public access television channel throughout 2007.

B. PUBLIC HEARINGS:

1. **Revoke Permit for Casa Torres:** A resolution to revoke the license of Miguel Torres d/b/a/ Casa Torres to sell alcoholic beverages within the City of Fayetteville.

C. UNFINISHED BUSINESS:

1. **R-PZD 06-1884, Westside Village:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-1884, Westside Village, located south of Wedington, east of Ruppel Road, containing approximately 21.63 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting. This ordinance was left on the Third Reading and Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
2. **Proposed 2007 Annual Budget & Work Program:** A resolution adopting the 2007 Annual Budget and Work Program as approved and amended. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting. This resolution was tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
3. **ADM 06-2322 North Street ROW Dedication Variance:** A resolution reducing the right of way dedication required from North Street centerline from 55 feet to 44 feet accommodating the existing structure and proposed development for property located at 1104 N. College Avenue as described in item ADM 06-2322. *This resolution was Tabled at the December 5, 2006 City Council meeting to the December 19, 2006 City Council meeting.*
4. **Stadium Centre Cottages Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2212, Stadium Centre Cottages, located at Old Farmington Road, west of Sandra Street; containing approximately 2.45 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the First Reading at the December 5, 2006 City Council meeting.*
5. **Easement Vacation for Archer (VAC 06-2289) Appeal:** An ordinance approving VAC 06-2289 submitted by Crafton Tull and Associates for property located at the west end of Markham, west of Sang Avenue, vacating a 0.35 acre portion of a right-of-way on the subject property. *This ordinance was left on the Second Reading at the December 5, 2006 City Council meeting.*

D. NEW BUSINESS:

1. **RZN 06-2336 Sloan-Broyles and Persimmon:** An ordinance rezoning that property described in rezoning petition RZN 06-2336, for approximately 36.62 acres, located at the southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8, Residential Single-Family, 8 units per acre with the associated Bill of Assurance.
2. **ADM 06-2382 House Vacation Extension:** An ordinance approving ADM 06-2382, for property located at the southwest corner of St. Charles Avenue and Watson Street, repealing ordinance No. 4807 and vacating drainage easements as indicated on the attached map and legal description.
3. **Amend Chapter 34, Purchases and Contracts:** An ordinance to amend §34.23 of the Fayetteville Code Purchases and Contracts not in excess of \$20,000.00 by enacting a sole source subsection.
4. **Fayetteville Youth Center, Inc. Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000.00 to provide public recreation services for the youth and citizens of Fayetteville for 2007.
5. **R-PZD 06-2196 West Fork Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2196, West Fork Place, located at the end of Ray Avenue, south of Huntsville Road; containing approximately 13.92 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
6. **LSD 06-2278 Shoppes at Shiloh Appeal:** An appeal of the Planning Commission decision regarding LSD 06-2278 The Shoppes at Shiloh.
7. **CUP 06-2295 DIDICOM Appeal:** An appeal of CUP 06-2295: Conditional Use permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.
8. **Document Retention Schedule:** A resolution to adopt the Document Retention Schedule, to authorize the City Clerk to destroy documents older than this retention schedule and to adjust the document retention schedule to comply with changes in state law.

E. INFORMATIONAL:

City Council Tour: December 18, 2006 - 4:30 PM

A3d

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

A. 2
IBM AS400 Records Management System Server
Page 1 of 4

12/19/2006
City Council Meeting Date

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Council approve a resolution for purchase of a replacement IBM AS400 Records Management System Server.

\$93,908.00

Cost of this request

4470-9470-5801.00

Account Number

06002

Project Number

2006 - \$54,000

2007 - \$285,000

Category / Project Budget

2006 - \$39,427

2007 - \$0

Funds Used to Date

2006 - \$14,573

2007 - \$285,000

Remaining Balance

PD Technology Improvements

Program Category / Project Name

Police Safety Improvements

Program / Project Category Name

Sales Tax Capital Improvement

Fund Name

Budgeted Item

☒ XXX

Budget Adjustment Attached

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

With K Brown
Department Director

12/1/2006
Date

D J Whit
City Attorney

12/4/2006
Date

Paul A. Behm
Finance and Internal Service Director

12-7-2006
Date

Alan Coady
Mayor

12/3/06
Date

Received in City Clerk's Office

ENTERED

12/4/06
/H

Received in Mayor's Office

ENTERED

12/4/06
/H

Comments:

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police *G.T. By*

DATE: December 1, 2006

RE: Police/Fire Records Management System computer replacement

Recommendation:

It is recommended the City Council adopt a resolution approving the purchase of a replacement AS400 Records Management System Server for Police/Fire records via the State of Arkansas Purchasing Contract.

Background:

The current AS400 Public Safety Records Management Computer System was purchased in 2000. Its replacement is scheduled for the year 2007. The current system has reached its maximum processing capability and cannot be upgraded.

Discussion:

The I.T. Division recently learned of some upgrade incentives for the purchase of this equipment by the end of 2006. If this computer is ordered by the end of the year, we hope to take advantage of these upgrades. Delivery of the computer and the payment for it will not take place until January or February of 2007. The funds to pay for this equipment will be available at that time.

Budget Impact:

None – The funding for this project is scheduled for 2007.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF A REPLACEMENT IBM AS400 RECORDS MANAGEMENT SYSTEM SERVER VIA THE STATE OF ARKANSAS PURCHASING CONTRACT IN THE AMOUNT OF \$93,908.00 FOR THE FAYETTEVILLE POLICE DEPARTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a replacement IBM AS400 Records Management System Server via the State of Arkansas Purchasing Contract in the amount of \$93,908.00 for the Fayetteville Police Department.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

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

19-Dec-06
City Council Meeting Date

Shannon Jones
Submitted By

Engineering
Division

Water/Wastewater
Department

Action Required:

Approval of Change Order Number 2 to the construction contract with T-G Excavating, Inc., in the amount of \$247,686.30, for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street, and maintain a contingency of \$15,000. Funds are available: \$67,603 remain within the previously approved contingency; the balance of \$195,083 is available within the project budget.

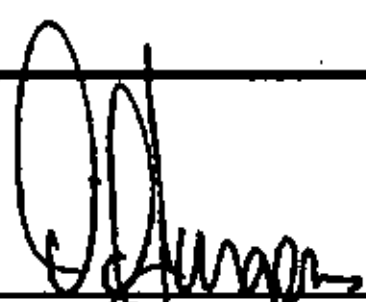
\$195,083.00
Cost of this request
5400-5700-5315.00
Account Number
02017-0401
Project Number

\$ 7,498,907.00
Category/Project Contingency
\$ 3,389,898.13
Funds Used to Date
\$ 4,109,008.87
Remaining Balance

Sanitary Sewer Rehabilitation
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

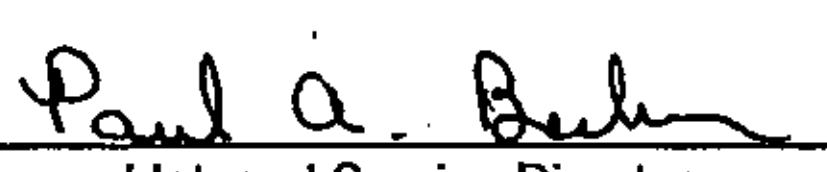
 30 Nov 06
Department Director Date

 12/1/06
City Attorney Date

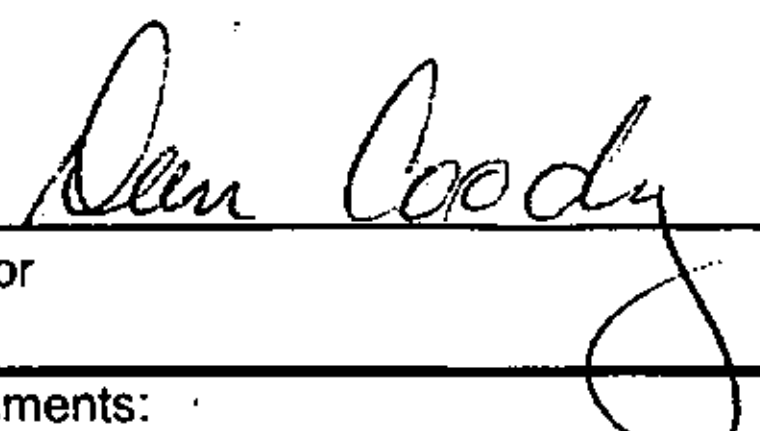
Previous Ordinance or Resolution # 56-06

Original Contract Date: 21-Mar-06

Original Contract Number: 1034

 12-4-06
Finance and Internal Service Director Date

Received in City Clerk's Office 

 12/3/06
Mayor Date

Received in Mayor's Office 

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

From: Shannon Jones, Water and Wastewater Engineer

Date: 29 November, 2006

Subject: Approval of Change Order Number 2 to the construction contract with T-G Excavating, Inc., in the amount of \$247,686.30, for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street, and maintain a contingency of \$15,000. Funds are available: \$67,603 remain within the previously approved contingency; the balance of \$195,083 is available within the project budget.

RECOMMENDATION

Staff recommends approval of Change Order Number 2 to the construction contract with T-G Excavating, Inc., in the amount of \$247,686.10, for sanitary sewer main replacement in the vicinity of North College Avenue and Davidson Street, and maintaining a contingency of \$15,000. Funds are available: \$67,603 remain within the previously approved contingency; the balance of \$195,083 is available within the project budget.

BACKGROUND

This work involves replacing and relocating the 10" sewer main over which Doc Murdoc's and University Auto were constructed roughly 50 years ago. The sewer main was installed in 1907; the joints leak and it needs to be replaced. Extensive searching found no easement for the line, making it difficult to force the building owners to pay the full cost of the relocation. We are, however, negotiating the easements and are requesting the owner pay \$40,168.30 of the cost, as he has requested an alignment that increases the construction cost by this amount.

In January, 2006, T-G provided an excellent bid of \$2,223,022.00, for a City-wide sanitary sewer rehabilitation project. Their price was \$764,000 below the Engineer's Estimate and \$1,451,151 below the second low bidder. The prices in this change order are the same as in the bid, so we are able to capitalize on this excellent value.

DISCUSSION

This work was originally intended to be included in the sewer rehabilitation contract from the beginning. However, STAG grant requirements include the necessity for an environmental assessment (EA) if any work is performed outside existing easements. All such work, including this reroute, was thus removed from the project saving the \$20,000 estimated to develop the EA. As the STAG grant funds dedicated to this project are fully spent, we can now execute this work using City funds without the need for the EA.

The City could not execute this change order until all STAG funds were spent. This is by far the best and most cost effective opportunity to eliminate this long standing problem. The building is under renovation, the parking lot where the sewer will be rerouted is in bad shape from construction, we have an excellent price, and we have a proven sewer rehabilitation contractor. This is a win-win opportunity for the City, the owners, and the customers of the future businesses at this location. The change order has been reviewed by RJN Group, the Engineer; they feel this is the best price the City could receive for this work. Their letter of recommendation is attached.

BUDGET IMPACT

Funds are available: \$67,603 remain within the approved contingency, and the balance of \$195,083 is available within the approved project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER No. 2 TO THE CONSTRUCTION CONTRACT WITH T-G EXCAVATING, INC. IN THE AMOUNT OF \$247,686.30 FOR SANITARY SEWER MAIN REPLACEMENT AND REHABILITATION IN THE VICINITY OF NORTH COLLEGE AVENUE AND DAVIDSON STREET.

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 No. 2 to the contract with T-G Excavating, Inc. in the amount of \$\$247,686.30 for sanitary sewer main replacement and rehabilitation in the vicinity of North College Avenue and Davidson Street. A copy of Change Order No. 2, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED

By:

DAN COODY, Mayor

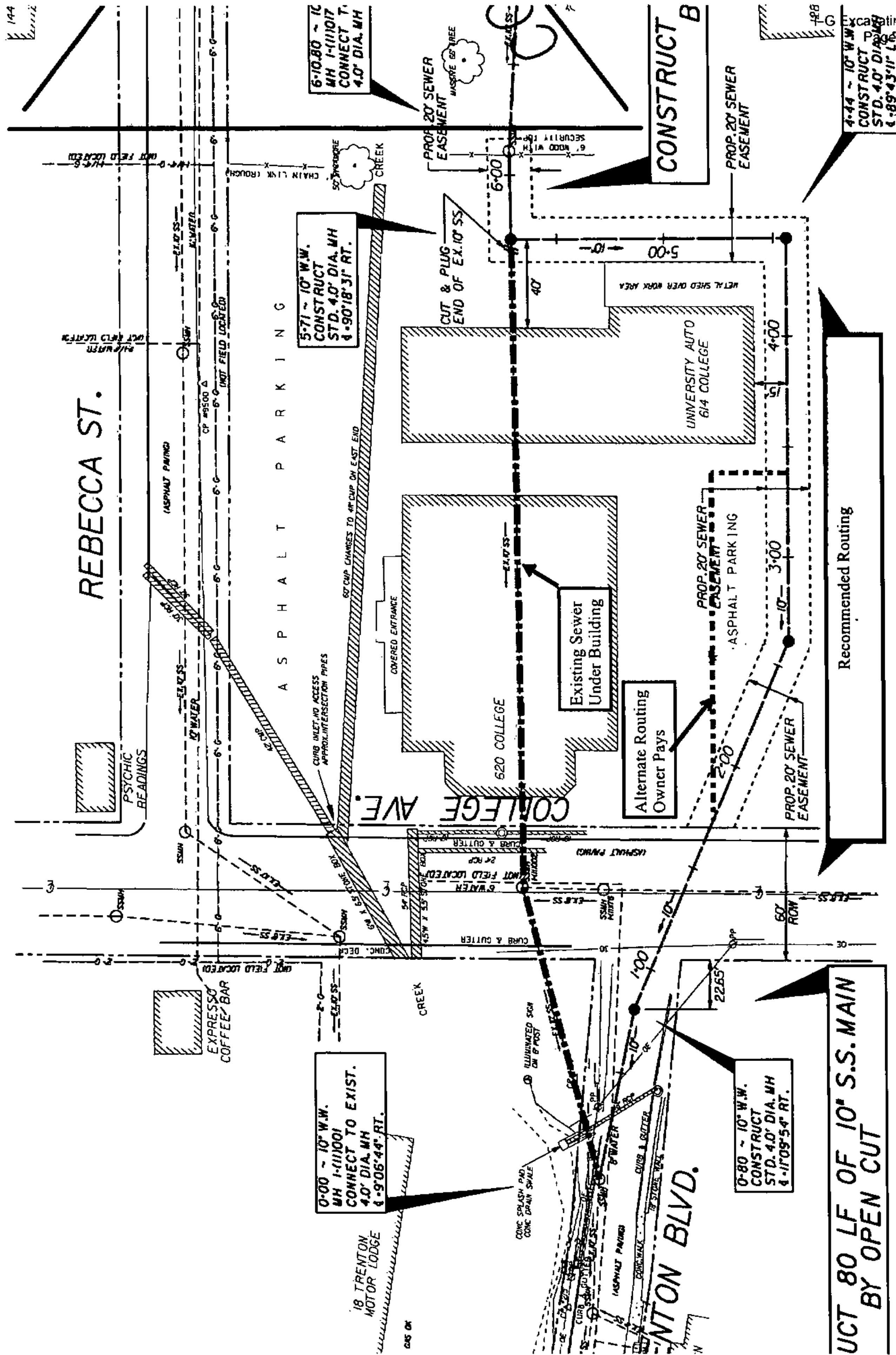
ATTEST:

By:

SONDRA SMITH City Clerk

DRAFT

144



A 3
g. Inc
4 of 8

UCT 80 LF OF 10" S.S. MAIN
BY OPEN CUT

Recommended Routing

CONSTRUCT B

4-44 ~ 10' W.W.
CONSTRUCT
STD. 4.0' DIA. MH
4-89'43'11" RT.

6-10.80 ~ 10'
MH 1-111017
CONNECT T.
4.0' DIA. MH

5-71 ~ 10' W.W.
CONSTRUCT
STD. 4.0' DIA. MH
4-90'18'31' RT.

0-80 ~ 10' W.W.
CONSTRUCT
STD. 4.0' DIA. MH
4-1709'54" RT.

0-00 ~ 10' W.W.
MH 1-111001
CONNECT TO EXIST.
4.0' DIA. MH
4-9'06'44" RT.

Alternate Routing
Owner Pays

Existing Sewer
Under Building

UNIVERSITY AUTO
614 COLLEGE

620 COLLEGE

REBECCA ST.

COLLEGE AVE.

ANTON BLVD.

18 TRENTON
MOTOR LODGE

EXPRESSO
COFFEE BAR

PSYCHIC
READINGS

November 17, 2006

Mr. David Jurgens, P.E.
Director Water and Wastewater
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Subject: Sanitary Sewer Replacement – Doc Murdoc's and University Auto

Dear Mr. Jurgens:

RJN was requested to secure a price from T-G Excavating to complete approximately 610 feet of 10-inch sanitary sewer line. The sewer line is to replace an existing 10-inch sanitary sewer line that was installed in 1907. Two buildings, Doc Murdoc's and University Auto, were constructed over the existing sewer making access, and subsequent replacement not possible without causing damage to the buildings. Apparently no easements were ever acquired for this sewer line; therefore, the City has no recourse to require the property owners to pay for the relocation.

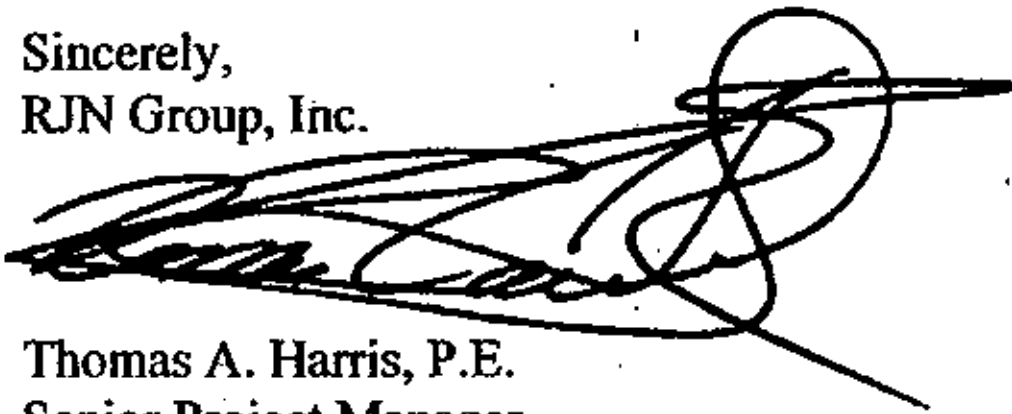
RJN originally included the new sewer construction in the STAG project, however, due to costly environmental requirements of the Grant, the decision was made to remove this portion of work.

As low bidder on the STAG project, T-G Excavating's bid was 39% lower than the second low bidder. T-G Excavating has agreed to install the 10-inch sewer at the unit prices bid on the STAG project.

RJN recommends that the City approve a change order in the amount of \$207,517.80 to T-G Excavating's contract.

Should you have any questions, please call me.

Sincerely,
RJN Group, Inc.



Thomas A. Harris, P.E.
Senior Project Manager

Xc: file

CONTRACT CHANGE ORDER		Change Order No. <u>2</u>	Page <u>1</u> of <u>3</u>
		Contract Section	Schedule Date <u>11/21/2006</u>
ANRC Project No.: <u>XP-976902-01</u> Project Name: <u>Sewer Rehab, Illinois and White River Basins</u> Owner: <u>City of Fayetteville</u> Address: <u>113 West Mountain</u> <u>Fayetteville, AR 72701</u>	Owner Project No.: <u>02017-0401</u> Location: <u>Fayetteville, Arkansas</u> Contractor: <u>T-G Excavating, Inc.</u> Address: <u>26016 Admiral Pl.</u> <u>Catoosa, OK 74015</u>		
THE FOLLOWING CHANGES ARE HEREBY AMENDED INTO THE CONTRACT PLANS AND SPECIFICATIONS:			
ITEM #	DESCRIPTION	DECREASE	INCREASE
1	Change Order to add additional rehabilitation work to take advantage of favorable unit prices		\$247,686.10
2	Add Additional time to complete the additional work		
TOTAL DECREASE AMOUNT		\$0.00	
TOTAL INCREASE AMOUNT			\$247,686.10
NET CHANGE ORDER			\$247,686.10
CHANGE TO CONTRACT AMOUNT:		TOTAL AMOUNT	ENGINEERS FINAL ELIGIBLE AMOUNT
Original Contract Amount		\$2,223,022.00	\$2,223,022.00
Total Previous Change Order(s)		\$43,584.00	\$43,584.00
Net Amount This Change Order		\$247,686.10	\$247,686.10
TOTAL CONTRACT AMOUNT TO DATE		\$2,514,292.10	\$2,514,292.10
CHANGE TO CONTRACT COMPLETION DATE:			
Original Completion Date		Feb. 27, 2007	
Previous Adjusted Completion Date		n/a	
(Increase)(Decrease) This Change Order		30 days	
NEW CONTRACT COMPLETION DATE:		Mar. 29, 2007	
RECOMMENDED:			
RJN GROUP			
Engineer			
BY:	<u><i>Hugh M. Holm</i></u> Signature	<u><i>Vice President</i></u> Title	<u><i>11/29/06</i></u> Date
ACCEPTED:			
T-G EXCAVATING, INC.			
Contractor			
BY:	<u><i>[Signature]</i></u> Signature	<u><i>V.P.</i></u> Title	<u><i>11-29-06</i></u> Date
APPROVED:			
CITY OF FAYETTEVILLE			
Owner			
BY:	_____ Signature	_____ Title	_____ Date

Cost Breakdown for Change Order

Item	Description	Unit	Unit Cost	Quantities			Adjusted Contract Amount
				Original	Adjusted	Adjust +/-	
	Construction						
1	48" STANDARD MANHOLE, 0'-6' DEEP	EA	\$1,900.00	59.00	70.00	11.00	\$20,900.00
2	48" STANDARD MANHOLE, EXTRA DEPTH	VF	\$150.00	66.00	65.00	-1.00	-\$150.00
3	48" DROP MANHOLE, 0'-6' DEEP	EA	\$2,500.00	11.00	8.00	-3.00	-\$7,500.00
4	48" DROP MANHOLE, EXTRA DEPTH	VF	\$200.00	31.00	19.00	-12.00	-\$2,400.00
5	48" SHALLOW MANHOLE	EA	\$2,000.00	4.00	4.00	0.00	\$0.00
6	ABANDON EXISTING MANHOLE	EA	\$1,000.00	4.00	7.00	3.00	\$3,000.00
7	REMOVE EXISTING MANHOLE	EA	\$100.00	42.00	49.00	7.00	\$700.00
8	18" SEWER PIPE BY OPEN CUT AND EMBEDMENT	LF	\$150.00	588.00	593.00	5.00	\$750.00
9	10" SEWER PIPE BY OPEN CUT AND EMBEDMENT	LF	\$150.00	25.00	906.00	881.00	\$132,150.00
10	8" SEWER PIPE BY OPEN CUT AND EMBEDMENT	LF	\$100.00	5300.00	3733.00	-1567.00	-\$156,700.00
11	TRENCH EXCAVATION AND BACKFILL (0-6 FEET)	LF	\$0.10	3616.00	3086.40	-529.60	-\$52.96
12	TRENCH EXCAVATION AND BACKFILL (6-10 FEET)	LF	\$0.20	2229.00	4115.00	1886.00	\$377.20
13	TRENCH SAFETY	LF	\$1.00	5845.00	6807.00	962.00	\$962.00
14	8" SEWER PIPE BY TRENCHLESS PIPE ENLARGEMENT, ALL DEPTHS	LF	\$90.00	3554.00	5722.00	2168.00	\$195,120.00
	8" RESTRAINED JOINT PVC SEWER PIPE BY						
15	TRENCHLESS PIPE ENLARGEMENT, ALL DEPTHS	LF	\$110.00	170.00	0.00	-170.00	-\$18,700.00
16	8" SANITARY SEWER BY BORE (NO CASING)	LF	\$100.00	120.00	101.00	-19.00	-\$1,900.00
17	8" SANITARY SEWER BY DIRECTIONAL DRILLING	LF	\$180.00	215.00	0.00	-215.00	-\$38,700.00
18	16" SEWER PIPE BY PIPE REAMING, ALL DEPTHS	LF	\$200.00	2262.00	2262.00	0.00	\$0.00
19	4" SERVICE LATERAL FOR LINE OPEN CUT	EA	\$800.00	50.00	65.00	15.00	\$12,000.00
20	4" SERVICE LATERAL FOR LINE TRENCHLESS PIPE REHABILITATION	EA	\$800.00	51.00	43.00	-8.00	-\$6,400.00
21	SERVICE LATERAL EXTENSION (> 4 FEET IN LENGTH)	LF	\$90.00	242.00	775.00	533.00	\$47,970.00
22	4" SERVICE LATERAL CLEANOUT	EA	\$200.00	101.00	86.00	-15.00	-\$3,000.00
23	CUT AND PLUG EXISTING SEWER	EA	\$500.00	6.00	6.00	0.00	\$0.00
24	18" TO 12" REDUCER	EA	\$800.00	1.00	1.00	0.00	\$0.00
	CREEK CROSSING (LR216) - INCL. CONCRETE ENCASEMENT,						
25	STEEL ENCASEMENT, PIERS & ANCHORING	LS	\$25,000.00	1.00	1.00	0.00	\$0.00
26	REMOVE EXISTING CONCRETE PIERS	EA	\$300.00	4.00	4.00	0.00	\$0.00
27	CLAY DAM	EA	\$200.00	32.00	30.00	-2.00	-\$400.00
28	CONCRETE DRIVEWAY REMOVAL AND REPLACEMENT	SY	\$50.00	153.00	95.00	-58.00	-\$2,900.00
29	CONCRETE CURB & GUTTER REMOVAL AND REPLACEMENT	LF	\$25.00	420.00	184.00	-236.00	-\$5,900.00
30	ASPHALT PAVEMENT REMOVAL/REPLACEMENT	SY	\$120.00	1319.00	1993.00	674.00	\$80,880.00
31	ASPHALT DRIVEWAY REMOVAL AND REPLACEMENT	SY	\$50.00	25.00	52.00	27.00	\$1,350.00
32	CONCRETE PAVEMENT REMOVAL/REPLACEMENT	SY	\$90.00	10.00	90.45	80.45	\$7,240.50
33	CONCRETE SIDEWALK REMOVAL AND REPLACEMENT	SF	\$10.00	636.00	284.00	-352.00	-\$3,520.00
34	REMOVE AND REPLACE WOOD FOOTBRIDGE	EA	\$3,000.00	1.00	1.00	0.00	\$0.00
35	ROCK RIP RAP (INCLUDING GROUT)	CY	\$100.00	142.00	208.40	66.40	\$6,640.00
36	16" DIRECT BURY STEEL CASING	LF	\$110.00	20.00	40.00	20.00	\$2,200.00
37	6" CONCRETE ENCASEMENT	CY	\$150.00	5.00	3.33	-1.67	-\$250.50
38	REMOVE AND REPLACE 2"-4" DOGWOOD TREES	EA	\$400.00	6.00	4.00	-2.00	-\$800.00
39	UTILITY ADJUSTMENTS	EA	\$600.00	7.00	3.00	-4.00	-\$2,400.00
40	REPAIR BOX CULVERT	EA	\$1,000.00	2.00	2.00	0.00	\$0.00
41	REMOVE AND REPLACE EXISTING RCP	EA	\$2,000.00	4.00	0.00	-4.00	-\$8,000.00
42	REMOVE AND REPLACE EXISTING CMP	EA	\$1,500.00	2.00	1.00	-1.00	-\$1,500.00
43	ECCENTRIC REDUCER	EA	\$1,500.00	1.00	0.00	-1.00	-\$1,500.00
44	POINT REPAIR REMOVAL OF OBSTRUCTIONS OR SAGS	LF	\$100.00	100.00	0.00	-100.00	-\$10,000.00
45	SURFACE VIDEO DOCUMENTATION	LS	\$2,000.00	1.00	1.00	0.00	\$0.00
46	EROSION CONTROL	LS	\$3,000.00	1.00	1.00	0.00	\$0.00
47	TRAFFIC CONTROL	LS	\$5,849.60	1.00	1.34	0.34	\$1,988.86
48	TREE PROTECTION AND PRUNING	LS	\$3,000.00	1.00	1.00	0.00	\$0.00
49	SAG REMOVAL	LF	\$100.00	100.00	40.00	-60.00	-\$6,000.00
50	EXPLORATORY EXCAVATION	EA	\$1,000.00	5.00	4.00	-1.00	-\$1,000.00
51	ROCK EXCAVATION	CY	\$200.00	100.00	500.40	400.40	\$80,080.00

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

19-Dec-06
City Council Meeting Date

David Jurgens
Submitted By

WW System Improvement Project
Division

Water/Wastewater
Department

Action Required:

Approval of an amendment to the Engineering contract with Garver Engineering, Inc., in the amount of \$999,857.00, for Construction Phase Services pertaining to Construction of the East Side Lines and Lift Stations of the Wastewater System Improvement Project, Subprojects EL-1 through EL-5, and approve a contingency of \$40,000.00. Funds are available in Fiscal Year 2006 WSIP budget.

\$1,039,857
Cost of this request

\$ 118,765,766
Category / Project Budget

Wastewater System Imp Project
Program Category / Project Name

4480.9480.5315.00
Account Number

\$ 107,893,139
Funds Used to Date

Water and Wastewater
Program / Project Category Name

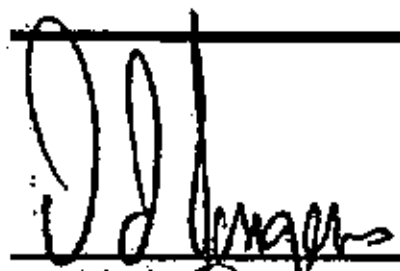
02133-0301
Project Number

\$ 10,872,627
Remaining Balance

Water/Sewer
Fund Name

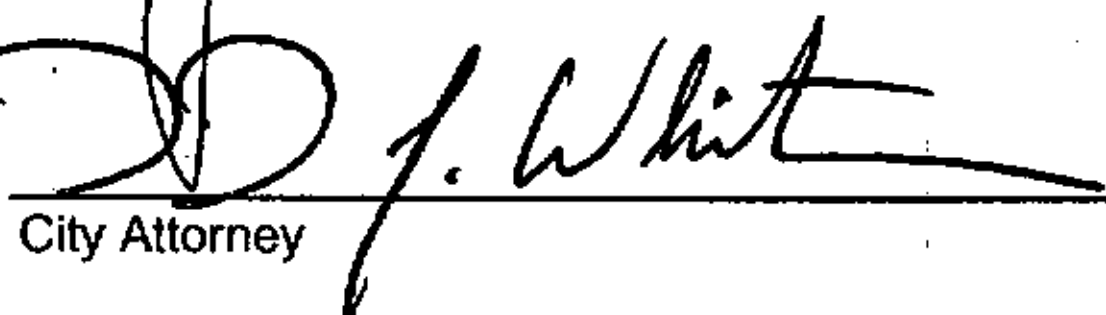
Budgeted Item ☒ xx

Budget Adjustment Attached ☐


Department Director 30 Nov 06
Date

Previous Ordinance or Resolution # 110-03

Original Contract Date: 7/15/2003


City Attorney 12/1/06
Date

Original Contract Number: 914


Finance and Internal Service Director 12-4-06
Date

Received in City Clerk's Office



Mayor 12/03/06
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: Fayetteville Sewer Committee
David Jurgens, Water & Wastewater Director



Date: November 29, 2006

Subject: Approval of an amendment to the Engineering contract with Garver Engineering, Inc., in the amount of \$999,857.00, for Construction Phase Services pertaining to Construction of the East Side Lines and Lift Stations of the Wastewater System Improvement Project, Subprojects EL-1 through EL-5, and approve a contingency of \$40,000.00. Funds are available in Fiscal Year 2006 WSIP budget.

RECOMMENDATION

Fayetteville City Administration recommends approval of an amendment to the Engineering contract with Garver Engineers, Inc., in the amount of \$999,857.00, for Construction Phase Services pertaining to Construction of the East Side Lines and Lift Stations of the Wastewater System Improvement Project, Subprojects EL-1 through EL-5, and approve a contingency of \$40,000.00.

BACKGROUND

Garver Engineers has performed all of the design work for the east side lines and lift stations, with an estimated construction cost of over \$23 million. As construction contracts are preparing to be bid, it is now time to bring the construction phase services contract forward. This amendment covers any minor final design changes that have arisen since the plans were completed over a year ago, construction inspection, and Resident Engineering services for the following WSIP subprojects:

- EL-1, Mally Wagon Lift Station, 5,000' of 16" force main, estimated \$2,043,000 const cost;
- EL-2, 26,458' of 42" gravity transmission line, estimated \$14,225,000 const cost;
- EL-3, 13,489' of 21"-42" gravity transmission line, estimated \$6,015,000 const cost;
- EL-4, renovate Lift Stations 13, 14, 16, and 18, estimated \$540,000 const cost;
- EL-5, 4,084' of 10"-12" gravity line, estimated \$572,000 const cost.

DISCUSSION

Garver has designed this work, and continuation of construction phase services with this firm (including submittal review, construction inspection, and general resident engineer services) will provide the City with continued responsible charge and subsequent engineering responsibility by a single, consistent entity. Garver's design services on this project have been conducted in a timely, professional manner and we have every reason to believe that this track record will continue throughout construction and post-construction phase activities.

This work is being performed to meet all Arkansas Natural Resources Commission (ANRC) Revolving Loan Fund (RLF) requirements, in order to maintain funding flexibility. These requirements, along with Health Department approval of the plans, all require that the designing engineering firm perform construction inspection. This procedure has been working very well and efficiently on the west line work; Staff has every reason to believe it will work well with Garver on the east side line work projects as well.

BUDGET IMPACT

Funds are available in Fiscal Year 2006 WSIP budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE CONTRACT WITH GARVER ENGINEERS, LLC IN THE AMOUNT OF \$999,857.00 FOR CONSTRUCTION PHASE SERVICES ASSOCIATED WITH CONSTRUCTION OF THE EAST SIDE LINES AND LIFT STATIONS OF THE WASTEWATER SYSTEM IMPROVEMENT PROJECT; AND APPROVING A CONTINGENCY IN THE AMOUNT OF \$40,000.00.

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 an amendment to the Contract with Garver Engineers, LLC in the amount of \$999,857.00 for Construction Phase services associated with construction of the East Side Lines and Lift Stations of the Wastewater System Improvement Project. A copy of the amendment, 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 contingency in the amount of \$40,000.00.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By:

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

DRAFT

**AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

CONTRACT AMENDMENT NO. 2

Fayetteville Wastewater System Improvement Project

This Contract Amendment No. 2, dated _____, 2006 shall amend the original contract between the CITY OF FAYETTEVILLE, ARKANSAS and GARVER ENGINEERS, LLC, (Garver) dated July 15, 2003, amended on July 7, 2004, for professional engineering services in connection with the Wastewater System Improvement Project, and in particular the East Collection System (the "Project"). This Contract Amendment No. 2 adds professional engineering services for the Construction Phase Services and Additional Services, as described herein.

The City of Fayetteville has approved and accepted as complete the work accomplished by Garver under the original contract and the provisions in Amendment No. 1 (dated February 6, 2004 and executed on July 7, 2004) with the exception of the work remaining under Bidding Phase Services.

The City of Fayetteville has determined to repackage previously submitted Construction Contract Documents into three Construction Projects as follows:

- Construction Contract Number 1 – Designated as EL-1&2 and comprised of Pump Station 19 Improvements, Force Main 19, and Line 7.
- Construction Contract Number 2 – Designated as EL-3&5 and comprised of Lines 4 and 15.
- Lift Station Contract Number 3 – Designated as EL-4 and comprised of Pump Stations 13, 14, 16, and 18.

The contract is hereby modified as follows:

SECTION 2 - BASIC SERVICES OF GARVER

The following Sections 2.4, 2.5, and 2.6 supercede corresponding Sections in the original contract.

2.4 Construction Phase

- 2.4.1 Consult with and advise City of Fayetteville and act as City of Fayetteville's Engineer as provided in General Conditions of the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Garver as assigned in said General Conditions shall not be modified without Garver's written consent.
- 2.4.2 Attend progress/coordination meetings with City of Fayetteville and Contractor.
- 2.4.3 Review Contractor(s) schedules for Work progress, equipment and materials procurement, submittals, and values for partial pay purposes, and project cash flow requirements.
- 2.4.4 Perform limited staking of permanent easements at locations as requested by the City.
- 2.4.5 Evaluate and respond to RFIs, construction material submittals, and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will only be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner.
- 2.4.6 Make visits to the Site at intervals appropriate to the stages of construction to consult with and advise Garver's Resident Project Representative and observe the progress and quality of the executed Work, and to determine, in general, if the Project is proceeding in accordance with the Contract Documents. Garver shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs, or for Contractor's failure to perform construction work in accordance with the Contract Documents.

- 2.4.7 Provide coordination with utility companies as required.
- 2.4.8 Provide coordination with ECO, Inc. as required.
- 2.4.9 Maintain a set of working drawings to record all significant changes in the designed project.
- 2.4.10 Issue all instructions of City of Fayetteville to Contractor(s), act as interpreter of the terms and conditions of the Contract Documents and judge of the performance hereunder by the parties thereto, and make recommendations to City of Fayetteville relating to the execution and progress of the Work and other matters and questions related thereto; but Garver shall not be liable for the results of any such recommendations, interpretations, or decisions rendered by Garver Engineers in good faith.
- 2.4.11 When authorized by the City of Fayetteville, prepare change orders for changes in the work from that originally provided for in the Construction Contract Documents. If redesign or substantial engineering or surveying is required in the preparation of these change order documents, the City of Fayetteville will pay Garver an additional fee (unless changes are required due to the fault of Garver Engineers) to be agreed upon by the City of Fayetteville and Garver.
- 2.4.12 In performing Construction Phase Services, Garver will endeavor to protect the City of Fayetteville against defects and deficiencies in the work of the Contractor(s); but Garver cannot guarantee the performance of the Contractor(s), nor be responsible for the actual supervision of construction operations or for the safety measures that the Contractor(s) takes or should take.
- 2.4.13 If at any time during construction Garver observes that the Contractor's work does not comply with the construction contract documents, Garver will immediately notify the Contractor of such non-compliance and instruct him to correct the deficiency and/or stop work, as appropriate for the situation. Garver will also record the observance, the discussion, and the actions taken. If the Contractor continues without satisfactory corrective action, Garver will notify the City of Fayetteville immediately, so that appropriate action under the City of Fayetteville's contract with the Contractor can be taken.

- 2.4.14 Review Contractor(s) applications for payment and supporting data, determine the amounts owed to Contractor(s), and recommend approval to City of Fayetteville, in writing, of all payments to Contractor(s) in accordance with the Contract Documents.
- 2.4.15 Submit detailed monthly Progress Reports to City of Fayetteville.
- 2.4.16 Conduct a preliminary inspection to confirm that the Project is substantially complete and a final inspection to determine that the Project has been totally completed in accordance with the Contract Documents. Final inspection is to determine that the Contractor has fulfilled all of his obligations hereunder so that Garver Engineers may recommend approval, in writing, of final payment to the Contractor.
- 2.4.17 The services described in the preceding paragraphs describe those services for Construction Contracts 1 and 2. The services to be rendered for Lift Station Contract 3 shall be limited to those described in Paragraphs 2.4.6, 2.4.15, and 2.4.16.

2.5 Post-Construction Phase

- 2.5.1 Provide qualified engineers during equipment start-up and instruct City of Fayetteville's personnel in equipment function and intended use.
- 2.5.2 Prepare a reproducible Set of Record Drawings revised to show significant changes made during construction of the Project in accordance with records provided by Contractor and Garver's Resident Project Representative.
- 2.5.3 Produce an Operation and Maintenance Manual for Pump Station 19.
- 2.5.4 Produce a Project Performance Work Plan for each Construction Project.
- 2.5.5 The products under this section shall be provided to the City of Fayetteville no later than 90 days after Garver's recommendation of final payment to each Contractor except for the Project Performance Work Plan which will be required only if the Project is funded through the State Revolving Loan Fund (RLF) and, if so, as specified in the RLF regulations.

2.5.6 The services described in the preceding paragraphs describe those services for Construction Contracts 1 and 2. The services to be rendered for Lift Station Contract 3 shall be limited to those described in Paragraphs 2.5.1 and 2.5.2.

2.6 Resident Services During Construction

2.6.1 A Resident Project Representative shall be furnished and shall act as directed by Garver to provide representation at the Project Site during the Construction Phase based on 8 hours per day, 5 days per week for the construction contract performance time of 450 calendar days for Contract No. 1 and 300 calendar days for Contract No. 2 and for 1 hour per day, 5 days per week for the construction contract performance time of 180 calendar days for Lift Station Contract No. 3.

2.6.2 In performing Resident Project Representative Services, Garver will endeavor to protect the City of Fayetteville against defects and deficiencies in the work of the Contractor(s).

2.6.3 The furnishing of such Resident Project Representative Services shall not make Garver responsible for the performance of the Contractor(s) or the Contractor(s) construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs, or for Contractor(s) failure to perform the construction work in accordance with the Contract Documents. Furthermore, Garver shall not be responsible for the actual supervision of construction operations.

2.6.4 The Resident Project Representative(s) shall, through on-site observations of the work in progress, field checks of materials and equipment, and maintenance of jobsite records verify that the Project is proceeding in accordance with the Contract Documents.

2.6.5 The Resident Project Representative shall also provide the following specific services.

2.6.5.1 Consult with and advise the City of Fayetteville during the construction period.

2.6.5.2 Coordinate with the firm providing construction materials quality assurance testing under separate contract with the City of Fayetteville.

- 2.6.5.3 Maintain a file of quantities incorporated into the work, test reports, certifications, shop drawings and submittals, and other appropriate information.
- 2.6.5.4 Maintain a project diary which will contain information pertinent to each site visit including date and weather conditions, names of important visitors, construction work in progress and location, size of Contractor's work force and equipment in use, number of hours worked by Contractor's forces, and substance of important conversations with the Contractor. Garver will provide copies to City of Fayetteville as requested.
- 2.6.5.5 Submit weekly summaries of construction status.
- 2.6.5.6 The services described in the preceding paragraphs describe those services for Construction Contracts 1 and 2. The services to be rendered for Lift Station Contract 3 shall not include those described in Paragraphs 2.6.5.2 and 2.6.5.3.

SECTION 3 - ADDITIONAL SERVICES OF GARVER

The following Section 3.1.7 supercedes the corresponding Section in the original contract.

- 3.1.7 Extra Services
 - 3.1.7.1 Provide ongoing Project coordination and support during the period between the submittals of final Construction Contract Documents to the City of Fayetteville in 2005 and the approval of this Contract Amendment.
 - 3.1.7.2 Perform field investigations to determine physical changes which may have occurred between the February, March, and April 2005 submittals of final Construction Contract Documents to the City of Fayetteville and the approval of this Contract Amendment.
 - 3.1.7.3 Perform redesigns to accommodate physical changes discovered during field investigations, those required by side letters resulting from acquisition negotiations, and those requested by the City for the convenience of the City of Fayetteville.
 - 3.1.7.4 Perform the following specific redesigns per City of Fayetteville instructions:

- 3.1.7.4.1 Pump Station 13 - Redesign sewer alignment to retain discharge of existing gravity sewers to the wet well, reconfigure the placement of valves controlling discharge from the pumps to the 36-inch and 42-inch lines, and relocate Manhole No. 39 to a point adjacent to the existing manhole on the 36-inch line.
- 3.1.7.4.2 Pump Station 14 - Redesign emergency power generator set.
- 3.1.7.4.3 Pump Station 16 - Relocate generator pad closer to the overhead electric line feeding the pump station.
- 3.1.7.4.4 Line 7 - Station 188+00± - Redesign the access drive to the natural gas regulator plant.
- 3.1.7.4.5 Line 7 - Relocate the Highway 16 crossing to avoid the necessity of a new easement at the Hinkle Mobile Home Park.
- 3.1.7.4.6 Line 7 - Revise the design of Junction Structure No. 1, adjacent to Pump Station 21, to delete slide gates, as designed, and replace with stop logs.
- 3.1.7.5 Repackage previously submitted Construction Contract Documents into three Construction Projects as follows:
 - 3.1.7.5.1 Construction Contract Number 1 - Designated as EL-1&2 and comprised of Pump Station 19 Improvements, Force Main 19, and Line 7.
 - 3.1.7.5.2 Construction Contract Number 2 - Designated as EL-3&5 and comprised of Line 4 and Line 15.
 - 3.1.7.5.3 Lift Station Contract Number 3 - Designated as EL-4 and comprised of Pump Stations 13, 14, 16, and 18.
- 3.1.7.6 Update and/or revise Front End Documents of previously submitted Construction Contract Manuals to conform to the Front End Documents provided by City of Fayetteville. Changes will include, but not be limited to, addition of required forms and

references relating to State Revolving Loan Fund funding, said forms and references having been previously removed at the direction of the City of Fayetteville.

- 3.1.7.7 Update and/or revise Technical Specifications of previously submitted Construction Contract Manuals to conform to comments and changes requested by the City of Fayetteville.
- 3.1.7.8 Replot all drawings to accommodate aforementioned changes and revised page numbers.
- 3.1.7.9 Recalculate construction quantities and update Opinions of Probable Construction Costs.
- 3.1.7.10 Reissue reconfigured/revised construction drawings to all affected utilities.
- 3.1.7.11 Coordinate with affected utilities prior to advertisements for bids.
- 3.1.7.12 Update and/or reapply for all Arkansas Department of Health and Human Services and Arkansas Highway and Transportation Department Permits, as appropriate.
- 3.1.7.13 Reapply for Arkansas Department of Labor wage rate determinations.
- 3.1.7.14 The extra services Lift Station Contract 3 shall not include those services described in Paragraphs 3.1.7.6, 3.1.7.9, 3.1.7.10, 3.1.7.11, and 3.1.7.13.

SECTION 6 – PAYMENTS TO GARVER

The following Sections 6.1.2, 6.1.3, 6.1.4, 6.1.5, and 6.1.6 supercede corresponding Sections in the original contract. Sections 6.1.7 and 6.1.8 are added as part of this amendment.

6.1.2 Bidding Phase Services

For the Scope of Services during the Bidding Phase described herein, City of Fayetteville shall pay Garver the lump sum amount of Sixty Two Thousand Seven Hundred Sixty United States Dollars (US \$62,760). This amendment allows for reallocating the remaining unbilled portion of the design fee for Pump Station 18 (\$10,998.50) to Bidding Phase Services, covered by our original agreement, to cover extra Bidding Phase Services work and

escalation of costs since the execution of the original contract. The City of Fayetteville directed Garver not to finish construction documents for Pump Station 18.

6.1.3 Construction Phase Services

For Construction Phase Services the City of Fayetteville shall pay Garver for time spent on the project, at the rates shown in attached Exhibit 1 for each classification of Garver personnel. In addition, reimbursable expenses including but not limited to printing, courier service, reproduction, and travel will be billed. The amounts paid to Garver under this agreement are estimated to be:

Construction Contract 1 -	\$208,905
Construction Contract 2 -	\$106,097
Lift Station Contract 3 -	\$19,398

6.1.4 Post-Construction Phase Services

For Post-Construction Phase Services the City of Fayetteville shall pay Garver for time spent on the project, at the rates shown in attached Exhibit 1 for each classification of Garver personnel. In addition, reimbursable expenses including but not limited to printing, courier service, reproduction, and travel will be billed. The amounts paid to Garver under this agreement are estimated to be:

Construction Contract 1 -	\$47,978
Construction Contract 2 -	\$22,697
Lift Station Contract 3 -	\$8,586

6.1.5 Resident Services During Construction

For Resident Services During Construction the City of Fayetteville shall pay Garver for time spent on the project, at the rates shown in attached Exhibit 1 for each classification of Garver personnel. In addition, reimbursable expenses including but not limited to printing, courier service, reproduction, and travel will be billed. The amounts paid to Garver under this agreement are estimated to be:

Construction Contract 1 -	\$277,840
Construction Contract 2 -	\$184,572
Lift Station Contract 3 -	\$22,684

6.1.6 Additional Services

For Additional Services the City of Fayetteville shall pay Garver for time spent on the project, at the rates shown in attached Exhibit 1 for each classification of Garver personnel. In addition, reimbursable expenses including but not limited to printing, courier service, reproduction, and travel will be billed. The amounts paid to Garver under this agreement are estimated to be:

Construction Contract 1 -	\$45,900
Construction Contract 2 -	\$33,600
Lift Station Contract 3 -	\$21,600

6.1.7 The rates shown in Exhibit 1 will be increased annually with the first increase effective on or about May 1, 2007.

6.1.8 The total Not-to-Exceed Fee amount for Construction Phase Services, Post-Construction Phase Services, Resident Services During Construction, and Additional Services is \$999,857. Overruns and underruns may occur in each phase provided that the total amount billed is at or below the total Not-to-Exceed Fee amount.

IN TESTIMONY OF WHICH, this instrument has been executed on behalf of GARVER ENGINEERS,
and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of
equal force, on the day and year first above written.

CITY OF FAYETTEVILLE

GARVER ENGINEERS, LLC

By: _____

By: _____

Brock Hoskins

Title: _____

Title: _____ Vice President

ATTEST: _____

ATTEST: _____

Exhibit 1

Garver Engineers Hourly Rate Schedule

Classification	Rates
Senior Project Manager	\$ 180.00
Project Manager	\$ 155.00
Aviation Planner	\$ 89.00
Automation/Controls Specialist	\$ 125.00
Senior Project Engineer	\$ 120.00
Operations Specialist	\$ 107.00
Project Engineer	\$ 100.00
Senior Design Engineer	\$ 90.00
Sr. Construction Engineer	\$ 88.00
Construction Engineer	\$ 73.00
Design Engineer/Designer	\$ 73.00
Sr. Environmental Scientist	\$ 97.00
Environmental Scientist	\$ 52.00
CADD Administrator	\$ 96.00
Senior CADD Technician	\$ 88.00
CADD Technician	\$ 58.00
Senior Construction Observer	\$ 86.00
Construction Observer	\$ 68.00
Senior Project Surveyor	\$ 100.00
Project Surveyor	\$ 74.00
Party Chief	\$ 70.00
Instrument Man	\$ 50.00
Rodman	\$ 40.00
Administration	\$ 52.00
Clerical I	\$ 56.00
Clerical II	\$ 45.00
2-Man Crew (Survey)	\$ 138.00
3-Man Crew (Survey)	\$ 180.00
2-Man Crew (GPS Survey)	\$ 180.00
3-Man Crew (GPS Survey)	\$ 222.00

Exhibit 2

**CITY OF FAYETTEVILLE
EAST WASTEWATER COLLECTION SYSTEM IMPROVEMENTS
CONSTRUCTION PHASE SERVICES
EL-1, EL-2, EL-3, EL-4, and EL-5**

Fee Summary

Project Project Identification Project Description	Construction Contract No. 1 City Projects EL-1 and EL-2 PS 19 & FM 19 & Line 7	Construction Contract No. 2 City Projects EL-3 and EL-5 Lines 4 & 15	Lift Station Contract No. 3 City Project EL-4 PS 13, 14, 16, 18	Total Fee
Redesign and Repackaging	\$45,900	\$33,600	\$21,600	\$101,100
Construction Phase Services	\$208,905	\$106,097	\$19,398	\$334,400
Post Construction Phase Services	\$47,978	\$22,697	\$8,586	\$79,261
Resident Services During Construction	\$277,840	\$184,572	\$22,684	\$485,096
CPS NTE fee	\$534,723	\$313,366	\$50,668	\$898,757
Total NTE fee	\$580,623	\$346,966	\$72,268	\$999,857

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

12/19/2006
City Council Meeting Date

Susan Thomas
Submitted By

Public Information
Division

General Government
Department

Action Required:

A resolution to approve a contract with Community Access Television, Inc. to operate the Public Access Channel throughout 2007 for \$93,000.

\$ 93,000.00 Cost of this request	\$ 93,000.00 Category / Project Budget	Services & Charges Program Category / Project Name
1010.6600.5713.00 Account Number	\$ - Funds Used to Date	Miscellaneous Program / Project Category Name
 Project Number	\$ 93,000.00 Remaining Balance	General Fund Name

Budgeted Item ☒

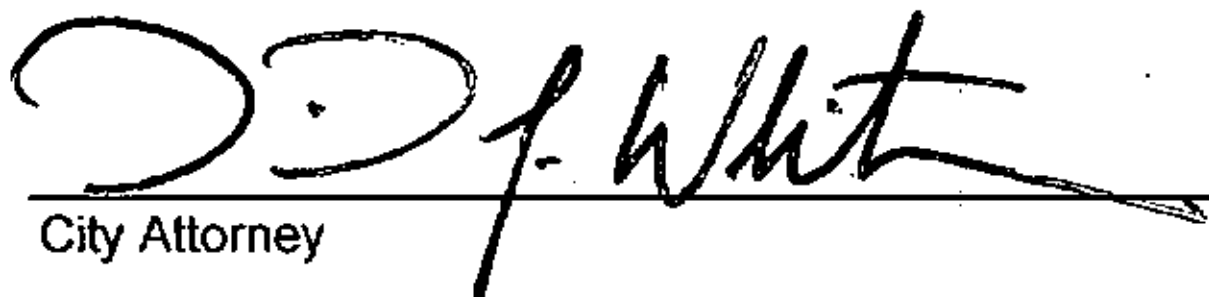
Budget Adjustment Attached ☐


Department Director

11/27/2006
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____


City Attorney

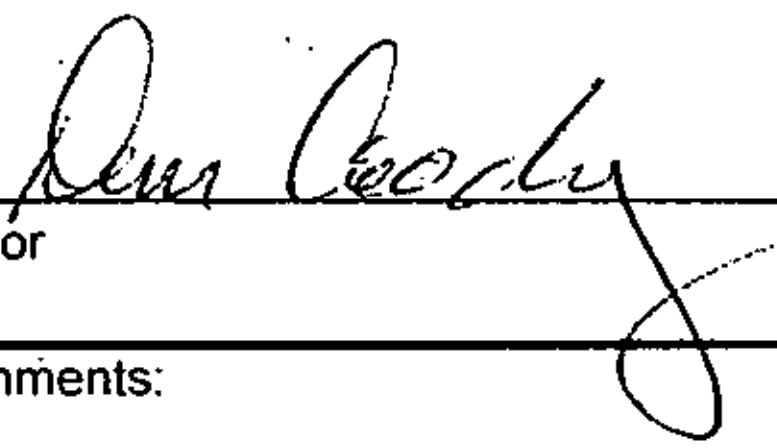
11/28/2006
Date

Original Contract Number: _____

Paul A. Becher
Finance and Internal Service Director

11-28-2006
Date

Received in City Clerk's Office
ENTERED
11/27/06


Mayor

12/03/06
Date

Received in Mayor's Office
ENTERED
11/28/06

Comments:



City Council Memo

TO: Mayor Coody and City Council

FROM: Susan B. Thomas, Ph.D., Public Information & Policy Advisor

DATE: November 20, 2006

SUBJECT: CAT Contract Renewal for Public Access Channel

RECOMMENDATION

Approval of the attached contract between the City of Fayetteville and Community Access Television, Inc. (CAT) in the amount of \$93,000 to operate the Public Access Channel from January 1, 2007 through December 31, 2007.

BACKGROUND

The Public Access Channel is one of three channels provided by Cox Communications as a Part of the franchise fee agreement between the City and Cox. CAT (formerly "Access 4") has been the public access provider for the City since 1992. In December 2005, CAT was selected to be the City's public access provider and was awarded a five year contract with required annual renewals.

DISCUSSION

The Telecom Board approved the attached contract during their meeting on November 14, 2006 and requested that the contract be forwarded to Council for approval. The City's Cable Administrator suggested a number of changes to the contract, and at least two meetings were held for stakeholders to review these suggestions. However, the Telecom Board did not approve any of these changes, and they are forwarding to Council the 2006 contract updated only to reflect the new contract period.

BUDGET IMPACT

The total cost of this contract is \$93,000. This amount is included in the proposed 2007 Budget to be approved by Council.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT IN THE AMOUNT
OF \$93,000.00 WITH COMMUNITY ACCESS TELEVISION, INC.,
TO OPERATE THE PUBLIC ACCESS TELEVISION CHANNEL
THROUGHOUT 2007.

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 in the amount of \$93,000.00 with Community Access
Television, Inc. to operate the public access television channel throughout 2007.
A copy of the contract, marked Exhibit "A" is attached hereto and made a part
hereof.

PASSED and APPROVED this 19th day of December 2006

APPROVED

By: DAN GOODY, Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

CONTRACT BETWEEN CITY OF FAYETTEVILLE, ARKANSAS
AND
COMMUNITY ACCESS TELEVISION (CAT)
A 501-C-3 NONPROFIT ORGANIZATION

AGREEMENT

This Agreement is made this _____ day of _____, 2006, by and between the City of Fayetteville, a municipal corporation ("City"), and Community Access Television, a nonprofit corporation ("CAT"), who agrees as follows:

PURPOSE AND INTENT

1. The City desires to provide support for the use of cable television public, educational, and government ("PEG") access channels provided pursuant to federal law.
2. The purpose of the public access television is to provide training for the public for public access television productions and to ensure "first-come, first-served, non-discriminatory" programming, in accordance with the First Amendment, as a limited public forum for citizens.
3. This contract for the public access television station is contingent upon the City retaining a franchise contract with a cable operator, such as it is at present.
4. The franchise agreement with Cox Cable Company provides that certain channel capacity be provided for PEG access for non-commercial programming.
5. The City's Telecommunications Board Ordinance #4504 provides for a standing body to advise the City Council on telecommunications issues and to coordinate and oversee use of the public rights of way designated for public, educational, and governmental use on any telecommunication system serving the City of Fayetteville.
6. The City has determined that it will provide support for PEG access and that it will provide physical space and equipment located at the PEG Center, 101 W. Rock Street, Fayetteville.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES. In exchange for the funding provided by the City to CAT, pursuant to this Agreement, CAT shall provide the following services and report progress in each area to the Telecommunications Board on a quarterly basis:

A. OPERATE PUBLIC ACCESS CABLE CHANNEL. Operate the public access cable channel for non-commercial, public/community access programming purposes in a manner that is consistent with the principals set forth in this contract and the Telecommunications Board Ordinance. CAT will:

1. Devise and monitor equipment check-in, check-out procedures and provide reports quantifying the amount of usage
2. Schedule and monitor editing facilities and studio, maintaining scheduling records, and coverage documents, should any request for review be required
3. Operate the public access channel facility for a minimum of 40 hours per week easily accessible to the citizens of Fayetteville.
4. Have at least one staff member present during the required customer service hours to assist citizens with their productions.

B. PROVIDE EQUAL ACCESS. CAT will honor the First Amendment rights of members of the community who wish to use the public access station. CAT will provide access to the use of the equipment, facilities, channel, and services provided hereunder to all members of the community for non-commercial programming purposes, whether individuals, groups, or organizations, on a first-come, first-served non-discriminatory basis, pursuant to operating rules promulgated by CAT which are in compliance with the City's operating rules for the PEG Center (Addendum A).

C. OPERATING POLICIES AND PROCEDURES. CAT policies for the use and operation of the public access channel shall be in compliance with the City's operating rules of the PEG Center. CAT will file such policies with the Telecommunications Board and the City, and any changes in CAT policies will be posted on the web site and presented to the Telecommunications Board and the City as an informational item 15 days prior to implementation. CAT will:

1. Devise and maintain administrative policies
2. All communication between the City and the CAT with regard to contractual matters will be directed through the Cable Administrator, or any other such representative as may be appointed by the City, and the CAT's duly appointed representative. In the event of a disagreement over the administration of this agreement, either party may appeal to the Telecommunications Board who shall make recommendations to the Mayor or City Council, as may be required.

- D. **DEVELOP FUNDING** – CAT will develop a plan for generating revenue at a minimum of 25% of the amount provided by the City, in order to subsidize additional growth.
1. CAT will develop a general underwriting policy
 2. CAT will cablecast two CAT specific fundraising events per year
 3. CAT shall not cablecast more than four fundraising events per year for other 501(c) (3) non-profit organizations that provide services in the cablecast area.
 4. CAT will seek and devise a timely procedure for solicitation and collection of donations and other contributions to be recorded on a monthly budget process. These procedures could include, but not be limited to, telethons, web-based donation collections, etc.
- E. **COMPLIANCE WITH LAWS RULES, AND REGULATIONS.** CAT will administer the public access channel and facilities in compliance with the Telecommunications Board Ordinance, with applicable laws, rules, regulations, and with the franchise agreement between the City and Cox Cable Company. All business and information maintained by CAT or the CAT Board of Directors is subject to the terms of the Arkansas Freedom of Information Act (FOIA).
- F. **TRAINING AND PROMOTION.** CAT will train city and area residents in the techniques of video production, and provide technical advice in the execution of productions. CAT will:
1. Create and provide training curriculum to emphasize video proficiency and production quality in public access programming
 2. Certify a minimum total of 40 first time local producers per year. Such local producers shall be counted whether using CAT or other equipment and facilities.
 3. Include public service requirement as part of the certification process that results in at least one cablecast quality program per trainee
 4. Promote the use of the Public Access channel to the extent that 500 new locally produced programs are cable casted per year. Only the following categories of program sources will be included:
 - a. Programs made by Independent CAT Producers whether or not they use CAT facilities
 - b. Programs made by local citizens who are not Independent CAT Producers
 - c. Programs produced by CAT for the purpose of allowing local citizens to express themselves. Such programs shall be open to participation by all citizens on an equal basis
 - d. Programs produced by independent producers using CAT contract production services

5. Encourage the use of the digital video editing capabilities and stay abreast of emerging technologies
6. Create a monthly schedule of relevant workshops to publish on the public access television channel's bulletin board and its web site.

G. **PLAYBACK/ CABLECASTING.** CAT will provide for playback/cablecasting of programs on the public access channel. CAT shall cablecast a minimum of 40 hours of local original, replayed and imported programming per week. This excludes the community message board. CAT will:

1. Develop a policy and method for the scheduling of public access programs and cablecast programs on the public access channel
2. Maintain accurate cablecast logs and report number of programs per month in each of the categories specified by the operating and programming policy
3. Maintain a library of all produced shows to be available for review and use at the PEG Center
4. A copy of all live and/or recorded programs are required to be held for 4 days past the original date of play if said programs are not submitted to the videotape library
5. CAT shall require local access producers/requesters to sign an agreement warranting that the program they are submitting does not contain:
 - a. any violation of any state or federal law relating to obscenity
 - b. any material that is libelous, slanderous, or other defamation of character, or an unlawful invasion of privacy
 - c. any advertising or material which promotes any commercial product or service
 - d. any use of material which violates copyright law; or any material contrary to local, state or federal laws, regulations, procedures and policy

H. **INFORMATION.** CAT shall submit quarterly and annual reports, as defined by the Telecommunications Board, on the operations of the public access channel and other such special reports as listed below to the Telecommunications Board and the City.

1. Reports of stolen or damaged equipment within one working day of learning of each occurrence
2. Requests for changes in any procedures or rules pertaining to protection or preservation of City owned equipment and facilities
3. All corporate documents, including but not limited to the CAT's by-laws, articles of incorporation, certification of compliance with affirmative action plan and EEO standards, and a list of Board members
4. At any reasonable time and as often as the Telecommunications Board or the City may deem necessary, the CAT shall make available to them, or any of its authorized representatives, all of CAT's records related to all matters covered by this Agreement and shall permit the

Telecommunications Board or the City to audit, examine, make excerpts and copies of such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Contract

5. During the term of this Contract, the CAT shall cause to be delivered to the Telecommunications Board and the City copies of all notices of meetings of its Board of Directors, setting forth the time and place thereof. Such notice shall be delivered in a timely manner to give adequate notice and shall also include an agenda
6. Minutes of all meetings, if taken, and materials distributed in meetings of the CAT's Board of Directors, or committees thereof, shall be submitted to the Telecommunications Board and the City
7. At such times and in such form as the Telecommunications Board or the City may require, the CAT shall furnish such statements, records, reports, data and information deemed pertinent to matters covered by this Agreement.

I. PROMOTION. CAT will actively promote the use and benefit of the public access television station and facilities to cable subscribers, the public, and Cox Cable Company.

1. Maintain web site for publication of all reports and scheduled events
2. Create a quarterly newsletter distributed via mail and direct delivery to members, producers and associates.
3. Provide promotional spots/bulletin boards on the station that promote the use and benefits of the public access television station and facilities to cable subscribers and the general public.

SECTION 2. PERFORMANCE. CAT will be evaluated through quarterly evaluations, and an annual performance review.

- A. Quarterly evaluations will be performed in accordance with the criteria set by the Telecommunications Board, consistent with the process for oversight as specified in the Telecommunications Ordinance
- B. A Performance Review shall be conducted by CAT and presented to the October meeting of the Telecommunications Board in order to ensure timely delivery of information to the City Council during annual budget review:
 1. This review shall include an opportunity for CAT public access users and cable subscribers to provide input. In turn, the Telecommunications Board will evaluate the CAT Performance Review, basing the evaluation on the terms of this contract and citizen input. The Telecommunications Board will present its performance assessment and recommendations to the City

Council in November and begin the process of negotiation for the following contractual year that begins January 1.

2. All Telecommunication Board findings and recommendations regarding the Performance Review will be provided as feedback to CAT. In the event that the Board recommendation is for non-renewal of the CAT contract, an exit interview will be conducted to discuss all relevant facts.

SECTION 3. USE OF CITY PROPERTY/ OWNERSHIP. CAT recognizes that it is performing services for the City on City-owned property and that while on such property, CAT shall not engage in any activity that is not directly related to the services provided pursuant to this Agreement. Ownership title to all capital acquisition, supplies, material or any other property purchased with funds received under this Contract, is vested with the City, and possession of such property shall, upon termination of the Contract, revert to the City unless otherwise provided for by the City, in writing. Any equipment secured through fund-raising efforts to benefit the public access television station shall remain the property of the city's PEG Access Center. Ownership of the library of programs collected during the performance of this contract shall, upon termination of this contract, revert to the city.

- A. All changes to the facility and equipment array shall be approved by the City before being undertaken
- B. The City shall make at least two telephone lines available for CAT's business use. CAT shall be responsible for reimbursing the City, on a quarterly basis, for this expense at a rate of \$20 per line per month
- C. CAT shall be responsible for its own long distance telephone calls
- D. CAT shall be responsible for paying the costs of their listing in the telephone directory
- E. The City shall furnish and maintain the hardware for up to three computers for the office use of CAT. This is in addition to those computers that are part of the video systems and the public internet work station. CAT will be solely responsible for the software and operation of the three office computers.
- F. The City shall provide access to the world wide web for the CAT
- G. There shall be no charge to citizens of Fayetteville for the use of cable casting time on the public access channel, nor for the use of the facilities or equipment. However, CAT's fees and charges may apply for such services as, but not limited to, instructions on video production and internet use, video tapes, video tape duplication, annual producer's fee and contracts for video productions.

MAINTENANCE

- H. The City shall be responsible for the payment of the Access Center utilities, routine building and grounds maintenance and maintenance of the structure
- I. The CAT may use the City's current copier at the Access Center for a charge of \$.039 per copy. Additionally, the CAT may use the copier located at the City Administration Building for the standard charge as is allocated per copy to the City Departments and Divisions. If the City upgrades the copier located in the

Access Center, CAT shall pay an adjusted charge per copy, up to, but not to exceed the standard City rate charged to City Departments and Divisions as determined annually.

- J. Copy machine maintenance costs will be paid by the City.

VIDEO EQUIPMENT:

- K. Cat Staff and Producers will have direct input in the decisions regarding the acquisition, maintenance and repair of equipment used primarily by CAT Staff and Producers. The City will accommodate the equipment needs of the CAT Staff and Producers to the extent that considerations of budget, compatibility and integration into the system will allow.
- L. The City shall repair and maintain the video equipment except as otherwise noted. Cat shall make minor, routine repairs to equipment used for public access productions which shall be mutually agreed upon by the City and CAT.
- M. The City shall operate a system for equipment and facility repairs. All repair requests will be recorded and forwarded to the Cable Administrator, or his designee, who will assign the repairs to be done by an appropriate staff member or to other sources as defined in the PEG Center Standard Operational Procedure. The written system will be designed to keep all PEG Center Personnel informed of the status of repairs. A similar system will be used to conduct preventative maintenance in accordance to hours of usage of cablecast decks, field cameras and edit system decks.
- N. CAT shall make minor repairs to equipment used for public access productions such as repairing microphones, cables, cleaning recording heads, and camera lenses
- O. Certain equipment, to be designated by the City, shall not be available for public access checkout. The reserved equipment shall be used only for government productions, CAT's contract productions, and CAT's promotional programs. Use of the reserved equipment will be only by CAT Staff and City Staff certified by a procedure established by the City.
- P. Use of the PEG Center video equipment and facilities will be coordinated by the City using a reservation system readily available at all times. This in no way relieves the CAT of the responsibility of making sure that all of the City's equipment used for public access purposes is checked out and returned in good working order.
- Q. CAT will notify the City immediately of any problems with the equipment
- R. All video production equipment owned by the City and used for public, educational and/or government access productions shall be covered under the City's insurance policy.

SECTION 4. CONTRACT PERIOD. The contract period will be from January 1, 2007 until December 31, 2007. Either party may cancel this contract at any time with a thirty (30) day written notice.

SECTION 5. FUNDING. The City hereby agrees to pay CAT the monthly sum of \$7,750 for services performed under the terms of this contract. Each monthly payment will be remitted on or before the 15th day of each month, beginning January 15, 2007. The Contractor agrees to provide the City with a monthly financial report, based on a modified accrual or cash basis method, summarizing activity during the preceding 30 day period. Said report shall include income and balance sheet statements. Contractor shall have an independent certified public accountant complete an official review of its financial records annually. This report shall be submitted to the City by the last day of the third month after the end of Contractor's fiscal year.

SECTION 6. LEGAL AUTHORITY. CAT assures and guarantees that it possesses the legal authority to enter into this Agreement. Further, that the person or persons signing and executing this Agreement on behalf of CAT have been fully authorized by CAT to execute this Agreement. That such authority is evidenced pursuant to a proper, appropriate and official motion and resolution, which was passed and approved specifically to enter into this Agreement and shall legally bind CAT to all the terms, performances, and provisions here set forth. A copy of such resolution shall be provided upon execution of this Agreement. The City may exercise its right to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of CAT or the person signing the Agreement. The City shall not be obligated to pay CAT for any performance of the provisions of this Agreement after the City has suspended or terminated this Agreement as provided in this Section.

SECTION 7. PERSONNEL. CAT shall adequately staff the public access operation to meet the services and duties outlined in this agreement. Staff for public, educational, and government channels will be expected to work together in a cooperative manner with all groups using the facility. Personnel policies shall be established by CAT and shall be available for examination by the City.

Upon termination of an employee by the City Cable Administrator, and in the event that the CAT's manager wishes to hire the employee over the objections of the Cable Administrator, an appeal of the action may be brought by the Cable Administrator to the CAT's Board of Directors. Similarly, upon termination of an employee by the CAT, and in the event that the Cable Administrator wishes to hire the employee over the objections of the CAT's manager, an appeal of the action may be brought by the CAT's manager to the Telecommunications Board.

SECTION 8. EQUAL OPPORTUNITY. CAT shall comply with all applicable equal opportunity, affirmative action, and ADA laws or regulations, including those of the City of Fayetteville.

SECTION 9. INSURANCE. CAT shall obtain and keep in force during the term of this agreement a policy of public liability and property damage insurance. The coverage, at a minimum, shall be in the following amounts:

General Liability

a. General Aggregate	\$1,000,000
b. Products/Completed Oper. Aggr.	\$1,000,000
c. Each Occurrence	\$100,000
d. Fire Damage (any one fire)	\$50,000
e. Medical Expense (any one person)	\$5,000

Worker's Compensation for all employees as required by Arkansas Statute.

Bonding: CAT shall obtain a fidelity bond covering all persons handling funds received or disbursed and/or signing or co-signing checks to disburse funds under this agreement, within 10 days of the contract execution. The fidelity bond shall be in an amount equal to 10% of the city grant award or \$5,000, whichever is less. CAT shall furnish the city proof of an adequate fidelity bond prior to the first payment of funds under this agreement.

SECTION 10. POLITICAL/SECTARIAN ACTIVITY. CAT management shall not initiate or sponsor political or religious programming. The staff shall work on a content neutral basis and shall not determine programming content except for programs produced for the purpose of promoting the use of the channel. Staff produced programs, such as short-takes, long takes and contract productions shall be open to participation by all citizens on a first-come, first-served, non-discriminatory basis. Though, the facility can be used for legitimate first amendment purposes, no portion of the funds received by CAT shall be used to directly produce any programs nor participate in any CAT-sponsored activities that establish any religion or prohibit the free exercise thereof.

SECTION 11. PUBLICITY. In any news release, sign, brochure, or other medium disseminating information prepared or distributed by or for CAT, mention shall be made of the City of Fayetteville having made the project possible, i.e. "Community Access Television' is a project partially funded by the City of Fayetteville."

SECTION 12. HOLD HARMLESS. It is expressed understood and agreed by both parties that the City is contracting with CAT as an independent contractor and that as such, CAT shall save and hold the City, its officers, agents and employees harmless from all liability of any nature of any kind, including costs and expenses for, or on account of, any claims, audit exceptions, demands, suits or damages of any character whatsoever resulting from injuries or damages sustained by persons or property, resulting in whole or in part from the performance or omission of any employee, agent or representative of CAT. This Agreement shall not be construed in any manner or form as a waiver of that Tort Immunity as set out under Arkansas Law.

SECTION 13. CONFLICT OF INTEREST. The CAT covenants that neither it nor any member of its Board of Directors currently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CAT further covenants that

in the performance of this Agreement no person having such interest shall be employed or appointed as a member of its Board of Directors.

The CAT further covenants that no member of its Board of Directors or its staff or employees shall possess any interest in or use their position for a purpose that is or gives the appearance of being motivated by desire for private gain for themselves, or others particularly, those with which they have family, business, or other ties.

No officer, member, or employee of the City and no member of its governing body who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Agreement, shall participate in any decision relating to the Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he has a personal financial direct or indirect interest; or have any personal financial interest, direct or indirect, in this Agreement or the proceeds thereof.

CONTRACT ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties hereto, and any prior agreement, whether written or oral, shall have no force or effect. Any subsequent agreements will have no effect unless properly executed in writing and recorded as an addendum to this Agreement.

SEVERABILITY. If any section, subsection, sentence, clause, phrase or word of this agreement is held to be invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or word will be deemed as a separate, distinct and independent provision, and such holding will not effect the validity of the remaining provisions of this agreement.

COMMUNITY ACCESS TELEVISION

By: _____

Title: _____

ATTEST:

By: _____

Title: _____

CITY OF FAYETTEVILLE,
ARKANSAS

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

**ADDENDUM A
CAT CONTRACT
CITY'S PEG CENTER RULES**

1. The use of alcohol, tobacco products and illegal drugs is strictly prohibited in the PEG Center.
2. Contractor's and City's employees shall not park in the spaces in front of the Access Center.
3. Food and drink shall not be taken into the production areas which includes all editing bays, the studio control and cable casting areas and the Multi-Media Editing and Internet Access room.
4. PEG Center users shall not leave items to be stored in the PEG Center without permission from the Public Access Manager or the Cable Administrator. In the event that there is a disagreement about what can be stored in the PEG Center, the city shall make the final decision.
5. PEG Center users shall not leave unattended items such as coats, hats, cups, props, dishes, papers, books, magazines, food, drinks and other items in inappropriate places. Each user shall leave the break room and other rooms in the PEG Center in a reasonable state of order and neatness.
6. All equipment use shall be entered into the appropriate reservation book before being used.
7. If a producer is 20 minutes late or more, without notification, for an equipment reservation, the equipment may be reserved by another producer.
8. Public Access Contractor and City shall each bear one-half of the costs of supplies used by everyone in the facility's break room.
9. The staffs for the public access and government channels will be working closely together at the PEG Center. Members of both staffs will be expected to work in a cooperative manner.
10. All persons shall behave in a respectful, courteous and orderly manner while in the PEG Center.

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

12/19/2006

City Council Meeting Date

Greg Tabor
Submitted By

Police
Division

Police
Department

Action Required:

Council adopt a resolution revoking the city alcohol permit of Miguel Torres d.b.a. Casa Torres

\$0.00

Cost of this request

\$0

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

\$0.00

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

\$0.00

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

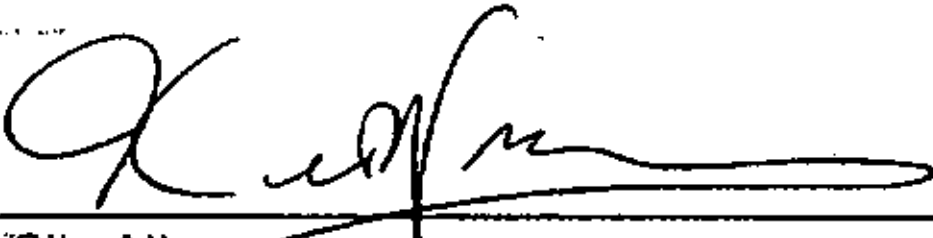

Department Director

12/1/2006
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

12/6/06
Date

Received in City Clerk's Office

ENTERED

12/4/06

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

See attached

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police *G.T. by WTB*

DATE: December 1, 2006

RE: Casa Torres

Recommendation:

It is recommended the City Council adopt a resolution revoking the city alcohol permit of Miguel Torres d.b.a. Casa Torres.

Background:

City Permit #4126, issued to Mr. Miguel Torres d.b.a. Casa Torres was first issued on 12-20-02. The business is currently operating at 1673 N. College Ave. in Fayetteville, Arkansas. Since this permit has been issued, there have been numerous violations of both state and local ordinance concerning dispensing of alcoholic beverages. These violations include, but are not limited to serving minors and operating after hours. Also, numerous reports of disturbances, assaults, loud music and a recent shooting are just a few of the calls received by the police department at this address. The business has been sanctioned by the state Alcoholic Beverage Control on several occasions.

Discussion:

City Ordinance 111.06 states, "If any person engaged in the sale of controlled beverages in the city shall conduct his place of business in a manner as to constitute a nuisance, the City Council shall revoke the license of such person to sell controlled beverages in the city."

City Ordinance 111.13 gives the City Council authority to suspend or revoke the license of any licensee violating this chapter.

Budget Impact:

None

RESOLUTION NO. _____

**A RESOLUTION TO REVOKE THE LICENSE OF MIGUEL
TORRES d/b/a/ CASA TORRES TO SELL ALCOHOLIC
BEVERAGES WITHIN THE CITY OF FAYETTEVILLE**

WHEREAS, the City of Fayetteville provided proper written notice to Miguel Torres d/b/a Casa Torres that the City Council would consider declaring his establishment a nuisance and revoking his City license to sell alcoholic controlled beverages pursuant to §111.06 (D) after a public hearing during its City Council meeting of December 19, 2006; and

WHEREAS, the City of Fayetteville provided proper written notice to Miguel Torres d/b/a Casa Torres that the City Council would consider suspending or revoking his City license to sell alcoholic controlled beverages in Fayetteville pursuant to §111.13 of the Fayetteville Code after a public hearing during its City Council meeting of December 19, 2006; and

WHEREAS, Miguel Torres was notified of the substances of many of the complaints against him including alcoholic beverage control violations, after hours serving of alcohol, late or unpaid city taxes, violence, disorderly conduct and even shootings occurring at his establishment; and

WHEREAS, Miguel Torres has been given an opportunity during the public hearing to present any and all evidence and arguments he wished to make in response to the allegations complained against him and Casa Torres.

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

Section 1: After careful consideration of the evidence presented by the Fayetteville Police Department, other City Staff, Mr. Miguel Torres, his witnesses, citizens and other persons during the public hearing, the City Council of the City of Fayetteville, Arkansas hereby finds that there is ample and sufficient trustworthy evidence to find that Miguel Torres has operated his establishment in such a manner as to constitute a public nuisance in the City of Fayetteville and that his City license to sell controlled alcoholic beverages within the City should be and hereby is **REVOKED**.

Section 2: After careful consideration of the evidence presented by the Fayetteville Police Department, other City Staff, Mr. Miguel Torres, his witnesses, citizens and other persons during the public hearing, the City Council of the City of Fayetteville, Arkansas hereby also finds that Miguel Torres has violated provisions of Chapter 111 Alcoholic Beverages of the Code of Fayetteville including, but not limited to: allowing after hours sales of alcoholic beverages, allowing patrons to carry open alcoholic beverages out of his establishment, serving an already intoxicated person,

operating without a proper City permit, and selling alcoholic beverages to a minor. Because of these violations of the City Code, the City Council determines that Miguel Torres' City license to sell alcoholic controlled beverages should be and hereby is **REVOKED**.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

Local permit required, A.C.A. §3-5-211.

111.04 Application for Permits

- (A) Application for a permit required by this chapter shall be in writing on a form prescribed by the city and shall be accompanied by the required fee and a copy of the applicant's state permit. No city permit will be issued until applicant has received a state permit.
- (B) It shall be unlawful for any person to make any false statement or representation in any application required by this chapter or to give any false answer to any question contained therein.
- (C) Permits required by this chapter shall be issued in such a manner that they will run for such length of time as the state permit. Annual permit renewal fees shall be due and payable on June 30th of each year for the succeeding year beginning July 1st.
- (D) The city will not issue or renew any permits pursuant to this chapter until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.
- (E) No new permit shall be granted to any person to engage in the sale of liquor at retail, for consumption off the premises, for any business situated within 200 yards of any church or school. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted.
- (F) No other permits shall be granted to any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, except wine, for any business situated within 300 feet of any church or school building. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted.
- (G) All permits issued by the city pursuant to this chapter shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.
- (H) When any state permit is revoked by the state or required to be returned to the state for any reason, the city permit shall be returned to the city. The city will restore the permit upon proof

that the state permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.

- (I) All fees, taxes, and penalties received by the city pursuant to this chapter shall be deposited to the credit of general fund revenues.
- (J) Permits shall not be transferable or assignable except as provided by A.C.A. §3-4-103A (Fiduciaries-Continuation of permitted business).

(Ord. No. 4042, §1, 6-17-97; Code 1991, §111.04)

State law reference(s)--Fiduciaries-Continuation of permitted business, A.C.A. §3-4-103A; Operation of retail liquor business within 200 yards of church or schoolhouse prohibited; as amended by Act 1072 of 2001, A.C.A. §3-4-206; Transfer or assignment, A.C.A. §3-4-217; Applications-Procedure for acceptance and determination, A.C.A. §3-4-208.

111.05 Right Of City To Inspect Records

The city shall have the right to inspect and examine the records of any permittee subject to any tax or permit fee based on gross sales or receipts.

(Ord. No. 4042, §1, 6-17-97; Code 1991, §111.05)

111.06 Prohibited Activities/Warning Notice

- (A) Any person to which a controlled beverage permit has been issued shall comply with all laws and regulations of the State of Arkansas, the Alcoholic Beverage Control Division of the State of Arkansas, and the City of Fayetteville regarding the control and regulation of controlled beverages, including but not limited to the following:
 - (1) Purchase by or for minors, sale to minors, or handling by minors prohibited;
 - (a) It shall be unlawful for any person under the age of 21 years to have in his or her possession, to purchase or attempt to purchase, or otherwise obtain any controlled beverages.
 - (b) It shall be unlawful for any person to, knowingly or unknowingly, purchase on behalf of, furnish to, give away to, or otherwise dispose of to any person

CD111:5

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

under the age of 21 years any controlled beverages; however, this provision shall not apply to the serving of such to members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.

(c) It shall be unlawful for any person engaged in the business of manufacturing, distributing or selling, at wholesale or retail, any controlled beverages to sell, offer for sale, or give away, under any conditions, any such controlled beverages to any person under the age of 21 years. The burden of determining the age of any person shall be upon the seller.

(d) It shall be unlawful for any wholesaler, retailer, or transporter of controlled beverages to allow any employee or other person under the age of 21 years of age to have anything whatsoever to do with the sale, transporting or handling of controlled beverages. However, with the written consent of a parent or guardian, persons 18 years of age and older may be employed by licensed liquor and beer wholesalers and by licensed native wineries to handle controlled beverages at the place of business of the licensed wholesaler or wineries.

(2) A warning notice regarding the sale to, possession or purchase by, or furnishing to minors of controlled beverages shall be posted in a conspicuous place in public view in each place of business where controlled beverages are sold, served or dispensed, including all drive up windows. The warning notices shall be of the size, have the content, and be posted in the manner as prescribed by the Arkansas Alcoholic Beverage Control Division.

(B) No person who has received a license under any ordinance of the City of Fayetteville for the sale or dispensing of alcoholic beverages for on-premises consumption including private club licenses shall suffer or permit any person to appear on the licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion

of her breast below the top of the areola or any simulation thereof.

(C) That no person shall bring into or consume or allow to be brought into or allow to be consumed intoxicants or alcoholic beverages of any kind, in any commercial establishment, or business, which suffers or permits any person to appear on the premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, or suffers or permits any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.

(D) If any person engaged in the sale of controlled beverages in the city shall conduct his place of business in a manner as to constitute a nuisance, the City Council shall revoke the license of such person to sell controlled beverages in the city.

(E) Any person violating any provision of this ordinance shall be subject to the general penalties as set out in §10.99 of the Code of Fayetteville.

(Ord. No. 4015, 2-4-97; Ord. No. 4016, 2-4-97; Ord. No. 4042, §1, 6-17-97; Ord. No. 4132, §1, 1-5-99)

State law reference(s)--Unknowningly furnishing or selling to minor, A.C.A. §3-3-201; Knowingly furnishing or selling to minor, A.C.A. §3-3-203.

111.07-111.09 Reserved

ARTICLE II
PENALTIES/SUSPENSION/REVOCATION

111.10 Furnishing To Or Consumption
By Minors

(A) Any person convicted of knowingly or unknowingly selling, serving, giving, procuring or otherwise furnishing any controlled beverage to any person under 21 years of age shall be deemed guilty of a misdemeanor and shall be fined not less than \$200.00 nor more than \$500.00.

(B) Any person under the age of 21 years who has in his or her possession, purchases or attempts to purchase, or otherwise obtain any controlled beverage shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$10.00 nor more than

FAYETTEVILLE CODE OF ORDINANCES
TITLE XI BUSINESS REGULATIONS

\$500.00.

(Ord. No. 4042, §1, 6-17-97)

State law reference(s)—Unknowningly furnishing or selling to minor, A.C.A. §3-3-201; Knowingly furnishing or selling to minor, A.C.A. §3-3-202; Purchase or possession by minor, A.C.A. §3-3-203.

111.11 Operating Without A City Permit

(A) *Beer and light wine.* Any person who sells, serves, barbers, exchanges, or gives away beer or light wine without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.

(B) *On-premises consumption, including private clubs.* Any person who sells, serves, barbers, exchanges, or gives away controlled beverages, except wine, for on-premises consumption without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.

(C) *General.* Any person, except as provided in §111.11(A) and (B) above, who sells, serves, barbers, exchanges, or gives away controlled beverages, except wine, without having a valid city permit as provided in this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.

(Ord. No. 4042, 6-17-97; Code 1991, §111.11)

State law reference(s)—Penalties, A.C.A. §3-5-203; Manufacture, sale, etc., a privilege, A.C.A. §3-5-204.

111.12 General Penalty

Except as set forth above, any person violating any provision of this chapter shall be subject to the general penalties as set out in §10.99 of the Code of Fayetteville.

(Ord. No. 4042, 6-17-97; Code 1991, §111.12)

111.13 Suspension/Revocation

(A) The City Council may suspend for a period not to

exceed six months or revoke the license of any licensee violating this chapter after due notice to the licensee and an opportunity for the licensee to be heard.

(B) When any license is revoked, no new license shall be issued to the same person within one year of such revocation.

(Ord. No. 4016, 2-4-97; Code 1991, §111.13)

111.14-111.19 Reserved

**ARTICLE III
TYPES OF PERMITS-FEES-SPECIFIC
PROVISIONS-HOURS OF OPERATION**

111.20 Wholesale

(A) *Wholesale liquor permit.* Authorizes the purchase from licensed manufacturers or importers of spirituous and vinous beverages or malt liquor containing more than five percent alcohol by weight, and the sale of such beverages to persons holding a valid liquor off-premises permit or a hotel, motel or restaurant on-premises consumption permit.

(1) *Permit fee.* There is hereby levied an annual permit fee of \$500.00 for each and every establishment engaged in storing, transporting and/or selling at wholesale any spirituous or vinous (except wine) liquors within the city.

(2) *Hours of operation.* It shall be unlawful for any person to sell, offer for sale, or give away, at wholesale, any spirituous, vinous, or malt liquors before the hours of 6:00 a.m. and after the hour of 11:00 p.m. on weekdays, 12:00 midnight on Friday and Saturday, at any hour on Sunday, on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, City Council, or any person acting in the mayor's or City Council's capacity.

(B) *Wholesale beer and light wine permit.* Authorizes the purchase of beer, light wine or malt liquor from a licensed manufacturer or importer and the sale of such beverages to retailers holding a valid permit to sell beer, light wine or malt liquor for consumption on or off the premises.

(1) *Permit fee.* There is hereby levied an annual permit fee of \$125.00 for each and every

D111:7

12-05-06

Casa Torres, 1673 N. College Avenue
Motion for Revocation of City Alcohol Permit
Document Cover Sheet

Alcoholic Beverage Control Sanction Activity
Seven Documents

Fayetteville Police Department Criminal Reports

03-85988
03-88718
03-114124
03-119099
04-68184
04-70845
04-75891
04-78525
06-93744
06-120355 (shooting)

Fayetteville District Court Records
Five Violation Records

Call History

Casa Torres, 1673 N. College, December, 2002 to present
Acambaro, (Comparison Query), 2605 N. College, December, 2002 to present

City of Fayetteville Accounting Office Tax Information
Memorandum from Revenue Clerk
Tax Record

City of Fayetteville Planning Department Report
Five pages

Alcohol Beverage Control Sanction Activity

Seven Documents



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

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Little Rock, Arkansas 72201
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Fax (501) 682-2221

B. 1
Revoke Permit for Casa Torres
Page 10 of 108

Robert S. Moore, Jr.
Director
Donald R. Bennett
Attorney
Milton R. Lueken
Attorney

BOARD MEMBERS:

Ron Fuller, Chairman
Dr. Carl E. Hyman
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

IN THE MATTER OF:
RESTAURANT MIXED DRINK PERMIT NO. 18(MAX)
MIGUEL TORRES, PERMITTEE
DBA: CASA TORRES RESTAURANT
1673 N. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS

PAID: 10-8-03

ORDER

There was considered by the Director, the matter pertaining to charges filed against Restaurant Mixed Drink Permit No. 18(MAX), held by Miguel Torres, Permittee, to do business as Casa Torres Restaurant, located at 1673 N. College Avenue, Fayetteville, Arkansas. Said charges were as follows:

1. That on or about March 8, 2003, your outlet was in violation of Section 1.79(32) of the ABC Regulations, Failure to be a Good Neighbor, people were drinking alcoholic beverages in the parking lot, a Class B violation.
2. That on or about March 8, 2003, your operator allowed minors in the permitted outlet when no food services was available, in violation of Section 4.17 of the ABC Regulations, a Class C violation.

The following findings are made, TO WIT:

That the permittee, Miguel Torres, was in communication with this agency on September 15, 2003, in response to the charges waiving a hearing on the charges, requesting that the matter be disposed of on the record.

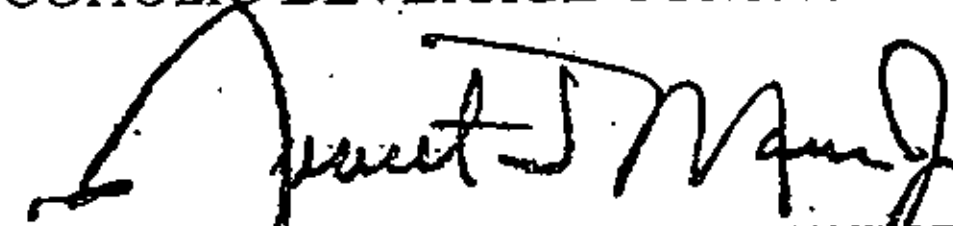
Based on the above and foregoing findings, as well as filed pertinent documents, it is concluded that there is sufficient substantial evidence contained within the record to reflect that the alleged violations did, in fact, occur. It is further concluded that the subject permit should be **FINED** in the

amount of two hundred dollars (\$200.00), and placed on **PROBATION** for a period of sixty (60) days.

NOW THEREFORE, by reason of the herein above stated conclusions, it is hereby **ORDERED** that Restaurant Mixed Drink Permit No. 18(MAX) shall be and the same is hereby **FINED** in the amount of two hundred dollars (\$200.00), in accordance with the provisions of Act 790 of 1981. Said **FINE** is due and payable by **Check, Cashier's Check or Money Order** at the offices of the ABC Administration on or before the close of business on October 7, 2003. If said **FINE** is not paid by such date, the aforementioned permit shall be **SUSPENDED** until such time as the **FINE** is paid in full. It is further **ORDERED** that said permit shall be placed on **SUSPENSION PROBATION** for a period of sixty (60) days, said period of **PROBATION** to begin on October 7, 2003, and continue uninterrupted through December 5, 2003. During such period of **PROBATION** and henceforth, the permitted business establishment shall be operated in such a manner as to strictly conform to all appropriate Alcoholic Beverage Laws of the State of Arkansas and Rules and Regulations adopted by the Alcoholic Beverage Control Board.

DONE AT LITTLE ROCK, ARKANSAS, this 18th day of September, 2003.

ALCOHOLIC BEVERAGE CONTROL DIVISION


ROBERT S. MOORE, JR., DIRECTOR

RSM\ML\kb



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

1515 West 7th Street, Suite 503
Little Rock, Arkansas 72201
Telephone (501) 682-1105
Fax (501) 682-2221

B 1
Revoke Permit for Casa Torres
Page 12 of 108

Robert S. Moore, Jr.
Director
Donald R. Bennett
Attorney
Milton R. Lueken
Attorney

BOARD MEMBERS:

Ron Fuller, Chairman
Dr. Carl E. Hyman
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

IN THE MATTER OF:

RESTAURANT MIXED DRINK PERMIT NO. 18(MAX)
MIGUEL TORRES, PERMITTEE
DBA: CASA TORRES RESTAURANT
1673 N. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS

PAID: 2-10-04

ORDER

There was considered by the Director, the matter pertaining to charges filed against Restaurant Mixed Drink Permit No. 18(MAX), held by Miguel Torres, Permittee, to do business as Casa Torres Restaurant, located at 1673 N. College Avenue, Fayetteville, Arkansas. Said charges were as follows:

1. That on or about August 31, 2003, your operator allowed the consumption of alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(1)A. of the ABC Regulations, a Class B violation.
2. That on or about September 7, 2003, your operator failed to cooperate with a member of the Fayetteville Police Department, in violation of Section 1.79(10) of the ABC Regulations, a Class A violation.
3. That on or about September 7, 2003, your operator allowed the consumption of alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(1)A. of the ABC Regulations, a Class B violation.
4. That on or about September 7, 2003, your operator allowed open containers of alcoholic beverages to be carried from the permitted premises, in violation of Section 1.79(27) of the ABC Regulations, a Class C violation.

5. That on or about November 16, 2003, your operator served alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(3)A of the ABC Regulations, a Class B violation.

And from findings of fact deduced at a hearing held on January 6, 2004, the following findings are made, **TO WIT:**

That the permittee, Miguel Torres, was present at the hearing and appeared pro se. There also came and appeared Preston Oswalt, Sgt. James Harter and Officer Cameron Crofton of the Fayetteville Police Department. It is further found that testimony was elicited from Preston Oswalt, Sgt. Harter and Officer Crofton.

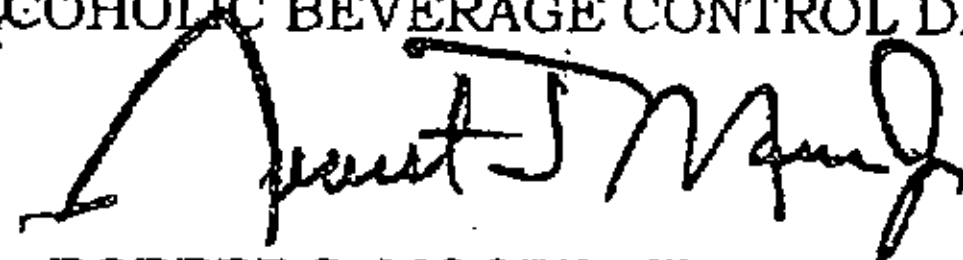
Based on the testimony elicited, it is found that there is sufficient evidence contained within the record to reflect that the alleged violations did, in fact, occur. Based on these findings, it is concluded that the subject permit should be **FINED** in the amount of one thousand dollars (\$1,000), **SUSPENDED** for a period of one (1) week, and placed on **PROBATION** for a period of six (6) months. The one (1) week period of **SUSPENSION** shall be held in abeyance for a period of sixty (60) days. Should the permittee be cited for a violation of the same ABC Regulation within the sixty (60) day period and be found guilty of the same, the one (1) day period of **SUSPENSION** will be reinstated by the Director.

Wick
NOW THEREFORE, by reason of the herein above stated conclusions, it is hereby **ORDERED** that Restaurant Mixed Drink Permit No. 18(MAX) shall be and the same is hereby **FINED** in the amount of one thousand dollars (\$1,000.00), in accordance with the provisions of Act 790 of 1981. Said **FINE** is due and payable by **Check, Cashier's Check or Money Order** at the offices of the ABC Administration on or before the close of business on February 10, 2004. If said **FINE** is not paid by such date, the aforementioned permit shall be **SUSPENDED** until such time as the **FINE** is paid in full. It is further **ORDERED** that said permit shall be placed on **SUSPENSION** for a period of one (1) week, and placed on **PROBATION** for a period of six (6) months, said period of **PROBATION** to begin on February 10, 2004, and continue uninterrupted through August 10, 2004. During such period of **PROBATION** and henceforth, the permitted business establishment shall be operated in such a manner as to strictly conform to all appropriate Alcoholic Beverage Laws of the State of Arkansas and Rules and Regulations adopted by the Alcoholic Beverage Control Board.

You are hereby notified that you have the right to appeal this decision to the full Alcoholic Beverage Control Board within fifteen (15) days from the date this **ORDER** is received.

DONE AT LITTLE ROCK, ARKANSAS, this 21st day of January, 2004.

ALCOHOLIC BEVERAGE CONTROL DIVISION



ROBERT S. MOORE, JR., DIRECTOR

RSM\ML\kb



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

1515 West 7th Street, Suite 503
Little Rock, Arkansas 72201
Telephone (501) 682-1105
Fax (501) 682-2221

B. 1
Revoke Permit for Casa Torres
Page 15 of 108

Robert S. Moore, Jr.
Director
Donald R. Bennett
Attorney
Milton R. Lueken
Attorney

BOARD MEMBERS:

Ron Fuller, Chairman
Dr. Carl E. Hyman
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

April 22, 2004

Miguel Torres, Permittee
DBA: Casa Torres Restaurant
1673 N. College Avenue
Fayetteville, Arkansas

WARNING

Complaint has been made by the ABC Enforcement Division that a violation has occurred against Restaurant Mixed Drink Permit No. 18(MAX), held by you, in that on or about November 30, 2003, you served alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(3)A. of the ABC Regulations.

Since this violation report was received only one day before your last hearing before ABC Director Robert S. Moore, Jr. on January 6, 2004, another hearing on this report will not be scheduled in this instance. However, you are hereby warned that further such occurrences will result in a monetary fine against the permit or the suspension of the permit.

Although no action is being taken against your permit as a result of this incident, you are hereby advised that this letter will be made a part of your file at our office and may be considered as part of a course of unlawful conduct upon our consideration of any future violation.

You are further warned to operate and conduct your permitted business establishment in strict compliance with all laws and regulations pertaining to your permit.

ALCOHOLIC BEVERAGES CONTROL DIVISION


ROBERT S. MOORE, JR., DIRECTOR

RSM/ML/kb



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

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Robert S. Moore, Jr.
Director

Donald R. Bennett
Attorney

Milton R. Lueken
Attorney

B.1
Revoked Permit for Casa Torres
Page 16 of 108

65524
7/4/04
7/11/04
7/25/04
8/1/04

BOARD MEMBERS:

Ron Fuller, Chairman
Dr. Carl E. Hyman
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

PAID: 1-28-05

IN THE MATTER OF:

RESTAURANT MIXED DRINK PERMIT NO. 18(MAX)
MIGUEL TORRES, PERMITTEE
DBA: CASA TORRES RESTAURANT
1673 N. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS

ABC ENFORCEMENT DIVISION	
I have this 3 day of 7/11/2005	
served this order on	
<i>Miguel Torres</i>	
Permittee Signature	
☒ Served	<i>[Signature]</i>
☐ Un-served	

BOARD DECISION

There was considered by the Alcoholic Beverage Control Board at a hearing held on December 15, 2004, the matter pertaining to charges filed against Restaurant Mixed Drink Permit No. 18(MAX), held by Miguel Torres, Permittee, to do business as Casa Torres Restaurant, located at 1673 N. College Avenue, Fayetteville, Arkansas. Said charges were as follows:

1. That on or about July 4, 2004, your outlet was in violation of Section 1.79(32) of the ABC Regulations, Failure to be a Good Neighbor, female patron was attacked by males in the outlet, a Class B violation.
2. That on or about July 4, 2004, the permitted outlet was operating under an unauthorized trade name, in violation of Section 1.25 of the ABC Regulations, a Class C violation.
3. That on or about July 4, 2004, your operator allowed consumption of alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(3)A. of the ABC Regulations, a Class B violation.
4. That on or about July 4, 2004, your operator served alcoholic beverages to an intoxicated patron, in violation of Section 3.19(4)B. of the ABC Regulations, a Class B violation.

5. That on or about July 11, 2004, your operator was drinking alcoholic beverages on duty, in violation of Section 1.79(19) of the ABC Regulations, a Class B violation.
6. That on or about July 11, 2004, your operator allowed the consumption of alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(3)A. of the ABC Regulations, a Class B violation.
7. That on or about July 25, 2004, your operator allowed the consumption of alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(3)A. of the ABC Regulations, a Class B violation.
8. That on or about July 25, 2004, your operator served alcoholic beverages to an intoxicated patron, in violation of Section 3.19(4)B. of the ABC Regulations, a Class B violation.
9. That on or about July 25, 2004, your operator failed to cooperate with the Fayetteville Police Department, in violation of Section 1.79(10) of the ABC Regulations, a Class A violation.
10. That on or about August 1, 2004, your operator allowed the consumption of alcoholic beverages after the legally prescribed hours, in violation of Section 3.19(3)A. of the ABC Regulations, a Class B violation.
11. That on or about August 1, 2004, the permitted outlet has no Fayetteville City privilege license, in violation of Section 1.79(4) of the ABC Regulations, a Class C violation.

Board Members attending the hearing were Ron Fuller, Chairman, and Dr. Carl Hymian, Tony Ellis, Pat Cohee, and J. J. Vigneault.

The permittee was present at the hearing and appeared pro se. There also came and appeared Sgt. James Harter and Officer Preston Oswalt of the Fayetteville Police Department.

After considering all notes, memoranda, and sworn testimony. It is found:

1. Arturo Torres, who was representing his father, stipulated with the ABC Board Chairman, Ron Fuller, that the permittee was admitting guilt on all of the violations except numbers one, four, eight and nine. A letter from Mr. Torres to the ABC which corroborated this fact was introduced by ABC Board Attorney Milton Lueken.

2. Testimony was received from Sgt. James Harter of the Fayetteville Police Department regarding charge number one. Sgt. Harter read a report from the Fayetteville Police Department authored by Officer Scott Carlton in

which he described a complaint from an Hispanic woman named Diana Travino. Officer Carlton noticed that Ms. Travino had a bloody nose, that her face was swollen, that she had a small knot on her left temple and that she was complaining of chest pain. Ms. Travino stated that she had been inside the permitted outlet when four Hispanic males jumped her for no reason. Mr. Travino stated that the subjects held her to the ground and beat her up. Sgt. Harter stated that Officer Carlton's report indicated that Ms. Travino was extremely intoxicated and belligerent.

3. Testimony regarding charge number four was received from Corporal Preston Oswalt of the Fayetteville Police Department. Corporal Oswalt testified that on July 4, 2004, he and Officer Dearing had responded to the permitted outlet to assist Corporal Carlton who was out in the parking lot of the bar taking a report of a battery. Corporal Oswalt testified that upon arrival at the restaurant he observed many, many patrons outside the bar that were extremely intoxicated to the point that they had to hold themselves up on walls and on vehicles.

4. Testimony was received from Corporal Preston Oswalt regarding charge number eight. Corporal Oswalt testified that on July 24, 2004, he was at the permitted outlet at approximately 3:30 a.m. and that he took a full bottle of Corona beer away from a patron who he described as drunk and stumbling.

5. Corporal Preston Oswalt testified regarding charge number nine. Corporal Oswalt testified that on July 25, 2004, he arrived at the restaurant at approximately 3:30 a.m. Corporal Oswalt testified that he entered the establishment and observed bottles of beer and bottles of alcohol on almost every table in the room. Corporal Oswalt testified that he took a beer right out of a patron's hand as he was drinking it. Corporal Oswalt testified that he spoke with Mr. Torres and told him to clear the tables. Corporal Oswalt testified that the police then left the permitted outlet, but returned in ten minutes and when they returned they saw a patron that was still drinking beer.

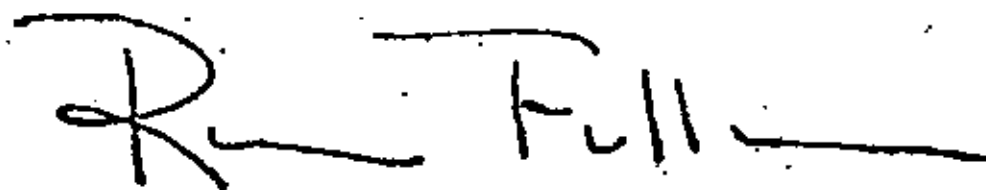
After all conclusions of matters considered by the Board, including the earlier stipulation entered into by Arturo Torres as well as the testimony received from Sgt. James Harter and Corporal Preston Oswalt of the Fayetteville Police Department, it is found that the testimony indicates that the alleged violations number one, two, three, four, six, seven, eight, nine, ten and eleven did occur. The Board finds that the administrative sanction of two thousand dollars (\$2,000), thirty (30) days SUSPENSION and one (1) year PROBATION which was levied by the Director should be upheld.

WHEREFORE by motion made, seconded, and passed unanimously by a vote of 5-0, there is hereby levied against Restaurant Mixed Drink Permit No. 18(MAX) a FINE in the amount of two thousand dollars (\$2,000), in accordance with the provisions of Act 790 of 1981. Said FINE is due and payable by **Check, Cashier's Check or Money Order** at the offices of the ABC Administration on or before the close of business on January 4, 2005. If said FINE is not paid by such date, the aforementioned permit shall be SUSPENDED until such time as the FINE is paid in full. It is further ORDERED that said

permit shall be placed on SUSPENSION for a period of thirty (30) days, said period of SUSPENSION to begin at 7:00 a.m. on January 7, 2005, and continue uninterrupted through 7:00 a.m. on February 6, 2005, and placed on PROBATION for a period of one (1) year, said period of PROBATION to begin on January 4, 2005, and continue uninterrupted through January 4, 2005. During such period of PROBATION and henceforth, the permitted business establishment shall be operated in such a manner as to strictly conform to all appropriate Alcoholic Beverage Laws of the State of Arkansas and Rules and Regulations adopted by the Alcoholic Beverage Control Board.

DONE AT LITTLE ROCK, ARKANSAS, this 15TH day of December, 2004.

ALCOHOLIC BEVERAGE CONTROL DIVISION



RON FULLER, CHAIRMAN

RF\ML\kb

08/12/04
12/21/04
ABC ENFORCEMENT
04 DEC 21 PM 12:27
RECEIVED

05 JAN - 6 AM 8:10
ABC ENFORCEMENT
RECEIVED



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

1515 West 7th Street, Suite 503
Little Rock, Arkansas 72201
Telephone (501) 682-1105
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Robert S. Moore, Jr.
Director
Donald R. Bennett
Attorney
Milton R. Lueken
Attorney

BOARD MEMBERS:

Ron Fuller, Chairman
Logan Hampton, Jr.
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

IN THE MATTER OF:
RESTAURANT MIXED DRINK PERMIT NO. 18(MAX)
MIGUEL TORRES, PERMITTEE
DBA: CASA TORRES RESTAURANT
1673 N. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS

ORDER **PAID:** 5-26-05

There was considered by the Director, the matter pertaining to charges filed against Restaurant Mixed Drink Permit No. 18(MAX), held by Miguel Torres, Permittee, to do business as Casa Torres Restaurant, located at 1673 N. College Avenue, Fayetteville, Arkansas. Said charges were as follows:

1. That on or about March 23, 2005, your operator sold alcoholic beverages to a minor, in violation of Ark. Code Ann. § 3-3-201 and Section 3.19(4)A of the ABC Regulations, a Class B violation.
2. That on or about March 23, 2005, an inspection revealed that the permitted outlet had no signed Server Awareness forms on file, in violation of Section 1.79(31) of the ABC Regulations, a Class C violation.

The following findings are made, TO WIT:

That the permittee has failed to respond to an Offer of Settlement by the response due date of May 5, 2005, and has thereby waived a hearing in the matter.

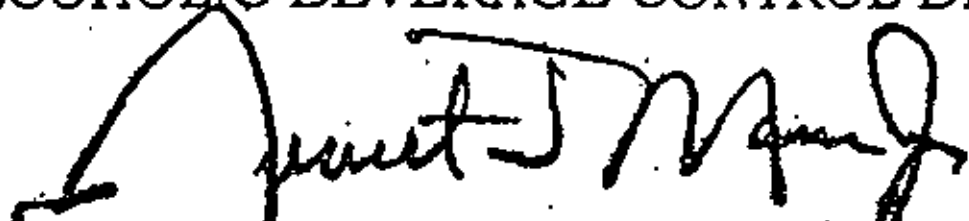
Based on the above and foregoing findings, as well as filed pertinent documents, it is concluded that there is sufficient substantial evidence contained within the record to reflect that the alleged violations did, in fact, occur. It is further concluded that the subject permit should be **FINED** in the amount of six hundred dollars (\$600.00), and placed on **PROBATION** for a period of one (1) year.

NOW THEREFORE, by reason of the herein above stated conclusions, it is hereby **ORDERED** that Restaurant Mixed Drink Permit No. 18(MAX) shall be and the same is hereby **FINED** in the amount of six hundred dollars (\$600.00), in accordance with the provisions of Act 790 of 1981. Said **FINE** is due and payable by **Check, Cashier's Check or Money Order** at the offices of the ABC Administration on or before the close of business on June 7, 2005. If said **FINE** is not paid by such date, the aforementioned permit shall be **SUSPENDED** until such time as the **FINE** is paid in full. It is further **ORDERED** that said permit shall be placed on **PROBATION** for a period of one (1) year, said period of **PROBATION** to begin on date, 2005, and continue uninterrupted through date, 2005. During such period of **PROBATION** and henceforth, the permitted business establishment shall be operated in such a manner as to strictly conform to all appropriate Alcoholic Beverage Laws of the State of Arkansas and Rules and Regulations adopted by the Alcoholic Beverage Control Board.

You are hereby notified that you have the right to appeal this decision to the full Alcoholic Beverage Control Board within fifteen (15) days from the date this **ORDER** is received.

DONE AT LITTLE ROCK, ARKANSAS, this 19th day of May, 2005.

ALCOHOLIC BEVERAGE CONTROL DIVISION



ROBERT S. MOORE, JR., DIRECTOR

RSM\ML\kb



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

1515 West 7th Street, Suite 503
Little Rock, Arkansas 72201
Telephone (501) 682-1105
Fax (501) 682-2221

B. 1
Revoke Permit for Casa Torres
Page 22 of 108

Robert S. Moore, Jr.
Director
Donald R. Bennett
Attorney
Milton R. Lueken
Attorney

BOARD MEMBERS:

Ron Fuller, Chairman
Logan Hampton, Jr.
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

IN THE MATTER OF:
RESTAURANT MIXED DRINK PERMIT NO. 18(MAX)
MIGUEL TORRES, PERMITTEE
DBA: CASA TORRES RESTAURANT
1673 NORTH COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS

PAID: 3-10-06

ORDER

There was considered by the Director, the matter pertaining to a charge filed against Restaurant Mixed Drink Permit No. 18(MAX), held by Miguel Torres, Permittee, to do business as Casa Torres Restaurant, located at 1673 North College Avenue, Fayetteville, Washington County, Arkansas. Said charge was as follows:

1. That on or about October 24, 2005, a routine inspection revealed that the permitted outlet had inadequate food service, in violation of Section 4.6 of the ABC Regulations, a Class C violation.
2. That on or about January 4, 2005, an inspection of the outlet revealed that it is closed for business and that the permit has been abandoned, in violation of Section 1.81 of the ABC Regulations, a Class C violation.

And from findings of fact deduced at a hearing held on January 30, 2006, the following findings are made, **TO WIT:**

That the permittee, Miguel Torres, was present at the hearing and appeared pro se. It is further found that testimony was elicited from Arturo Torres and Miguel Torres.

Based on the testimony elicited, it is found that there is sufficient evidence contained within the record to reflect that the alleged violation number one did occur.

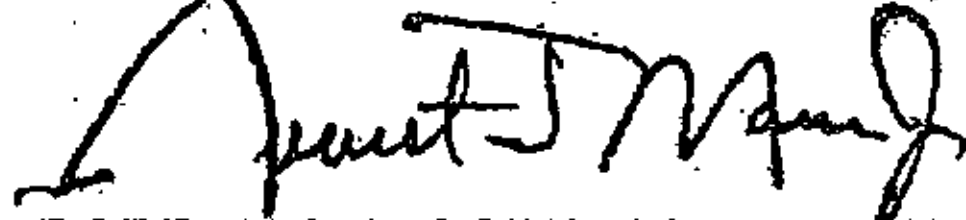
Based on these findings, it is concluded that the subject permit should be **FINED** in the amount of one hundred dollars (\$100), and placed on **PROBATION** for a period of six (6) months.

NOW THEREFORE, by reason of the herein above stated conclusions, it is hereby **ORDERED** that Restaurant Mixed Drink Permit No. 18(MAX) shall be and the same is hereby **FINED** in the amount of one hundred dollars (\$100.00), in accordance with the provisions of Act 790 of 1981. Said **FINE** is due and payable by **Check, Cashier's Check or Money Order** at the offices of the ABC Administration on or before the close of business on March 7, 2006. If said **FINE** is not paid by such date, the aforementioned permit shall be **SUSPENDED** until such time as the **FINE** is paid in full. It is further **ORDERED** that said permit shall be placed on **PROBATION** for a period of six (6) months, said period of **PROBATION** to begin on March 7, 2006, and continue uninterrupted through September 7, 2006. During such period of **PROBATION** and henceforth, the permitted business establishment shall be operated in such a manner as to strictly conform to all appropriate Alcoholic Beverage Laws of the State of Arkansas and Rules and Regulations adopted by the Alcoholic Beverage Control Board.

You are hereby notified that you have the right to appeal this decision to the full Alcoholic Beverage Control Board within fifteen (15) days from the date this **ORDER** is received.

DONE AT LITTLE ROCK, ARKANSAS, this 16th day of February, 2006.

ALCOHOLIC BEVERAGE CONTROL DIVISION



ROBERT S. MOORE, JR., DIRECTOR

RSM\ML\kb



STATE OF ARKANSAS
ALCOHOLIC BEVERAGE CONTROL DIVISION

1515 West 7th Street, Suite 503
Little Rock, Arkansas 72201
Telephone (501) 682-1105
Fax (501) 682-2221

B. 1
Revoke Permit for Casa Torres
Page 24 of 108

Robert S. Moore, Jr.
Director
Donald R. Bennett
Attorney
Milton R. Lueken
Attorney

BOARD MEMBERS:

Ron Fuller, Chairman
Logan Hampton, Jr.
Tony Ellis
Patricia A. Cohee
J.J. Vigneault

IN THE MATTER OF:

RESTAURANT MIXED DRINK PERMIT NO. 18(MAX)
MIGULE TORRES, PERMITTEE
DBA: CASA TORRES RESTAURANT
1673 N. COLLEGE AVENUE
FAYETTEVILLE, ARKANSAS

ORDER

There was considered by the Director, the matter pertaining to a charge filed against Restaurant Mixed Drink Permit No. 18(MAX), held by Migule Torres, Permittee, to do business as Casa Torres Restaurant, located at 1673 N. College Avenue, Fayetteville, Washington County, Arkansas. Said charge was as follows:

1. That on or about August 10, 2006, a routine inspection revealed that the permitted outlet had inadequate food service, in violation of Section 4.6 of the ABC Regulations, a Class C violation.

The following findings are made, TO WIT:

That the permittee has failed to respond to an Offer of Settlement by the response due date of November 2, 2006, and has thereby waived a hearing in the matter.

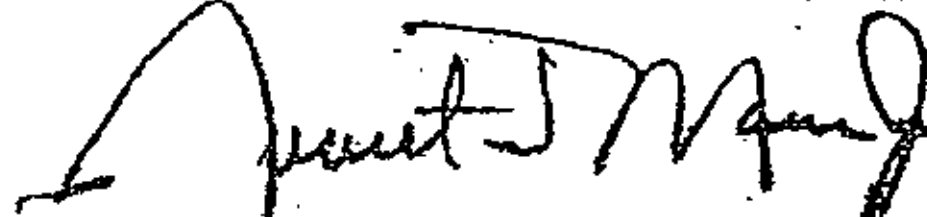
Based on the above and foregoing findings, as well as filed pertinent documents, it is concluded that there is sufficient substantial evidence contained within the record to reflect that the alleged violation did, in fact, occur. It is further concluded that the subject permit should be **FINED** in the amount of two hundred dollars (\$200.00), permit **SUSPENDED** for a period of two (2) DAYS, and placed on **PROBATION** for a period of six (6) months. The two (2) day period of **SUSPENSION** shall be held in abeyance for a period of ninety (90) days. Should the permittee be cited for a violation of the same ABC Regulation within the ninety (90) day period and be found guilty of the same, the two (2) day period of **SUSPENSION** will be reinstated by the Director.

NOW THEREFORE, by reason of the herein above stated conclusions, it is hereby **ORDERED** that Restaurant Mixed Drink Permit No. 18(MAX) shall be and the same is hereby **FINED** in the amount of two hundred dollars (\$200.00), in accordance with the provisions of Act 790 of 1981. Said **FINE** is due and payable by **Check, Cashier's Check or Money Order** at the offices of the ABC Administration on or before the close of business on December 5, 2006. If said **FINE** is not paid by such date, the aforementioned permit shall be **SUSPENDED** until such time as the **FINE** is paid in full. It is further **ORDERED** that said permit shall be placed on **SUSPENSION** for a period of two (2) days, and placed on **PROBATION** for a period of six (6) months, said period of **PROBATION** to begin on December 5, 2006, and continue uninterrupted through June 5, 2007. During such period of **PROBATION** and henceforth, the permitted business establishment shall be operated in such a manner as to strictly conform to all appropriate Alcoholic Beverage Laws of the State of Arkansas and Rules and Regulations adopted by the Alcoholic Beverage Control Board.

You are hereby notified that you have the right to appeal this decision to the full Alcoholic Beverage Control Board within fifteen (15) days from the date this **ORDER** is received.

DONE AT LITTLE ROCK, ARKANSAS, this 16th day of November, 2006.

ALCOHOLIC BEVERAGE CONTROL DIVISION


ROBERT S. MOORE, JR., DIRECTOR

RSM\ML\kb

Fayetteville Police Department Criminal Reports

03-85988

03-88718

03-114124

03-119099

04-68184

04-70845

04-75891

04-78525

06-93744

06-120355 (shooting)

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Date: 12/04/2006
Page: Revoke Permit for Casa Torres
Case Description: Case Number: 2003-00085988
INFORMATION REPORT Page 27 of 108

Primary Victim: NONE

Date/Time Reported: 08/31/03 3:20 Hrs. Dispatch Incident Type:
Date/Time Occurred: 08/31/03 3:20 Hrs. Disturbanc
Date/Time Between : 08/31/03 3:20 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Nature of Call : 20 PPL FIGHTING..KEY
Area: Area 5 Section: Section K Grid:

Reporting Officer : 158 OSWALT, PRESTON, R,
Primary Unit Assigned to Investigate: Patrol 3

Case Status: Exc. Clear Disposition: Disp. Date:

SUBJECTS:

Informatnl : Present Information
CASA TORRES Phone: 479-521-1996
1673 N COLLEGE AVE
FAYETTEVILLE AR 72703

Property:

Item Number : 1 Subject #: Subject Type:
Evidence # : 0305041
Property Code : Other Property Type : Other
Date Received : 08/31/03 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc : Bin : Disp/Date:

Year/Desc : 0000 BAT, BASEBALL METAL
Quantity : 1.000 EA Model/Style:
Registratn# : State : Expires :

Case Associations:

Case #	ORI	Relationship
200300088718	AR0720100	Primary

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#: 325	Radio#: 325	Ofcr 1:	233	Ofcr 2:	233
DSP:	:	ARV: 08/31/03 03:20	CLR: 08/31/03 03:35		
Unit#: 323	Radio#: 323	Ofcr 1:	267	Ofcr 2:	267
DSP: 08/31/03 03:20	ARV:	:	CLR: 08/31/03 03:28		
Unit#: 327	Radio#: 327	Ofcr 1:	253	Ofcr 2:	253
DSP: 08/31/03 03:20	ARV: 08/31/03 03:21	CLR: 08/31/03 03:37			
Unit#: 330	Radio#: 330	Ofcr 1:	260	Ofcr 2:	260
DSP: 08/31/03 03:20	ARV: 08/31/03 03:27	CLR: 08/31/03 03:37			
Unit#: 324	Radio#: 324	Ofcr 1:	208	Ofcr 2:	208
DSP:	:	ARV: 08/31/03 03:21	CLR: 08/31/03 03:35		
Unit#: 328	Radio#: 328	Ofcr 1:	259	Ofcr 2:	259

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

B.1

100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Page:

Revoke Permit for Casa Torres

Case Description:

Case Number: 2003-00085988

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INFORMATION REPORT

DSP: : ARV: 08/31/03 03:23 CLR: 08/31/03 03:37

Unit#: K90 Radio#: 000 Ofcr 1: 158 Ofcr 2: 158

DSP: : ARV: 08/31/03 03:23 CLR: 08/31/03 03:37

MAIN SUSP WEARING WHI SLEEVELESS SHIRT..KEY 3:23:16

OSWALT #158
Informational Report
Possession of Alcohol after hours
Case #03-85988
8-31-03

On 8-31-03 at 3:20 am, several Officers were dispatched to 1673 N. College Avenue, which is Casa Torres, reference a fight involving approximately twenty people. Upon our arrival, Officer Denton spoke with a victim in the case and advised that he had been jumped by several subjects. I then went into the club and was looking for the subjects involved by the descriptions that the victim had given. While inside I did notice that there were several people that were dancing and had alcoholic beverages in their hand while they were dancing. I also noticed several folks that were sitting at tables and had alcoholic beverages in front of them as well. I made a note of this and advised Sergeant Harter. He advised at this point that we needed to contact ABC (Alcohol Beverage Control).

On 9-7-03 at 3:01 am, Sergeant Harter, Officer Hughes, Officer Crafton, Officer Denton, and I went to do a business check at 1673 N. College to see if there was alcohol being served after hours. We entered the club and it was my observation that several subjects that were dancing had alcoholic beverages in front of them and sitting around several tables there were subjects drinking alcohol. Sergeant Harter spoke with a subject that had an alcoholic beverage in his hand and he advised that he had bought it approximately five minutes ago.

Transcribed by A Reznicek

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Date: 12/04/2006

Page:

B.1

Revoke Permit for Casa Torres

Case Description:
INFORMATION REPORT

Case Number: 2003-00088718

Page 30 of 108

Primary Victim: STATE OF ARKANSAS,,,

Date/Time Reported: 09/07/03 3:01 Hrs.

Dispatch Incident Type:

Date/Time Occurred: 09/07/03 3:01 Hrs.

Busn CK

Date/Time Between : 09/07/03 3:01 Hrs.

Location Occurred : 1673 N COLLEGE AVE

Area: Area 5

Section: Section K

Grid:

Reporting Officer : 152 HARTER, JAMES, W,

Primary Unit Assigned to Investigate: Patrol 3

Case Status: Exc. Clear Disposition: ExcptAdult Disp. Date: 09/07/03

No. of Offenses: No. of Offenders: 2 No. of Victims: 1

SUBJECTS:

Suspect . : Present Information

Primary CASA TORRES

Phone: 479-521-1996

Suspect 1673 N COLLEGE AVE

FAYETTEVILLE

AR 72703

Suspect . : Present Information

Primary TORRES, ARTURO,,

Phone: 479-502-0096

Suspect 4106 WATKINS AVE

SPRINGDALE

AR 72762

Race : Hispanic Sex: Male

D.O.B: 07/19/68 Age: 38

Hgt : 5'08" Wgt: 200 Hair: Black

Eyes . . : Brown

Build: Medium Complexion:

Ethnicity: Hispanic

Dr Lic #: 619165104

St: AR Soc Sec #: 619-16-5104

Additional Contact Information:

HomePhone# 05/14/06 479-502-0096

HomePhone# 05/04/05 479-313-0354

HomePhone# 11/22/04 479-750-7471

WorkPhone# 11/22/04 479-582-9500

School/Business Information:

CASA TORRES,,,

Phone: 479-521-1996

1673 N COLLEGE AVE

FAYETTEVILLE

AR 72703

Residence Type : Unknown

Residence Status : Unknown

Statement Type : Verbal

Related Offenses :

Victim . . : Present Information

Primary STATE OF ARKANSAS

Phone: 999-999-9999

Government

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
INFORMATION REPORT

Date: 12/04/2006

Page:

Case Number: 2003-00088718

B.1

Revoke Permit for Casa Torres
Page 31 of 108

Additional Contact Information:

WorkPhone# 02/04/03 999-999-9999
WorkPhone# 11/11/02 479-587-3555
WorkPhone# 10/14/02 479-587-3555

Case Associations:

Case #	ORI	Relationship
200300085988	AR0720100	Associated

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#:	K90	Radio#:	000	Ofcr 1:	158	Ofcr 2:	158
DSP:	:	ARV:	09/07/03 03:01	CLR:	09/07/03 03:28		
Unit#:	321	Radio#:	321	Ofcr 1:	152	Ofcr 2:	152
DSP:	:	ARV:	09/07/03 03:01	CLR:	09/07/03 03:29		
Unit#:	330	Radio#:	330	Ofcr 1:	253	Ofcr 2:	253
DSP:	:	ARV:	09/07/03 03:01	CLR:	09/07/03 03:29		
Unit#:	329	Radio#:	329	Ofcr 1:	259	Ofcr 2:	259
DSP:	:	ARV:	09/07/03 03:01	CLR:	09/07/03 03:26		
Unit#:	325	Radio#:	325	Ofcr 1:	208	Ofcr 2:	208
DSP:	:	ARV:	09/07/03 03:04	CLR:	09/07/03 03:26		

Sergeant Harter #152
Informational Report
Case #03-88718
9-7-03

On 9-7-03 at 3:20 am, Officers had been outside dealing with subjects at the Casa Torres of 1673 N. College Avenue. I was there with Officer Oswalt, Officer Denton, Officer Crafton, and Officer Hughes, all of the night shift. Prior to our response to this location, Officer Oswalt had informed me of a problem with this bar operating and serving beer after hours of operation on previous times. That was our purpose for going on this date. Prior to 3:20 am, while we were outside checking subjects, I observed two people that apparently worked at the business come to the rear of the business and make eye contact with us and then rush back to the front of the business. At this time, I signaled to my Officers to go to the front. At the front of the building, I observed a Hispanic male drinking a bottle of beer outside. He tried to conceal this beer. I'm not sure if he tried to conceal it due to where he was drinking it outside of the establishment or if he was concealing it for drinking it after hours of operation based on my observations of other people at a later time inside the bar. I felt the beer, which was a bottle of beer from Mexico, and felt that the bottle was ice cold and the beer was almost entirely full. In order to make entry, I had the subject meet with Officer Hughes to discuss the issues further. (Note: Officer Hughes later told me that the subject drinking the beer stated that he had purchased it inside Casa Torres five minutes prior to my contact with him).

I motioned for Officer Denton to come inside the bar with me and radioed to Oswalt that we were going inside. I encountered a locked door to the front. The workers did not take long opening the door for us and we entered. At 3:30 AM the bar was full of individuals dancing and the music was loud and the lighting was very dim. It was very dark inside. I noticed one child asleep upon entrance to the right. This child was about four years of age. Several subjects were drinking. I went up to the bar. I noticed that the bar was covered with drinks, both bottles and glasses. I found one new bottle of beer that was ice cold, it appeared to be full of beer and because of it being so cold it also appeared to have been sold very recently, moments ago. Apparently nobody claimed ownership of this beer. I then saw a Hispanic male subject seated across the room drinking a bottle of beer. I went over to him and felt the beer. This beer was also ice cold and was also almost full. This subject stated that the beer had been purchased for him over an hour ago. This was not logical to how cold the beer bottle was. Officer Denton identified this subject as Gilberth Jonathan Bu (DOB: 5-23-80) with a Texas Driver's License.

I, then, asked for the manager and was introduced to a person identifying himself as Arturo Torres (DOB: 7-19-68). I asked him if he was the permittee with the ABC (Alcohol Beverage Control) and Mr. Torres stated he was the son of the permittee. I asked for Identification and Mr. Torres stated that he did not have it inside the club with him, but had it in his vehicle. I informed Mr. Torres that his business was in violation and that I had identified three ice cold beers that were being consumed at the hour of 3:20

am and told him that none of that could be going on after the hour of 2:00 am. Mr. Torres was argumentative and was argumentative about the facts of the beer. He stated that Officers had lied on his bar during the last ABC violation that he was written upon. He made reference to Officers lied about where the activity occurred in regards to being on his property or off. I informed Torres that any reasonable person would admit that these beers were sold after the hour of 2:00 am due to how cold they were. Mr. Torres claimed that they were served before the hours of 2:00 am. This made me believe that Mr. Torres was somewhat familiar with the ABC laws in reference to hours of operation and having to close before 2:00 am, although apparently Mr. Torres does not realize that beers can not be possessed or consumed after 2:00 am and not just sold or dispensed. Mr. Torres finished argumentative over what I was telling him and would not listen to reason. After making my point, we left the bar. On the way out, Mr. Torres ran over to the microphone and said something in Spanish that got a response from the crowd. At this time, we left the bar.

After 3:20 am, Officer Denton and I waited up in the park at McDonald's until 4:00 am. We noticed that the bar let out very quickly after we had been inside. This was a further sign to me that the bar had been dispensing alcohol prior to our arrival at 3:20 am and that people left the bar when they realized they could not consume alcohol any more if indeed the Casa Torres workers had ceased on their sales of beer after our arrival and warning to them.

It should be noted that Mr. Torres spoke English very well and had no trouble conversing with me inside the bar.

A copy of this report and a copy of a related report Officer Oswalt is making (#2003-85988) will be sent to the ABC agent regarding potential violations for dispensing alcohol and possessing alcohol after hours.

Transcribed by A Reznicek

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
INFORMATION REPORT

Date: 12/04/2006

Page:

B.1
Revoke Permit for Casa Torres
Page 34 of 108

Case Number: 2003-00114124

Primary Victim: NONE

Date/Time Reported: 11/16/03 3:54 Hrs. Dispatch Incident Type:
Date/Time Occurred: 11/16/03 3:54 Hrs. Disturbanc
Date/Time Between : 11/16/03 3:54 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Nature of Call : MALES THAT ARE TRYING TO GET INTO THE
Area: Area 5 Section: Section K Grid:

Reporting Officer : 259 CRAFTON, CAMERON, Q.
Primary Unit Assigned to Investigate: Patrol 3

Case Status: CloseInAct Disposition: Disp. Date:

SUBJECTS:

Informatnl : Present Information
CASA TORRES Phone: 479-521-1996
1673 N COLLEGE AVE
FAYETTEVILLE AR 72703

Informatnl : Present Information
TORRES, ARTURO, , Phone: 479-502-0096
4106 WATKINS AVE
SPRINGDALE AR 72762

Race : Hispanic Sex: Male D.O.B: 07/19/68 Age: 38
Hgt : 5'08" Wgt: 200 Hair: Black Eyes : Brown
Build: Medium Complexion: Ethnicity: Hispanic
Dr Lic #: 619165104 St: AR Soc Sec #: 619-16-5104

Additional Contact Information:

HomePhone# 05/14/06 479-502-0096
HomePhone# 05/04/05 479-313-0354
HomePhone# 11/22/04 479-750-7471
WorkPhone# 11/22/04 479-582-9500

School/Business Information:

CASA TORRES, , Phone: 479-521-1996
1673 N COLLEGE AVE
FAYETTEVILLE AR 72703

Residence Type : Unknown Residence Status : Unknown
Statement Type : Verbal Related Offenses :

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#: 327 Radio#: 327 Ofcr 1: 270 Ofcr 2: 270
DSP: 11/16/03 03:56 ARV: 11/16/03 03:59 CLR: 11/16/03 04:06
Unit#: 324 Radio#: 324 Ofcr 1: 259 Ofcr 2: 259
DSP: 11/16/03 03:56 ARV: 11/16/03 03:59 CLR: 11/16/03 04:06

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

B. 1

100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Page:

Revoke Permit for Casa Torres

Case Description:

Case Number: 2003-00114124

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INFORMATION REPORT

RESTAURANT AND ARE HIGH...KMV

3:55:26

THERE IS A LARGE GROUP OF H/MS...KMV

3:55:39

THE 1 CAUSING THE PROBLEMS IS WEARING A WHI SHIRT AND BLU

3:56:03

JEANS...KMV

3:56:05

NO C1S...KMV

3:56:19

THE CALLER ADV THEY ARE OUTSIDE...KMV

3:56:44

UNK VEH DESC THAT HE CAME...KMV

3:57:04

CRAFTON #259
Informational Report
Case #03-114124
11-16-03

On 11-16-03 at approximately 3:55 am, I responded to *Casa Torres* at 1673 N. College for a report of a disturbance. Upon my arrival, I questioned several Hispanic subjects outside the building, none of whom claimed to have seen anything happen.

I next spoke with a Hispanic male who I knew to be the manager of *Casa Torres*, Arturo Torres. I asked him if he had seen anything happening and he said no. I asked him if anybody was inside the bar and hurt and he said no. I asked him if I could look inside to make sure everyone was okay and he said yes. I entered the bar and observed several subjects dancing and several subjects sitting at various tables. All of the tables that I saw had beer bottles and empty glasses on them.

I could not say whether the bottles still contained alcohol. I observed a Hispanic male in a red shirt take a drink out of a beer bottle and approached him. I asked to see the bottle and the male handed it to me. The bottle was approximately one quarter full and the bottom of the bottle was still slightly cold.

I asked Torres when he stopped serving alcohol and he said 2:00 am. I asked him why this citizen was drinking a cold beer at 4:00 am and he said that the bottle was not cold and the customers could buy several drinks at once when he had last call. I did not find the incident that I originally had been looking for. I left the bar.

Transcribed by A Reznicek

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
INFORMATION REPORT

Date: 12/04/2006

B.1

Page: Revoke Permit for Casa Torres

Case Number: 2003-00119099

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Primary Victim: NONE

Date/Time Reported: 11/30/03 2:46 Hrs. Dispatch Incident Type:
Date/Time Occurred: 11/30/03 0:00 Hrs. PD BUSN
Date/Time Between : 11/30/03 0:00 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Area: Area 5 Section: Section K Grid:

Reporting Officer : 158 OSWALT, PRESTON, R,
Primary Unit Assigned to Investigate: Patrol 3

Case Status: Exc. Clear Disposition: ExcptAdult Disp. Date: 12/05/03

SUBJECTS:

Informatnl : Present Information
CASA TORRES
1673 N COLLEGE AVE
FAYETTEVILLE

Phone: 479-521-1996

AR 72703

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#: K90 Radio#: 000 Ofcr 1: 158 Ofcr 2: 158
DSP: : ARV: 11/30/03 02:46 CLR: 11/30/03 03:09
Unit#: 327 Radio#: 327 Ofcr 1: 208 Ofcr 2: 208
DSP: : ARV: 11/30/03 02:46 CLR: 11/30/03 03:11
Unit#: 321 Radio#: 321 Ofcr 1: 152 Ofcr 2: 152
DSP: 11/30/03 02:52 ARV: 11/30/03 02:52 CLR: 11/30/03 03:11

OSWALT#158
#03-119099
INFORMATIONAL (Serving Alcohol After Hours)
11/30/03

On 11/30/03 at 2:46am, Officer Hughes and I checked out at 1673 N College to see if there was any alcohol being served after hours. We walked into the business, which is a dance club, and I noticed beer bottles out on the tables and I did notice subjects holding bottles of alcohol in their hand after 2am.

While we were in the business, the DJ was making announcements that I was unable to understand that was made in Spanish. We made our observations and left outside to meet with Sgt. Harter. While outside, the owner of the club came out to one security guard and was talking to him and the security guard advised him that he did not see us pull up and did not know where we parked. Under the comment that they made, I assumed that the security was supposed to let the owner know that we were there if we drove up to let him know.

While Officer Hughes, Sgt. Harter and I were outside, we noticed a subject walk outside to the dumpster with a white trashcan that was filled with beer bottles. We then went back inside and at that point, we noticed that the workers had cleaned off the beer bottles but I then located three subjects holding Styrofoam cups that contained alcohol. I advised the security officer inside that there were three subjects at the south end of the building had Styrofoam cups with alcohol that needed to be disposed of. We then exited the building and noted the violations.

Transcribed By: D Harris

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

B. 1

100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Page:

Revoke Permit for Casa Torres

Case Description:
BATTERY

Case Number: 2004-00068184

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Primary Victim: TRAVINO, DIANA,,

Date/Time Reported: 07/04/04 4:18 Hrs. Dispatch Incident Type:
Date/Time Occurred: 07/04/04 4:00 Hrs. Assist.
Date/Time Between : 07/04/04 4:18 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Nature of Call : CALLER WANTS TO SEE AN OFC, B/C HER FRIEND
Area: Area 5 Section: Section K Grid:

Reporting Officer : 270 CARLTON, SCOTT, M,
Primary Unit Assigned to Investigate: Patrol 3

Case Status: Open/Actv Disposition: Open Disp. Date: 07/04/04

Offense Number: 1
Crime Code: 0013B SIMPLE ASSAULT
Statute : 5-13-203. Attempted/Committed : Committed
Stat Desc : BATTERY III
Location Type : OfficeBldg Criminal Activity :
Type of Weapon : Hands Feet Weapon Feature :
Statute ORI/Group : S Agg Aslt/Homc Crmst:
Counts : 001 Larceny/Theft Offnse:
Offense Date : 07/04/2004 Victim Drug Related :
Abandoned Structure : NO Property Damage :
UCR Return A : Aslt Other UCR Stolen Property :

SUBJECTS:

Suspect : Present Information
Primary UNKNOWN00 SUSPECT,,,
Suspect UNKNOWN
UNKNOWN

Phone:

UK

Race : Unknown Sex: Unknown D.O.B: Age:
Build: Complexion: Ethnicity: Unknown
Dr Lic #: St: Soc Sec #: 000-00-0000

School/Business Information:

Residence Type : Unknown Residence Status : Unknown
Statement Type : Related Offenses : 1

Victim : Present Information
Primary TRAVINO, DIANA,,
Individual 1305 CRUTCHER ST.
SPRINGDALE

Phone: 832-418-1263

AR 72764

Race : Hispanic Sex: Female D.O.B: 10/28/65 Age: 41

Hgt : 5'08" Wgt: 220 Hair: Eyes . . :
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : County Residence Status : Non-Res
Extent of Injury: Minor Medical Treatment:
Injury Type . . : App Minor Injury Type . . :
Statement Type : Verbal Related Offenses : 1

VICTIM OFFENDER RELATIONSHIPS:

UNKNOWN00 SUSPECT,,, NoRelation

Witness . : Present Information

TOBIAS, KEENA, A, Phone: 870-478-6266
104 ODELL PL
GREEN FOREST AR 72638

Race : White (NH) Sex: Female D.O.B: 11/04/72 Age: 34
Hgt : 5'08" Wgt: 230 Hair: Eyes . . :
Build: Complexion: Ethnicity: Non-Hisp
Dr Lic #: 913812101 St: AR Soc Sec #: 000-00-0000

Informant : Present Information

TORRES, ARTURO, , Phone: 479-502-0096
4106 WATKINS AVE
SPRINGDALE AR 72762

Race : Hispanic Sex: Male D.O.B: 07/19/68 Age: 38
Hgt : 5'08" Wgt: 200 Hair: Black Eyes . . : Brown
Build: Medium Complexion: Ethnicity: Hispanic
Dr Lic #: 619165104 St: AR Soc Sec #: 619-16-5104

Additional Contact Information:

HomePhone# 05/14/06 479-502-0096
HomePhone# 05/04/05 479-313-0354
HomePhone# 11/22/04 479-750-7471
WorkPhone# 11/22/04 479-582-9500

School/Business Information:

CASA TORRES, , Phone: 479-521-1996
1673 N COLLEGE AVE
FAYETTEVILLE AR 72703

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#: 328 Radio#: 328 Ofcr 1: 270 Ofcr 2: 270
DSP: 07/04/04 04:18 ARV: 07/04/04 04:21 CLR: 07/04/04 05:09
Unit#: 325 Radio#: 325 Ofcr 1: 262 Ofcr 2: 262
DSP: : ARV: 07/04/04 04:33 CLR: 07/04/04 05:09
Unit#: K90 Radio#: 000 Ofcr 1: 158 Ofcr 2: 158
DSP: : ARV: 07/04/04 04:55 CLR: 07/04/04 05:09

TOOK HER KEYS AND SHE DOESN'T LIVE HERE AND SHE WANTS TO GO 4:18:33
HOME, THE PEOPLE SHE IS WITH ARE C2...MRS 4:18:47
CALLER IS WEARING RED/WHI SHIRT AND BLK PANTS...MRS 4:18:59

FAYETTEVILLE POLICE DEPARTMENT

100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Date: 12/04/2006

Page:

B. 1

Case Description:

Case Number: 2004-00068184

Revoke Permit for Casa Torres

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BATTERY

THE SUSP WHO POSS HAS HER KEYS IS WEARING A DRESS..MRS

4:20:05

CALLER SOUNDS VERY C2..MRS

4:20:44

Carlton #270
Battery 3rd
Case #2004-68184
07/04/04

On 07/04/07 at approximately 4:00 am, I responded to Baldaras on N. College in reference to an assist. Central Dispatch Center advised that a subject there had lost her keys and was having trouble locating them. Upon arrival I observed a large crowd of people standing in the parking lot. A female, identified as Diana Travino, 1/028/65, ran up to me. I noticed that she had a bloody nose and her face was swollen. There was a small knot on her left temple and she was complaining of chest pain. I asked if she needed an ambulance, which she declined.

Travino stated that she had been inside the club when four Hispanic males jumped her for no reason. Subjects held her to the ground and beat her up. The bouncers then forced her from the club and allowed the other subjects to go freely. Keena Tobias, 11/04/72, was standing nearby when the incident occurred. She said the attack was unprovoked, and Travino and Keena both agreed it could have possibly been because Travino was a homosexual. Travino was extremely intoxicated and belligerent. She began cursing at me and also Arturo Torres, the manager of the bar, who was standing close by. I warned her several times if she did not calm down that she would be placed under arrest for Public Intoxication. She calmed down for the moment.

Travino wanted me to take pictures of her injuries. I offered to use the videotape on my Motor Vehicle Recorder unit to record her injuries, so it could be later logged into evidence to show her injuries. Travino said that wouldn't be necessary and she refused to do so. Travino said, "I just walked in there and slapped down forty dollars to buy a twelve pack for the road." This indicated to me she was claiming to have purchased beer to go after hours. After taking her information, her sister-in-law was standing close by and she agreed to take her home.

I then located and contacted Arturo Torres, manager of Baldaras, outside of the club. He advised that he was near the bar working when several people came up to him and said that there were subjects fighting inside. He did not see the fight, but he knew Diana Travino was escorted outside because he followed the bouncers out there with her. He said that she began cursing him and making threats towards several people outside. After speaking with Mr. Torres I checked inside the club for any other possible witnesses. I failed to locate any witnesses. Cpl. Oswalt and Officer Dearing were there to assist me. While in the club, I observed several bottles of beer on every table. These tables were located near the walls inside. Persons were seated at these tables. The hour was 4:30 A.M. Outside, I observed several intoxicated subjects that had patronized the club. These subjects were having difficulty standing on their own, and several of them were leaning against the wall and against vehicles.

At approximately 6:00 am dispatch advised that Ms. Travino was on the phone. I spoke with her again and she informed me that during the incident a wallet of her was stolen containing \$900.00 in cash. I asked her where the money was kept at and she said it was in a brown billfold in her back right pocket. I asked her what she was doing with such a large sum of money in her possession. She said that she was about to go back out

on the road and often carried large amounts of cash with her. She said she noticed the money was gone when she stopped at Walgreen's to get a camera to document her injuries, and she could not find her billfold. She said inside of the missing wallet was her driver's license and the money. After I spoke with her she then requested to speak to my Sergeant.

I advised him of the situation and sat by while he spoke with her on speakerphone. She told him that the money was not important to her and she mentioned now that the number was \$800.00 in cash. She felt that the Police Department was not doing anything to assist her. She wanted to know what would be done from there. Sgt. Curtis advised her the case would be turned over to the detectives and the best thing she could do would be to wait patiently and get some rest.

Transcribed by HJeffries

Officer Dearing #262
Case Supplement #04-68184
7-4-04

On Sunday, 7-4-04, at approximately 4:30am, Corporal Oswalt and I responded to Baldaras Restaurant (1673 N. College Avenue) to assist Officer Carlton who was out in the parking lot of the bar taking a report of a battery. Upon arrival, I observed many, many patrons outside the bar that were extremely intoxicated. They were holding themselves up on walls and vehicles. Even though the establishment is supposed to stop serving alcohol at 2:00am, it was well after 4:00am and there were many extremely intoxicated patrons outside the bar. As Officer Carlton was questioning the victim of his battery, Diana Travino, I began speaking to her as well as another female had approached Officer Carlton. Ms. Travino stated that she "just walked in the bar and gave them \$40 to buy a twelve-pack for the road." She stated that there was a lot of alcohol sales after the specified time for stopping serving alcohol. I don't know all of the details about her case, but at this point Corporal Oswalt and I decided to go into the bar. Supposedly Ms. Travino had lost her keys in the bar so we were going to go in there also and search the bar for her keys.

As Corporal Oswalt and I entered the bar Officer Carlton was not far behind us. We walked in and it was approximately 4:45am. There were beer bottles that were half full, some of them almost completely full, out on several of the tables in the bar. Most of the patrons were outside; however, there were still some gentlemen crowded around some tables that had alcohol on them. As we looked for the keys, I observed on just about every table glasses and bottles with alcohol. The table that the gentleman were sitting at over in the corner had alcohol when we first moved in; however, when we came in the door they took them off of the table tops and set them down in the booths beside them.

At this time this is the only observation that I had. It was decided between the three of us that we would come back at a later time to check further infractions of the Alcohol Beverage Commission Laws.

Transcribed by A Reznicek

FAYETTEVILLE POLICE DEPARTMENT

100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Date: 12/04/2006

Page:

B.1

Case Description:
INFORMATION REPORT

Case Number: 2004-00070845

Revoke Permit for Casa Torres
Page 45 of 108

Primary Victim: NONE

Date/Time Reported: 07/11/04 3:04 Hrs.

Dispatch Incident Type:

Date/Time Occurred: 07/11/04 0:00 Hrs.

Busn CK

Date/Time Between : 07/11/04 0:00 Hrs.

Location Occurred : 1673 N COLLEGE AVE

Area: Area 5 Section: Section K

Grid:

Reporting Officer : 158 OSWALT, PRESTON, R,

Primary Unit Assigned to Investigate: Patrol 3

Case Status: Open/Actv Disposition: Open

Disp. Date: 07/11/04

SUBJECTS:

Informatnl : Present Information

CASA TORRES

Phone: 479-521-1996

1673 N COLLEGE AVE

FAYETTEVILLE

AR 72703

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#: K90 Radio#: 000 Ofcr 1: 158 Ofcr 2: 158

DSP: : ARV: 07/11/04 03:04 CLR: 07/11/04 03:36

Unit#: 324 Radio#: 324 Ofcr 1: 265 Ofcr 2: 265

DSP: : ARV: 07/11/04 03:05 CLR: 07/11/04 03:37

OSWALT#158

#04-70845

INFORMATIONAL (SERVING ALCOHOL AFTERHOURS)

07/11/04

On 07/11/04, Officer Lindabury and I went to Balderas Mexican Restaurant & Club which is located at Sycamore and College to check to see if there has been a violation of serving alcohol after hours after receiving complaints from subjects.

At 3:20am on 07/11/04, we entered the business and as soon as I walked in, I noticed a Hispanic male sitting left of the DJ booth where Mr. Torres the owner was located drinking a Budweiser beer in a bottle. I then continued on through the club and then into the back close to the bar, and I saw a Hispanic female drinking a Corona at this point.

While inside, there was an announcement made over the speaking in Spanish and at that point, I did notice that people were starting to get rid of the alcohol that they were having. There were bottles still on the table as far as I know if they were full or had any alcohol in them. After seeing the violation, I walked back outside and contacted Sgt. Harter and let him know the situation, and I spoke with Mr. Torres about the situation that he was serving alcohol after 2am. Mr. Torres tried to give excuses that some of the subjects may be trying to hide the beer after 2am and then bring it back out. I explained to him that it was his responsibility as an owner to make sure that the alcohol was completely gone after 2am; that there were no bottles or any type of alcohol on the tables.

After being outside for approximately 5 minutes speaking with Torres, I advised him that I was going to make another pass through his restaurant and club to make sure there was no more alcohol. It was then at that time that I had been outside that his staff had completely taken all the bottles that were out in the tables earlier when I first arrived they were completely gone. At that point I advised Mr. Torres that they had it completely removed within 5 minutes and asked why they couldn't have had it completely removed at 2am.

Transcribed By: D Harris

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

B.1

100A WEST ROCK STREET FAYETTEVILLE, AR 72701

Page:

Revoke Permit for Casa Torres

Case Description:
INFORMATION REPORT

Case Number: 2004-00075891

Page 47 of 108

Primary Victim: NONE

Date/Time Reported: 07/25/04 3:32 Hrs.

Dispatch Incident Type:

Date/Time Occurred: 07/25/04 3:32 Hrs.

PD BUSN

Date/Time Between : 07/25/04 3:46 Hrs.

Location Occurred : 1673 N COLLEGE AVE

Area: Area 5

Section: Section K

Grid:

Reporting Officer : 262 DEARING, LAWRENCE, WAYNE,

Case Status: Open/Actv Disposition: Open

Disp. Date: 07/25/04

SUBJECTS:

Informatnl : Present Information

BALDERAS

Phone:

1673 N COLLEGE AVE

FAYETTEVILLE

AR 72703

Informatnl : Present Information

TORRES, ARTURO,,

Phone: 479-502-0096

4106 WATKINS AVE

SPRINGDALE

AR 72762

Race : Hispanic Sex: Male

D.O.B: 07/19/68 Age: 38

Hgt : 5'08" Wgt: 200 Hair: Black

Eyes : Brown

Build: Medium Complexion:

Ethnicity: Hispanic

Dr Lic #: 619165104

St: AR Soc Sec #: 619-16-5104

Additional Contact Information:

HomePhone# 05/14/06 479-502-0096

HomePhone# 05/04/05 479-313-0354

HomePhone# 11/22/04 479-750-7471

WorkPhone# 11/22/04 479-582-9500

School/Business Information:

CASA TORRES,,,

Phone: 479-521-1996

1673 N COLLEGE AVE

FAYETTEVILLE

AR 72703

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#: K90 Radio#: 000 Ofcr 1: 158 Ofcr 2: 158

DSP: : ARV: 07/25/04 03:32 CLR: 07/25/04 03:46

Unit#: 322 Radio#: 322 Ofcr 1: 262 Ofcr 2: 262

DSP: : ARV: 07/25/04 03:32 CLR: 07/25/04 03:46

K90 ADV THERE WAS ABC VIOLATIONS..ELD

DEARING #262

Case Narrative 04-75891

Informational (on ABC violations for Balderas Mexican Bar/Casa Torres)

07/25/04

On Sunday, July 25, 2004 at approximately 3:30am, Corporal Oswalt and I decided to go to Baldera's Mexican Bar and Grill to check on their compliance to ABC regulations. We have had many problems with this establishment in the past such as allowing underage drinking, the sale of alcohol after legal hours and allowing patrons who are extremely intoxicated to leave the bar and drive home in vehicles. As we walked inside the bar, I observed bottles of beer and bottles of alcohol on almost every table in the room. The dance floor was full of people. We walked straight up to the bar as the bartenders were throwing the bottles away. Corporal Oswalt took a beer right out of a patron's hand as he was drinking it.

At first, we were unnoticed and observed the drinking of alcoholic beverages going on all over the bar. But, then, as they noticed us, the patrons began to take the bottles and glasses from their tables and place them on the floor under their tables. I picked up several of these bottles, a Corona and a Budweiser and noticed that they were more than half full and still extremely cold in spite of the hour of 3:30am, being an hour and a half after alcohol was supposed to have stopped being served. We approached the DJ booth where owner, Arturo Torres was playing the music. Corporal Oswalt asked him if he knew why were we there and he said, "Yes but there is no alcohol being sold." When we asked why there was alcohol being consumed and about all of the cold beer still out on the tables, Torres stated, "They must have brought it in from the outside." Corporal Oswalt and I then went outside for a few minutes and as we left, Mr. Torres spoke in Spanish over the microphone, stating, "Say goodbye as the dogs (bitches) are leaving." The whole bar began to cheer.

Once outside, Corporal Oswalt took a full bottle of Corona that was unopened away from a drunk and stumbling patron that was outside. After giving them a few minutes to see if they were going to clear away the alcohol, we re-entered the bar. The patrons were still drinking everywhere. At this time, it was approximately 3:40am. We went back up to Mr. Torres and I pointed out one patron that took a big gulp of a Corona right in front of me and sat it on the table. I went over and picked up the bottle that was still half full and the rest was foam. After showing it to Mr. Torres, he said that it had been sitting there a while. He stated, "You guys are just gonna do what you want to do. Just get the fuck out of here." As we turned to leave, he again shouted in Spanish over the loudspeaker, "Cheer as the dogs (bitches) leave again." The bar cheered in an uproar. At the time we left, it was approximately 3:45am and alcohol was still out on the tables and still being consumed in the bar.

Transcribed by L. Hutchens

Corporal Oswald #158
Informational Report
Case #04-75891
7-25-04

On 7-25-04 Officer Dearing and I went to 1673 N. College, which is Balderas, reference a business check to make sure that there was not any alcohol being consumed after hours. We went into the front door and while walking to the right, which there is a set of chairs to the right, there was a Hispanic male with a bottle of Corona in his hand that he was holding. I took the bottle out of his hand and put it on the bar. The bottle was half full.

I then went over back to the corner of the bar and went into the corner. I noticed while in the bar that I could hear the DJ speaking in Spanish. While doing so, I noticed that there were some Hispanic males sitting to my right, which is a little loft area. They were taking the beer bottles off of the table. I walked toward them and noticed that there was about four bottles that still had alcohol in them. I noticed to the right of them that there was a Hispanic male subject drinking a Budweiser and he was about to take a drink when he saw me. At that point I went outside and advised Sergeant Harter that we did have a violation and I went back inside and spoke with Mr. Torres. I advised him of the situation. He was trying to make excuses, as all of these people must have been bringing alcohol in. I asked Mr. Torres how many security officers he had in his business. He said he had three. I advised him that at 2:00am that it is his responsibility and his security officers to make sure that the alcohol is gone from the patrons and the tables. He also advised me that he thought they might have been bringing them in from their vehicles. I asked him if he had somebody that worked the door and he advised yes. I advised him that it was the security officer's job at the door to take any alcohol from the subjects from bringing it in. Mr. Torres kept arguing with the point that he had not served any alcohol. This was at 3:36am when we were inside of the business.

When we were leaving Mr. Torres said, Just do your business and get out of here. After recognizing the violations and speaking to Mr. Torres, we did leave. Also, while we were leaving Mr. Torres had spoke something in Spanish over the speaker and while leaving the subjects in the bar yelled. Outside Officer Dearing advised me that he had mentioned something like, Yell because the dogs are leaving. It was something of that nature. See Officer Dearing to see actually what Mr. Torres had said.

Transcribed by A Reznicek

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
INFORMATION REPORT

Date: 12/04/2006

Page: Relo Permil for Casa Torres

B.1

Case Number: 2004-00078525

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Primary Victim: STATE OF ARKANSAS,,,

Date/Time Reported: 08/01/04 3:03 Hrs. Dispatch Incident Type:
Date/Time Occurred: 08/01/04 3:03 Hrs. Busn CK
Date/Time Between : 08/01/04 3:37 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Area: Area 5 Section: Section K Grid:

Reporting Officer : 249 LEE, TRAVIS, H,
Primary Unit Assigned to Investigate: Patrol 3

Case Status: Open/Actv Disposition: Open Disp. Date: 08/01/04

No. of Offenses: 2 No. of Offenders: 1 No. of Victims: 1

Offense Number: 1

Crime Code: 0090Z ALL OTHER OFFENSES

Statute . : NON-CRIMINAL	Attempted/Committed : Committed
Location Type . : Restaurant	Criminal Activity . :
Statute ORI/Group . : AR0720100	Agg Aslt/Homc Crmst:
Counts : 001	Larceny/Theft Offnse:
Offense Date . . . : 08/01/2004	Victim Drug Related :
Abandoned Structure : NO	Property Damage . .

SUBJECTS:

Suspect . : Present Information
Primary BALDERAS
Suspect 1673 N COLLEGE AVE
FAYETTEVILLE

Phone:

AR 72703

Victim . . : Present Information
Primary STATE OF ARKANSAS
Government

Phone: 999-999-9999

Additional Contact Information:

WorkPhone# 02/04/03 999-999-9999
WorkPhone# 11/11/02 479-587-3555
WorkPhone# 10/14/02 479-587-3555

Informatnl : Present Information
TORRES, ARTURO,,
4106 WATKINS AVE
SPRINGDALE

Phone: 479-502-0096

AR 72762

Race : Hispanic	Sex: Male	D.O.B: 07/19/68	Age: 38
Hgt : 5'08"	Wgt: 200	Hair: Black	Eyes . . : Brown
Build: Medium	Complexion:	Ethnicity: Hispanic	

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
INFORMATION REPORT

Date: 12/04/2006

Page:

Case Number: 2004-00078525

B.1

Revoke Permit for Casa Torres

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Dr Lic #: 619165104

St: AR Soc Sec #: 619-16-5104

Additional Contact Information:

HomePhone# 05/14/06 479-502-0096

HomePhone# 05/04/05 479-313-0354

HomePhone# 11/22/04 479-750-7471

WorkPhone# 11/22/04 479-582-9500

School/Business Information:

CASA TORRES,,,

1673 N COLLEGE AVE

FAYETTEVILLE

Phone: 479-521-1996

AR 72703

Residence Type : Resident

Residence Status : Full Year

Property:

Item Number : 1 Subject #: Subject Type:

Evidence # : 0405857

Property Code : Other

Property Type : Recordings

Property Class: Miscellane

Date Received : 08/01/04

Initial Value : .00

Date Recovered:

Recovered Value: .00

RFOJ?: N Notify Owner Date:

Notified How?:

Prp Loc . . . :

Bin :

Disp/Date:

Year/Desc : 0000

DISKETTES, (2) DIGITAL PHOTO

Quantity : 2.000

EA Model/Style:

Registratn# :

State :

Expires :

Dispatch Narrative

Information on the units assigned to the call follows.

Unit#:	221	Radio#:	221	Ofcr 1:	176	Ofcr 2:	176
DSP:	:	ARV:	08/01/04 03:03	CLR:	08/01/04 03:36		
Unit#:	K90	Radio#:	000	Ofcr 1:	158	Ofcr 2:	158
DSP:	08/01/04 03:03	ARV:	08/01/04 03:03	CLR:	08/01/04 03:36		
Unit#:	611	Radio#:	611	Ofcr 1:	266	Ofcr 2:	266
DSP:	:	ARV:	08/01/04 03:05	CLR:	08/01/04 03:33		
Unit#:	631	Radio#:	631	Ofcr 1:	240	Ofcr 2:	269
DSP:	:	ARV:	08/01/04 03:05	CLR:	08/01/04 03:37		
Unit#:	615	Radio#:	615	Ofcr 1:	246	Ofcr 2:	246
DSP:	08/01/04 03:05	ARV:	08/01/04 03:14	CLR:	08/01/04 03:37		
Unit#:	321	Radio#:	321	Ofcr 1:	152	Ofcr 2:	152
DSP:	:	ARV:	08/01/04 03:06	CLR:	08/01/04 03:36		
Unit#:	327	Radio#:	327	Ofcr 1:	262	Ofcr 2:	262
DSP:	:	ARV:	08/01/04 03:09	CLR:	08/01/04 03:36		
Unit#:	610	Radio#:	610	Ofcr 1:	272	Ofcr 2:	272
DSP:	:	ARV:	08/01/04 03:11	CLR:	08/01/04 03:36		
Unit#:	905	Radio#:	905	Ofcr 1:	249	Ofcr 2:	249
DSP:	:	ARV:	08/01/04 03:12	CLR:	08/01/04 03:37		
Unit#:	906	Radio#:	906	Ofcr 1:	271	Ofcr 2:	271
DSP:	:	ARV:	08/01/04 03:12	CLR:	08/01/04 03:37		
Unit#:	630	Radio#:	630	Ofcr 1:	256	Ofcr 2:	243
DSP:	:	ARV:	08/01/04 03:14	CLR:	08/01/04 03:37		

Officer Dearing #262

Information Report

Balderas

ABC Violation (Serving Alcohol after hours and Operating without a Permit)

Case #04-78525

8-1-04

On Sunday August 1st, 2004 at approximately 3:00am, I met with other Fayetteville officers to perform a business check on Balderas Mexican Bar, formerly known as Casa Torres at 1673 North College, to observe possible ABC violations. We had numerous problems with this location in the past. Tonight, I was joined by Sergeant Scott and Sergeant Harter as well as Afternoon Shift Officers Macri, Gilbert, Coy, Jones, Faught, Riley and Moad. I was also joined by Corporal Oswalt. It was decided that since I speak Spanish that I would go in first with Officer Coy just in case there was any danger to the other officers from these Spanish speaking patrons of the bar.

Upon arrival I did enter first with Officers Macri, Jones, and Riley. I immediately went to the DJ booth where Arturo Torres was playing music and asked him to shut the music off. He began shouting something over the loud speaker. I quickly told him to be quiet and to turn the loud speakers off as he has said derogatory comments the last time, and we did not want to get the crowd riled up. He did shut everything off at this time. I was joined inside by all of the other officers listed above with the exception of Riley and Faught who stayed at the door in case anything happened.

I then began looking around the bar, noticing bottles of beer on the tables. I also noticed in the DJ booth where Mr. Torres was, there was a shot glass full of some sort of alcoholic beverage. (Note: at this time, it was approximated 3:05am.) The patrons in the bar were very loud and began shouting and whistling. I instructed them to remain quiet while we did what we had to do. Mr. Torres then reiterated for them to cooperate with us. Some of the patrons continued to whistle, holler, laugh and mock. I stood in the middle of the room, and again instructed them to remain quiet. They did quiet down for a little bit, but shortly thereafter began whistling again.

I singled out a group in the corner. There were a few that were extremely intoxicated and continued to laugh and yell and joke. With this many people that were in the club, we did not want a riot or we did not want a full-scale disturbance, so we were trying to keep them quiet. The one particular patron that was very intoxicated continued to whistle and laugh and mock. I walked straight up to him instructing him to be quiet. He then whistled again, I placed him under arrest for Disorderly Conduct. His name was Louis Yanez.

After he was escorted outside and placed in a vehicle by Officer Riley, we continued to hold the crowd at bay while Sergeant Hater and Tad Scott observed the ABC violations that were going on in the restaurant. Officer Macri and I did note that they were collecting money at the door, and were open well after hours and still collecting money when we came in at 3:00am. We then began to clear the bar out. Mr.

Torres did instruct his patrons to "let it go this time", for them to return home, get some rest, go to work, whatever they had to do, but that there were no problems. The patrons began to exit the bar. As they did, I observed against the south wall of the bar a large Corona box. When I picked it up off the ground, it was over half full of Budweiser beer bottles that were full and still cold. At this time I noted it was approximately 3:20am, well after time that alcohol was supposed to have stopped being served in the bar. However these bottles were very cold. There were three bottles in the box that were open and had been drunk from. When I asked Mr. Torres about the alcohol, he stated, "Someone must have carried it in from outside." I then asked Mr. Torres if he allowed people to carry alcohol in from the outside. He stated no, he did not. I asked him why the alcohol would still be cold? He stated that it was not as cold as it came from the freezer, but I did observe that the beer was ice cold and had sweat on the sides of the bottle from it being so cold and out. Notes were made of the violations and tickets were issued from Sergeant Scott on the ABC violations that we observed and together it will be compiled with this report and the rest of the reports that we have gotten on Balderas/Casa Torres.

Officer Macri #269
Case Supplement #04-78525
8-1-04

At approximately 3:00am on 8-1-04, myself and several other officers went to Balderas Restaurant located at the intersection of College and Sycamore reference a complaint of possible drinking after hours and serving alcohol without a permit. Upon my arrival in the restaurant, I walked to the southwest corner where the bar was. I immediately saw three open bottles of Corona sitting on the bar and a Hispanic male sitting in front of them. As he saw me approach, he grabbed two of the bottles and started to push them towards the bartender in what I assumed was an attempt to have the bartender take them and put them behind the bar. After I noticed that, I turned to my right where several subjects were sitting in a row along the north wall of the restaurant. I shined my flashlight underneath the chairs and saw several empty bottles of Corona at their feet. I noticed one subject put a beer down and attempt to push the bottle underneath his chair with his foot. I also noticed when we first entered the restaurant that there was a female sitting at the door. She was taking money from subjects as they entered. It appeared she was charging people to come into the restaurant.

Transcribed by A Reznicek

Officer T. Lee #249

Tickets Issued to Arturo Torres at Balderas, City Ordinance Violations

Case Supplement #04-78525

8-1-04

On 8-1-04 we were involved in a special assignment at 1673 N. College. There were several officers involved in the special assignment at Balderas. The objective was to enter the bar and to observe any underage drinking and also to document any alcoholic drinks inside of the establishment. Once inside of the bar, Officer Jones and I walked towards the north side of the bar and I observed Sonya Fuentes (DOB: 3-20-71) put down a full bottled beer of Modelo on the side of her chair underneath her. I asked Fuentes to show me what she placed on the ground and observed the bottled beer full and still very cold. At this time Officer Jones was dealing with a nineteen-year-old and an eighteen-year-old sitting next to three, what appeared to be, margaritas. Two were in a blue cup and another one was in a clear glass with a lime on top. All of them were sitting next to the juvenile and the subject that was nineteen year old. I felt the glasses and they were still cold. All three of them were half full. Officer Jones dealt with the juvenile and the nineteen year old and could smell a strong odor of intoxicants emitting from their breath. The mother of the juvenile stood up and stated that they were not drinking and that all of the drinks belonged to the adults sitting around the table. Due to the language barrier, we were unable to find out exactly whom the drinks in the margarita glasses belonged to. We later escorted all subjects inside of the bar outside and the place was shut down.

Sergeant Scott and Sergeant Harter issued citations for permits for City Ordinance Violations.

Transcribed by A Reznicek

2004-78525

08-01-04/ 3:03 AM/ Casa Torres/ Sgt. James W. Harter

On 08-01-04 at 3:03 AM, Sgt. Scott and I went to Casa Torres with Officers Griswold, Gilbert, Coy, Jones, Macri, T. Lee, Faught, Oswalt, Dearing, Moad, and Riley. At this location, officers witnessed a crowded bar and beer present after hours. I observed two Corona beers full of beer on the bar next to two patrons. We asked Arturo Torres to have all patrons leave during the investigation after initial observations were made. Arturo Torres was given two citations: Operating without a City Permit, and Dispensing Alcoholic Beverages After Hours. Officer Dearing located a large box on the south wall where patrons had been sitting. This box was under the tables and chairs and was obviously being concealed. In the box were approximately ten ice-cold Budweiser Beers in bottles and several empty beer bottles. No ice was in the box. A shot of liquor was also located behind the DJ booth where Arturo Torres operates. Mr. Torres acknowledged this shot glass of liquor and said he had "confiscated" it and placed it in the D.J. area.

Informational Report Supplemental
Informational Report Number 2004-78525
Citation Number A282391, A282392
Sgt. Tad Scott #176

On 07-31-2004, at approximately 4:00 PM, I was advised of an ongoing problem with a local business owner possibly committing violations against his state and local issued alcohol permits. I was advised that Arturo Torres, operator of Balderos Restaurant, was thought to be providing alcoholic beverages after the specified state and city regulated time of 2:00AM. It was also advised that he was suspected of operating without a valid city alcohol permit.

Also at this date, I located a report completed by Officer Dearing advising of an incident that took place approximately one week earlier, on 07-25-2004, incident report and number 2004-75891. In this report I read that Officer Dearing and Oswald performed a business check at approximately 3:30 AM and found several cold bottles of beer visible around the business. During this incident Mr. Torres treated the officers very poorly.

On 08-01-2004, at approximately 3:03 AM, Sgt. Harter, Cpl. Oswald, Ofc. Jones, Ofc. T. Lee, Ofc. Griswold, Ofc. Macri, Ofc. Gilbert, Ofc. Coy, Ofc. Moad, Ofc. Faught, Ofc. Riley, Ofc. Dearing and I arrived at Balderos, located at 1673 N. College Ave., for a business check. The large numbers of officers were asked to respond due to the hostile environment that previous officers encountered days earlier. Upon entry numerous individuals were occupying the inside of the business. Cpl. Oswald and I estimated approximately 150 occupants. Ofc. Faught was asked to monitor the door and count the occupants as they left the business. He advised that he was unable to count every subject, due to the volume of patrons and those that left prior to his counting, but did count approximately 130 persons.

I walked to the bar after entering in hopes of finding the businesses Arkansas State issued alcohol permit and the Fayetteville City alcohol permit. I was unable to easily locate either permits and they had to be pointed out to me upon my request to see them. The state permit was secured in a frame and was placed on a shelf behind the bar, partially shield by other items on the shelf. The city permit was not visible and was produced by Mr. Torres after asking for it for several moments. It is unknown from where Mr. Torres produced this. The state permit showed to be valid until 06-30-2005, but the city permit, permit number 4126, showed to have expired on 06-30-2004 and was in the name of Casa Torres. Mr. Torres advised me that he "sent in the money" to "Charlotte" for this permit, but has not heard anything. He could not advise me when he sent "the money" in.

Several officers advised that they had located opened and unopened cold beers throughout the establishment as well as a full shot glass of alcohol. These items were found between 3:03 AM and 3:21 AM. Torres was issued citation number A282391 for Operating without a City Permit, city ordinance 111.11 and citation number A282392 for

A282392 Dispensing Alcoholic Beverages After Hours, city ordinance 111.30 (E). Mr. Torres made several attempts to rationalize his infractions. t080304s.

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
CRIMINAL MISCHIEF-AUTO

Date: 12/04/2006

Page:

Case Number: 2006-00093744

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Revoke Permit for Casa Torres

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Primary Victim: VILLANUEVA, BLANCA, L,

Date/Time Reported: 09/10/06 2:41 Hrs. Dispatch Incident Type:
Date/Time Occurred: 09/10/06 2:30 Hrs. Disturbanc
Date/Time Between : 09/10/06 2:45 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Nature of Call : APPRX 12-15 SUBJS FIGHTING 1 PERSON, POSB C1.
Area: Area 5 Section: Section K Grid:

Reporting Officer : 295 NGUYEN, DAVID, PHUC DINH,

Case Status: Open/Actv Disposition: Open Disp. Date: 09/10/06

No. of Offenses: 1 No. of Offenders: 1 No. of Victims: 1

Offense Number: 1
Crime Code: 00290 DESTRUCTION/DAMAGE/VANDALISM OF PROPERTY
Statute : 5-38-203 Attempted/Committed : Committed
Stat Desc : CRIMINAL MISCHIEF 1ST DEGREE
Location Type : Parking Criminal Activity :
Statute ORI/Group : S Agg Aslt/Homc Crmst:
Counts : 001 Larceny/Theft Offnse:
Offense Date : 09/10/2006 Victim Drug Related :
Abandoned Structure : NO Property Damage :

SUBJECTS:

Suspect : Present Information
Primary FLORES, ROLANDO,,
Suspect 2326 W BEECHWOOD 10
ROGERS

Phone: 479-544-5176

AR 72756

Race : Hispanic Sex: Male D.O.B: 05/21/85 Age: 21
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : State Residence Status : Non-Res

Victim : Present Information
Primary VILLANUEVA, BLANCA, L,
Individual 310 N THIRTY FOURTH ST
ROGERS

Phone: 479-631-9400

AR 72756

Race : Hispanic Sex: Female D.O.B: 02/28/87 Age: 19
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses : 1

Informatnl : Present Information

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
CRIMINAL MISCHIEF-AUTO

Date: 12/04/2006

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Revoke Permit for Casa Torres

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Case Number: 2006-00093744

CASA TORRES
1673 N COLLEGE AVE
FAYETTEVILLE

Phone: 479-521-1996

AR 72703

Property:

Item Number : 1 Subject #: Subject Type: Victim
Property Code : DmgVanDes Property Type : Truck
Property Class: Miscellane
Date Received : 09/10/06 Initial Value : 1,200.00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc : Bin : Disp/Date:

Vehicle Year: 1999

Description : CHEV SUBURBAN 1999 WHITE

Make : Chevrolet Model : Suburban Style :

Color Top : White Bottom: Interior:

License # : 495KMX State : AR Expires :

Dispatch Narrative

CALLER ADV 3-4 OF THE SUBJS HAVE SOMETHING IN
THEIR HANDS, BUT SHE IS TOO FAR AWAY TO TELL
WHAT IT IS.
THEY ARE THROWING THINGS AT BLDGS.
ADV THEY ARE ALL BEATING ON 1 PERSON
ALL SUBJS APPEAR TO BE HISPANIC
STILL PHYSICAL
ANOTHER CALLER ADV THERE WAS ONE SUBJECT DOWN ON
THE GROUND AND PPL WERE GETTING THINGS OUT OF
VEHS...REW
SUBJS ARE IN THE P-LOT AND IN THE STRT ON
SYCAMORE
CALLER IS TOO FAR AWAY TO TELL IF A CODE 10 IS
UNK ON INJURIES...REW
NEEDED
ANOTHER CALLER ADV SOMEONE BROKE THE WINDOW OUT
STILL APPRX 5-10 FIGHTING.
OF HER CAR. WHI CHEVY SUBURBAN. THE GUY THAT
BROKE THE WINDOW IS LEAVING IN A RED CHEV BLZ.
535GZS.
BALANCA IS THE CALLER.
479-502-3809.
295 NEEDING CAMERA...REW

JREYNOLDS 2:42:15
JREYNOLDS 2:42:25
JREYNOLDS 2:42:26
JREYNOLDS 2:42:35
JREYNOLDS 2:42:45
JREYNOLDS 2:42:51
JREYNOLDS 2:43:04
RWALKER 2:43:22
RWALKER 2:43:30
RWALKER 2:43:31
JREYNOLDS 2:43:33
JREYNOLDS 2:43:34
JREYNOLDS 2:43:53
RWALKER 2:43:55
JREYNOLDS 2:43:55
AMCDONALD 2:44:27
JREYNOLDS 2:44:41
AMCDONALD 2:44:53
AMCDONALD 2:45:08
AMCDONALD 2:45:39
AMCDONALD 2:46:09
AMCDONALD 2:46:20
RWALKER 3:05:15

Nguyen #295
Criminal Mischief
Case #2006-93744
09/10/06

On 9/10/2006, at approximately 2:45am, I arrived at Casa Torres for a report of a disturbance. Upon arrival one of the parties involved in the disturbance had left the scene. I made contact with a Hispanic female, Blanca L. Villanueva 2/28/1987. She was near her vehicle, a 1999 white Chevy Sub ARVL 495KMX. I noticed the back window passenger side was broken out of it and the back window driver side was shattered by still intact. I asked Villanueva what happened and she stated there was a fight inside Casa Torres and she went outside to get away from the club and the fight. Villanueva stated the fight carried outside to a parking lot behind Cingular Store. Villanueva pointed to a Hispanic male, Rolando Flores 5/21/1985, who grabbed something metal from a truck parked next to her Suburban and struck the back window of her Suburban. Villanueva stated she doesn't know him but he was the one that stuck her car with the metal object. She didn't know what the metal object was.

I spoke with Flores and asked him if he broke the window or knew who did it. Flores immediately went on the defensive and asked why I'm asking him and not anyone else. I told him I was asking if he did it or if he knew who did because someone said it was him that broke out the window. Again, Flores asked why I was only asking him. Flores shouted out at one point that he had been drinking and that's why he's not driving.

I advised Villanueva to try to work things out civilly in terms of getting the windows repaired. I then told Villanueva if that didn't work, she could follow up with the prosecutors about filing charges.

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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100A WEST ROCK STREET FAYETTEVILLE, AR 72701

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Revoke Permit for Casa Torres

Case Description:
SHOOTING

Case Number: 2006-00120355

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Primary Victim: RIVERA, JUAN,,

Date/Time Reported: 11/26/06 3:43 Hrs. Dispatch Incident Type:
Date/Time Occurred: 11/26/06 3:43 Hrs. Shooting
Date/Time Between : 11/26/06 8:30 Hrs.
Location Occurred : 1673 N COLLEGE AVE
Nature of Call : MALE SUBJ SHOT A GUN TWICE...TJM
Area: Area 5 Section: Section K Grid:

Reporting Officer : 274 MURPHY, ANTHONY, MITCHELL,
Primary Unit Assigned to Investigate: Detective
Assigned Investigators:
11/27/06 232 FRENCH, JASON, DANIEL,

Case Status: Open/Actv Disposition: Open Disp. Date: 11/26/06

No. of Offenses: 1 No. of Offenders: UK No. of Victims: 2

Offense Number: 1
Crime Code: 0013A AGGRAVATED ASSAULT
Statute : 5-13-201 Attempted/Committed : Committed
Stat Desc : BATTERY I
Location Type : NightClub Criminal Activity :
Type of Weapon : Handgun Weapon Feature :
Hom/Ag Aslt Circmst : Unknown Just. Circumstances :
Statute ORI/Group : S Agg Aslt/Homc Circmst:
Counts : 001 Larceny/Theft Offense:
Offense Date : 11/26/2006 Victim Drug Related :
Abandoned Structure : NO Property Damage :
UCR Return A : Aslt Gun UCR Stolen Property :

SUBJECTS:

Arrestee : Present Information

Primary SAGASTUME, OSCAR, FRANKLIN PAUL, Phone: 479-790-8166
Arrestee 1503 JOYE ST
 SPRINGDALE AR 72765

AKA:

SAGASTUME, FRANKLIN, PAUL,

Other

Race : Hispanic Sex: Male D.O.B: 12/19/86 Age: 19
Hgt : 5'06" Wgt: 145 Hair: Black Eyes : Brown
Build: Complexion: Medium Ethnicity: Non-Hisp
Dr Lic #: St: Soc Sec #: 000-00-0000

Additional Contact Information:

11/27/06
HomePhone# 11/27/06 479-790-8166

FAYETTEVILLE POLICE DEPARTMENT
100A WEST ROCK STREET FAYETTEVILLE, AR 72701
Case Description:
SHOOTING

Date: 12/04/2006

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Revoke Permit for Casa Torres

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School/Business Information:

CONSTRUCTION,,

Phone:

UNKNOWN

FAYETTEVILLE

AR 72701

Residence Type : State
Statement Type : Verbal

Residence Status : Non-Res
Related Offenses :

Arrest Information:

Arrest Date/Time : 11/26/06 5:30 Hrs. Arrest Type : On-View

Arresting Officer: FRENCH, JASON, DANIEL,

Arrest Location : 1673 N COLLEGE AVE

Fayetteville, AR

72701

Area : Area 5 Section : Section K Grid:

OBTS Number : Booking Number : 200604054026

Age at Arrest : 19

Multiple Clearance Indicator: Arrestee

Influence of Alcohol: No

Influence of Drug : No

Weapon Seized : OIBRS

Weapon Feature. . . :

Charge Number: 001

Crime Code: 0090Z ALL OTHER OFFENSES

Statute : 5-54-102

Attempted/Committed : Committed

Stat Desc : OBSTRUCTING GOVERNMENTAL OPERATIONS

Victim : Present Information

Primary RIVERA, JUAN,,

Phone:

Individual

Race : Hispanic Sex: Male

D.O.B: 11/25/75 Age: 31

Build: Complexion:

Ethnicity: Hispanic

Dr Lic #:

St: Soc Sec #: 000-00-0000

Residence Type : Unknown

Residence Status : Unknown

Extent of Injury: Serious

Medical Treatment: INNARRATVE

Injury Type : Unknown

Injury Type . . . :

Hospital/Clinic : WRMC

Transported by : Priv/vehic

Statement Type : Verbal

Related Offenses : 1

VICTIM OFFENDER RELATIONSHIPS:

SAGASTUME, OSCAR, FRANKLIN PAUL,

Unknown

Victim : Present Information

Primary RESENDEZ, MODESTO, B,

Phone:

Individual BACKUS ST

SPRINGDALE

AR 72762

Race : Hispanic Sex: Male

D.O.B: 01/02/83 Age: 23

Hgt : 5'06" Wgt: 225 Hair: Black

Eyes : Brown

Build: Complexion:

Ethnicity: Hispanic

Dr Lic #:

St: Soc Sec #: 000-00-0000

Residence Type : State

Residence Status : Non-Res

Extent of Injury: Serious

Medical Treatment: INNARRATVE

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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100A WEST ROCK STREET FAYETTEVILLE, AR 72701

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Revoke Permit for Casa Torres

Case Description:

Case Number: 2006-00120355

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SHOOTING

Injury Type . . : Unknown
Hospital/Clinic : WRMC
Statement Type : Verbal

Injury Type . . :
Transported by . : CEMS
Related Offenses : 1

VICTIM OFFENDER RELATIONSHIPS:
SAGASTUME, OSCAR, FRANKLIN PAUL,

Unknown

Witness . : Present Information

Primary GARCIA, GONZALO,,
905 YOUNG ST
SPRINGDALE

Phone: 479-283-8465

AR 72764

Race : Hispanic Sex: Male D.O.B.: 07/22/88 Age: 18
Hgt : 5'03" Wgt: 165 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: 999130103 St: AR Soc Sec #: 000-00-0000

Additional Contact Information:

WorkPhone# 11/26/06 Ext. 4795024850
HomePhone# 11/26/06 479-283-8465
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Witness . : Present Information

Primary CHAVARRIA, ISRAEL,,
2928 PULLMAN ST APT 101
SPRINGDALE

Phone:

AR 72764

Race : Hispanic Sex: Male D.O.B.: 05/08/86 Age: 20
Hgt : 5'05" Wgt: 145 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Witness . : Present Information

Primary SALAS, ARMANDO,,
905 YOUNG ST
SPRINGDALE

Phone: 479-966-0613

AR 72764

Race : Hispanic Sex: Male D.O.B.: 08/03/86 Age: 20
Hgt : 5'07" Wgt: 135 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000

Additional Contact Information:

WorkPhone# 11/26/06 Ext. 4792838465
HomePhone# 11/26/06 479-966-0613
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Witness . : Present Information

Primary VERDE-CRUZ, HECTOR,,

Phone: 279-283-7743

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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100A WEST ROCK STREET FAYETTEVILLE, AR 72701

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Revoke Permit for Casa Torres

Case Description:

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SHOOTING

608 BLACK OAK AVE
SPRINGDALE

AR 72764

Race : Hispanic Sex: Male D.O.B: 04/30/78 Age: 28
Hgt : 5'07" Wgt: 175 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: 909016368 St: AR Soc Sec #: 000-00-0000

Additional Contact Information:

WorkPhone# 11/26/06 Ext. 4792133989
HomePhone# 11/26/06 279-283-7743
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Witness : Present Information

Primary HERRERA, ALDOLPHO,, Phone:
ELECTRIC AVE APT S123
SPRINGDALE AR 72764

Race : Hispanic Sex: Male D.O.B: 10/02/88 Age: 18
Hgt : 5'04" Wgt: 130 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Witness : Present Information

Primary QUIROZ, ADA,, Phone: 479-422-1025
1701 WEST END ST APT 23
SPRINGDALE AR 72764

Race : Hispanic Sex: Female D.O.B: 05/13/79 Age: 27
Hgt : 5'04" Wgt: 130 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Witness : Present Information

Primary JUAREZ-HERNANDEZ, ALDOLPHO,, Phone: 479-283-8465
905 YOUNG ST
SPRINGDALE AR 72764

Race : Hispanic Sex: Male D.O.B: 06/12/87 Age: 19
Hgt : 5'05" Wgt: 130 Hair: Black Eyes . . : Brown
Build: Complexion: Ethnicity: Hispanic
Dr Lic #: St: Soc Sec #: 000-00-0000
Residence Type : State Residence Status : Non-Res
Statement Type : Verbal Related Offenses :

Property:

Item Number . : 1 Subject #: Subject Type:
Evidence # . : 0609103

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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100A WEST ROCK STREET FAYETTEVILLE, AR 72701

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Revoke Permit for Casa Torres

Case Description:

Case Number: 2006-00120355

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SHOOTING

Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 PAPER, WITH WHITE POWDER RESIDUE
Registratn# : State : Expires :

Property:

Item Number . : 2 Subject #: Subject Type:
Evidence # . : 0609104
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 MARIJUANA SEEDS, STEMS & LEAF PIECES LESS THAN 1GR
Registratn# : State : Expires :

Property:

Item Number . : 3 Subject #: Subject Type:
Evidence # . : 0609135
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 BULLET, (1) .380 FROM DANCE FLOOR AREA
Quantity . : 1.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number . : 4 Subject #: Subject Type:
Evidence # . : 0609136
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 SHELLLCASING, .380 FROM DANCE FLOOR AREA
Quantity . : 1.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number . : 5 Subject #: Subject Type:

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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100A WEST ROCK STREET FAYETTEVILLE, AR 72701

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Revoke Permit for Casa Torres

Case Description:

Case Number: 2006-00120355

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SHOOTING

Evidence # : 0609137
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc : Bin : Disp/Date:

Year/Desc : 0000 SHELL CASING, .380 FROM DANCE FLOOR AREA
Quantity : 1.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number : 6 Subject #: Subject Type:
Evidence # : 0609138
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc : Bin : Disp/Date:

Year/Desc : 0000 BANDANA, (1) BLUE FROM DANCE FLOOR AREA
Quantity : 1.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number : 7 Subject #: Subject Type:
Evidence # : 0609139
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc : Bin : Disp/Date:

Year/Desc : 0000 BLOOD SAMPLE, FROM BAR STOOL NEAR DANCE FLOOR
Registratn# : State : Expires :

Property:

Item Number : 8 Subject #: Subject Type:
Evidence # : 0609140
Property Code : Other Property Type : Money
Property Class: Currency
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc : Bin : Disp/Date:

Year/Desc : 0000 CURRENCY, BLOODY \$20.00 BILL SER #EL71713576E
Quantity : 20.000 DR Model/Style:
Registratn# : State : Expires :

Property:

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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Item Number . : 9 Subject #: Subject Type:
Evidence # . : 0609141
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 MAGAZINE, KEL-TEC 380 W/(4) LIVE ROUNDS
Quantity . : 1.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number . : 10 Subject #: Subject Type:
Evidence # . : 0609142
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . :PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 BULLETS, (4) LIVE 380 ROUNDS FROM JMB7/SUPERGLUED
Quantity . : 4.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number . : 11 Subject #: Subject Type:
Evidence # . : 0609143
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . :PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 BRACELET, BUD LIGHT PAPER W/ BLOOD
Quantity . : 1.000 EA Model/Style:
Registratn# : State : Expires :

Property:

Item Number . : 12 Subject #: Subject Type:
Evidence # . : 0609144
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . :PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 TISSUE, W/ BLOOD FROM WOMENS BATHROOM
Registratn# : State : Expires :

FAYETTEVILLE POLICE DEPARTMENT

Date: 12/04/2006

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Property:

Item Number . : 13 Subject #: Subject Type:
Evidence # . : 0609145
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 BLOOD SAMPLE, FROM WOMENS BATHROOM INTERIOR DOOR
Registratn# : State : Expires :

Property:

Item Number . : 14 Subject #: Subject Type:
Evidence # . : 0609146
Property Code : Other Property Type : Other
Property Class: Miscellane
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 BLOOD SAMPLE, FROM WOMENS BATHROOM STALL DOOR
Registratn# : State : Expires :

Property:

Item Number . : 15 Subject #: Subject Type:
Evidence # . : 0609147
Property Code : Other Property Type : Money
Property Class: Currency
Date Received : 11/26/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 CURRENCY, (2) \$5.00 BILLS FROM BACK ROOM
Quantity . : 10.000 DR Model/Style:
Registratn# : State : Expires :

Property:

Item Number . : 16 Subject #: Subject Type:
Evidence # . : 0609148
Property Code : Other Property Type : Clothes
Property Class: Miscellane
Date Received : 11/27/06 Initial Value : .00
Date Recovered: Recovered Value: .00
RFOJ?: N Notify Owner Date: Notified How?:
Prp Loc . . . : Bin : Disp/Date:

Year/Desc . : 0000 SHIRT, BLK PINSTRIPE W/BULLET HOLE WORN BY RIVERA
Quantity . : 1.000 EA Model/Style:

FAYETTEVILLE POLICE DEPARTMENT

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Registratn# :

State :

Expires :

Property:

Item Number . : 17 Subject #: Subject Type:

Evidence # . : 0609149

Property Code : Other Property Type : Other

Property Class: Miscellane

Date Received : 11/26/06 Initial Value : .00

Date Recovered: Recovered Value: .00

RFOJ?: N Notify Owner Date: Notified How?:

Prp Loc . . . :PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 GSR KIT, JOSE NUNEZ

Quantity . : 1.000 EA Model/Style:

Registratn# : State : Expires :

Property:

Item Number . : 18 Subject #: Subject Type:

Evidence # . : 0609150

Property Code : Other Property Type : Other

Property Class: Miscellane

Date Received : 11/26/06 Initial Value : .00

Date Recovered: Recovered Value: .00

RFOJ?: N Notify Owner Date: Notified How?:

Prp Loc . . . :PRM1 Bin : K-13 Disp/Date:

Year/Desc . : 0000 GSR KIT, PAUL SAGASTUME

Quantity . : 1.000 EA Model/Style:

Registratn# : State : Expires :

Case Associations:

Case #	ORI	Relationship
200600120360	AR0720100	Associated

Murphy #274

06-120355

Shooting

At approximately 3:43 AM, I was dispatched to Casa Torres in reference to a shooting that had occurred inside the establishment. I arrived on scene approximately one minute later and noticed individuals running eastbound across College Avenue towards the Sonic on the east side of the road, then parked my vehicle at the McDonald's south of Casa Torres and made contact with Officer Sutley.

We then made our way down the side of Casa Torres. While making our way down there, we noticed individuals fleeing the scene. Some individuals stated there had been a fight inside the club, but were not aware of any shots fired. We made our way to the front of the business, where there was a physical fight in progress. At that time, Officer Sutley intervened in the fight and pepper-sprayed one of the individuals. As Officer Sutley went 10-15 with that individual, I stood by and waited for other officers to arrive on scene before making entry into the establishment.

Officer McDaniel then arrived on scene, along with Sergeant Warren, and we attempted to gain access to the building, which was locked. We looked in the glass doors and noticed only a few individuals standing in the dance floor area of the building. After repeated attempts of trying to get the people inside to unlock the doors to let us in, we finally got inside the building; where we began to search the building, finding approximately thirty people hiding inside the building. We then secured the scene for CID. Sergeant Warren contacted CID.

Transcribed by M. McCandless

Copeland #306
06-120355 Supplement

On 11-26-06, at approximately 3:45 AM, Officers were dispatched to Casa Torres in reference to possible gunshots. When officers arrived, it was discovered that two people had been shot. Dispatch was advised that one of the victims had been taken to Washington Regional Medical Center by personal vehicle. Sergeant Warren then instructed me to go to Washington Regional Medical Center to speak with this victim.

Once there, I made contact with a Hispanic male, Juan Rivera, date of birth 11-25-75. I did notice that Juan had an entrance and exit wound on the right side. I then spoke with him through a Spanish-speaking hospital employee, and also through his niece, Corrina Torres. I asked both of them to ask Juan what happened. He said there were several Hispanic males inside the club that seemed to be "gang-bangers". He said they all had on dark jeans, white shirts and shaved heads. Juan said that these subjects were inside the club starting some problems, and he was trying to tell them to calm down. Juan did say that he worked inside the club. Juan said he then heard a gunshot, and then one of these so-called "gang-bangers" punched him in the face. He said shortly after this, he got shot in the back. Juan said there was one more gunshot, and then that it was all over. Juan said he did not see who shot him, nor did he ever see a gun. He said he was then taken to Washington Regional Medical Center.

Hospital staff had already taken Juan's shirt and placed it into a paper bag, and I did take this shirt, and gave it to Detective Shepard. Detective Shepard and Detective Roberts responded out to the hospital to speak with Juan, and took over the investigation.

Transcribed by M. McCandless

Vaught #291
06-120355 Supplement

On 11-26-06, at approximately 0343 AM, Central Dispatch advised that shots had been fired at the restaurant club Casa Torres on N. College. Several units responded to the scene.

On arrival, I assisted Officer McKinney who located a subject that ran across the road from the club behind the business Acropolis. After assisting Officer McKinney with this subject, Officer Sutley advised over the radio that he needed more officers to help clear the club. On arrival at the club, all the doors to the business were secured and we were unable to make entry right away. An employee of the club opened a secondary exit door near the bar. Officers made entry and immediately observed several people trying to exit the club.

Sergeant Warren and I began to clear a hallway that ran west to the south side of the bar. Sergeant Warren cleared the middle bathroom. As I passed the bathroom, I observed what appeared to be blood smeared on the doorjamb of the female restroom. I knocked on the door and then entered. I observed a small pool of blood directly inside the door and then several other small spots of blood located in the main bathroom. There were also what appeared to be blood on paper towels lying on the counter. There was also blood on a toilet stall door.

After the bathroom was cleared and no one was located, I exited and we continued down the hallway to the next room, which contained a pool table. Located in there was another small spot of blood. However, no subjects were located in there at this time.

The scene was then secured and no one was allowed to enter or exit the building until the detectives arrived on scene and were able to begin talking to the witnesses.

Transcribed by M. McCandless

McDaniel #282
06-120355 Supplement

On 11-26-06, at 3:43 AM, I responded to Casa Torres on N. College in reference to a shooting. Dispatch advised that there had been shots fired but it was unknown at that time if anyone had been hit. Officer Sutley and Officer Murphy checked on scene prior to my arrival. They encountered a subject in the parking lot who Officer Sutley had to pepper spray, and Officer Murphy assisted him.

I advised I needed an officer to go in to clear Casa Torres. There were several people in the parking lot, and I could see several inside the business. Myself and Officer Haney made entry to the business. There were several people congregated in the area of the dance floor. We made our way through a kitchen area, at which time I could hear something moving in a what I believed to be a storage room towards the back of the building. As I approached that room, I began to pry the doorway when I observed a shirt, and a subject sitting in a corner. I ordered the subject out, and performed a quick pat down for weapons, and he was escorted back to the front of the business with everyone else. We cleared the rest of that side of the business without further incident. The subject I encountered in the room was later identified as Oscar Sagastume. Everyone who was left inside the business was put in the main room, which would also be the dance floor. As we were getting everyone situated and finishing clearing, we observed shell casings on the main room dance floor. As I walked back to check the bathrooms, I observed blood on a wall as well as several bloody paper towels in the women's bathroom.

Later on, Officer McKinney was walking back to Casa Torres with three or four subjects. He advised that one of the subjects, Mr. Gonzalo Garcia, was a very good witness to the suspect who did the shooting. Mr. Garcia advised that he believed the shooting was gang-related, and he did not want to point someone out in front of everyone. I advised Mr. Garcia to go into the main room, and if he saw the person who he believed fired the weapon, to tap his sweatshirt where I could see it. I observed Mr. Garcia enter the main room, at which time he began looking at everyone inside. He turned to walk away, and as he did, he tapped his sweatshirt two times, at which time I followed him outside. Mr. Garcia advised that the subject I had found hiding in the back storage room, Mr. Oscar Sagastume, was the shooter. I immediately escorted Mr. Sagastume outside, at which time he was checked again for weapons.

By this time, Detectives had been called and responded to the scene. I advised Detective French that Mr. Sagastume had been identified by a witness, Mr. Garcia. Detective French, as well as several other detectives, took over the investigation.

Transcribed by M. McCandless

K. Willyard #210
06-120355
Shooting

On 11-26-06, I responded to 1673 N College to assist units with a report of a shooting. While en route, I heard Officer McKinney radio that he had located some possible suspects east of the scene, behind Acropolis restaurant. I arrived in the area and first went to Acropolis. Officer McKinney had other units with him and the subjects under control. Sgt Warren radioed that he needed more officers at 1673 College (Casa Torres) to assist in clearing the building. I went to Casa Torres and found Sgt Warren and other officers outside the front door on the north side. The doors were locked and they were telling people inside to open the door. Eventually, someone opened the west door on the north side and we entered. I stayed just inside the door to prevent people from leaving while the other officers checked the building. Sgt Warren radioed that he needed some help in the back to clear some rooms. Officer Sutley said he would watch the door and I went to the southwest corner of the building and met Sgt Warren who was coming out. Sgt Warren said they had cleared all of the rooms. I looked down and saw an automatic pistol ammunition magazine on the floor at the left side of the men's room threshold. The ammunition appeared to be 25 Auto or 380 Auto. Sgt Warren and I went into the men's room to look for a pistol but we did not find any. The toilet was apparently stopped up and water was overflowing. I turned off the water supply valve to the toilet. We had everyone in the building go to the dance floor area on the east end of the building. There were about 20 people inside.

Officer Dawson pointed out two empty shell casings on the northern side of the dance floor. I stayed in the dance floor area and watched the people for a few minutes until Officer Vaught told me that there was a man bleeding near the southwest corner of the dance floor. I took the man outside and had him sit on the sidewalk while Central EMS responded. The man had blood on his right ear but it was only bleeding very lightly. I asked the man his name and he told me he was Modesto Resendez (1-2-83). Resendez said he thought he had been shot but did not see who shot him or know why they shot him. Resendez was dazed and dizzy and could not talk very well. Central EMS arrived and examined Resendez. When they wiped some of the blood off of his ear and pulled his ear lobe down, I saw a circular puncture wound just below his ear canal opening. I looked on the left side of Resendez' face and saw a small knot with a small cut on top of it. There was a small amount of blood around the cut. Central EMS put Resendez on a gurney and transported him to WRMC. Sgt Warren told me to go to WRMC to assist Officer Copeland, who was there with another shooting victim.

On the way to WRMC, I heard radio traffic that the suspect may be in a small red car. I had passed a small red car traveling north on College just north of the scene. I stopped and waited for the car (a red Toyota with AR VL 669 KNZ). The car traveled past me and I stopped it at College and Joyce. I determined that the driver, Justin C. Davis (10-23-84), was probably not involved in the incident.

I arrived at WRMC and met with Officer Copeland. After Resendez was initially assessed and waiting for additional tests, I asked him again about the incident. He told me again that he did not see who shot him and does not know who shot him. I stayed there until Detectives Shepard and Roberts and Officer Segura arrived to interview the two victims. Once they were finished with the interviews, I left WRMC and returned to Casa Torres. I stayed outside in the north parking lot until Sgt Warren released me.

McKinney #281
06-120355 Supplement
Casa Torres Disturbance

On 11/26/06, at approximately 3:43 am, I responded to the Casa Torres business located at 1673 North College Avenue in reference to a report that someone had been shot. Several other officers responded with me. A few minutes later, Officer Murphy broadcast that he had arrived at the call location and observed a person running from the scene eastbound toward the Sonic Drive-In. Officer Sutley broadcast that he had also arrived at the call location.

I arrived in the area a few moments later and drove to the parking lot of the Acropolis business at 1618 North College Avenue. It was my intention to locate the person that Officer Murphy had observed running from the scene. I exited my patrol unit and began to walk into the enclosed area at the rear of the building. A Hispanic male emerged from a dense thicket of bushes on the southern boundary of the property and approached me with his hands raised in the air. I was holding a department issued shotgun.

I broadcast that I had located the person that had ran from the scene. Officers Lindabury and Bailey joined me almost immediately. The subject cooperated and was detained. The subject verbally identified himself as Israel Chavarria. Chavarria was wearing a medium blue short sleeve tee shirt with a white circle and diamond design on the front. He was also wearing a longer sleeved dark blue tee shirt underneath the outer shirt.

Chavarria was visibly upset. His eyes were large and he was taking short shallow breaths. I could see that the blood vessel on the right side of his neck was beating quickly. Chavarria swallowed continuously.

I spoke to Chavarria for a few minutes and he began to calm down. Chavarria spoke limited English but was able to communicate the following:

Chavarria had been at Casa Torres with his friends. A Hispanic male wearing a white shirt became involved in a verbal confrontation with Chavarria's friend. The Hispanic male involved in the confrontation was also bald. The male then shot one of Chavarria's friends in the torso. Chavarria pointed at his right side when he made this statement. The friend who was shot was named "Juan". Chavarria then ran from Casa Torres because he was afraid that the Hispanic male with the gun would shoot him next. The Hispanic male with the gun was accompanied by two other Hispanic males. One of the males was wearing a black tee shirt. The other male was wearing a white tee shirt. He did not know the name of the Hispanic male who had the gun. Chavarria also did not know the name of the other two males.

While I was speaking to Chavarria in the parking lot of the Acropolis business, Gonzalo Garcia and Ada Quiroz walked to our location from the southern parking lot of Casa Torres. I watched them while they were in route. When they reached our location

Gonzalo Garcia asked Chavarria if he was "ok". Garcia spoke fluent English. Garcia was also visibly excited. He was speaking rapidly and moved his arms when he spoke.

Garcia reported the following:

Garcia had been at Casa Torres with Chavarria and other friends. A Hispanic male had "started trouble" with him and others. The male displayed a gun and began shooting. Garcia knew that someone had been shot. Garcia had gone to Springdale High School with the male that fired the gun. Garcia knows the male as "Franklin". "Franklin" was in the 10th grade in 2003 and the 11th grade in 2004. "Franklin" was wearing a white shirt and had very short black hair. Gonzalo Garcia also stated that "Franklin" had a brother named "Alex" and that "Alex" had also been at Casa Torres during the disturbance.

Quiroz stated that she did not see the person with the gun. She only heard the shots and witnessed the ensuing confusion.

I walked to Casa Torres with Chavarria, Garcia, and Quiroz. Upon our arrival in the south parking lot, we met a group of people that were acquainted with Chavarria and Garcia. Aldolpho Juarez-Hernandez, Aldolpho Herrera, Armando Salas and Hector Verde-Cruz were present in this group.

No one in this group stated that they saw the male with the gun. Verde-Cruz stated that he was in the bathroom when he heard the shots. Verde-Cruz held the door closed to protect himself and the other people in the bathroom. Verde-Cruz further stated that he remained in the bathroom until the confusion settled down. Verde-Cruz was fluent in English. He assisted me while I spoke with Chavarria and confirmed the information that he had provided earlier.

I took this group of people around to the front of Casa Torres and joined other officers on scene. Sgt. Warren was on scene and was the incident commander. I briefed Sgt. Warren on the information that I had learned from Chavarria and Gonzalo Garcia. I also introduced them to Sgt. Warren.

Numerous other officers were on scene and I left Chavarria and Gonzalo Garcia in their presence. I returned to the area behind the Acropolis business and searched the dense thicket that Chavarria had emerged from. I also searched the open area on the north side of the Acropolis building. I did not locate anything of interest.

Upon my return to Casa Torres, Sgt. Warren informed me that Gonzalo Garcia had identified a person that was still present at the business as "Franklin".

I was standing at the front entrance to Casa Torres with Gonzalo Garcia. Garcia pointed to a red Honda Civic that was parked in the western edge of the Casa Torres parking lot and told me that this was "Franklin's" vehicle. We walked to the vehicle and Garcia maintained that he was certain this vehicle was driven by "Franklin". Garcia stated that

he had seen "Franklin" driving the vehicle in the past. I observed that the vehicle was a red Honda Civic displaying Arkansas vehicle license 510 KHB.

I walked throughout the parking lot of Casa Torres and the adjacent buildings. I recorded the following vehicle licenses and their corresponding vehicles that were parked at or near Casa Torres: 916 IGE Chevrolet Pick up, 214 JZI Honda passenger car, 379 JFG Ford Expedition, 658 KOX Ford Expedition, 246 LER Saturn passenger car, 050 KIO Ford Pick up, 911 JCF Dodge Pick up, 490 LEE Ford van, 541 KLL Lincoln passenger car, 427 EHP Honda passenger car.

Later, when I entered the main dance area of Casa Torres, I observed that Officers Haney, Vaught, and Murphy were securing a portion of the dance floor. I also observed that items of evidence had been marked by Styrofoam cups. Numerous patrons were setting in chairs along the south wall of the business.

Detectives arrived on scene along with the department evidence technician.

Later, Sgt. Harter arrived on scene. I began a walk through of the business with Sgt. Harter. We entered the room in the southwest corner of the building. This room was accessed by following the hallway from the main dance floor west past the bathrooms. Inside this room, we observed a pool table in the center of the room. A shelf was mounted on the west wall. Numerous open beer bottles were setting on this shelf. I observed a pile of cigar tobacco on the south end of this shelf. A cigar wrapper was lying in the pile of tobacco. Directly adjacent to this pile of tobacco was several very small pieces of marijuana and two marijuana seed. I observed several more small pieces of marijuana and marijuana stems on the north end of this shelf. I also located a small piece of plastic bag that was lying in the floor between the pool table and the west wall. The piece of plastic bag was melted on one end. Inside the plastic was a white powder residue. Sgt. Harter requested that I collect the marijuana and piece of plastic with white powder residue. There was also a table located in the southeast corner of this room. A very large stereo speaker was setting on top of this table. Numerous empty beer bottles were setting on the table also. Evidence technician John Brooks photographed this room.

Additionally, I rotated with Officers Haney, Vaught, Lawson, McDaniel, and Reed in securing the evidence located on the dance floor.

Later, I was relieved by Sgt. Warren and returned to the police department. The marijuana field-tested positive as marijuana. I weighed the marijuana while it was still inside the small paper sack that I had collected it in. The weight was .2 grams. I then weighed another identical paper sack. The weight of the empty paper sack was also .2 grams. I secured the marijuana and piece of plastic into the evidence room.

**

Sgt. John Warren #188
Case Supplement #2006-120355
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On 11/26/06, at 3:43 AM, Officers were dispatched to Casa Torres for a report of a shooting. We received word that at least one person was shot and was being transported to the hospital by personal vehicle. When I arrived, other Officers were already on the scene, including Officer McDaniel who had requested help with clearing the building. I parked my car on Sycamore and entered the north parking lot on foot.

I went to the main door, which I found to be locked. A Hispanic female came to the door and said that she did not have a key. I told her to get a door open so that we could enter. After a short time, a door just to the west of the main entrance was opened. Officers, McDaniel, Haney, Murphy, Dawson, Vaught, and I entered to clear the building. This door enters by the bar, with the kitchen area being to the right (west) and the dance floor being to the left (east). I went to the dance floor area. I noticed only three to four people in this area. I also noticed blood on the floor. I moved to the east down a hallway that contains two restrooms and leads to a room with a billiard table. As I started down this hallway, I noticed a large group of people moving towards me. I called for assistance, and Officer Vaught, along with Officer Willyard who had entered the building by this time, came to assist me. All of the subjects moved to the dance floor area. Some were moving towards the exit. I told everyone that no one could leave, and to take a seat. Everyone complied. We seated everyone along the south wall, away from the blood that was located on the dance floor. I would estimate that approximately thirty people were still inside the building. Among the people located in the building was another gunshot victim. He was escorted outside and transported by CEMS. Everyone else remained in the business. After the initial clearing, Officer Willyard and I were in the hallway outside the men's room. We noticed a .380 semi auto pistol magazine lying in the floor just outside of the men's room door. The magazine was partially loaded; it was a Kel Tec brand. I picked up the magazine and secured it in my car until it was later turned over to CST Brooks. A CID 7 form was completed.

Once the scene was secured, I had Officer Copeland go to the WRMC to make contact with the first gunshot victim. After the second gunshot victim was located, I sent Officer Willyard to the hospital with him. During this time, I made contact with Sergeant Franklin to brief him with what information I had. He advised that Detectives would be on the way. Also during this time, Officer McKinney had located two witnesses. One of the witnesses later picked out the suspected shooter from the subjects still inside Casa Torres. The suspect was brought outside by Officer McDaniel and patted down for weapons. Officer McDaniel informed me that he had found the suspect hiding in a storage room in the kitchen area when he and Officer Haney were clearing that section. Also during this time, Officer Dawson found a shell casing, a spent bullet, and clothing and jewelry on the dance floor. The clothing and jewelry were believed to be linked to the suspect. Officer Dawson marked these items with Styrofoam cups and left them in place for the Detectives.

Sgt. John Warren #188
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Detective French, along with Officer Allen and CST Brooks were the first investigators to arrive. Detectives Shepard and Roberts, along with Officer Segura, arrived later after they finished interviewing the victims at WRMC. In addition, Sergeant Harter and an ABC Agent also responded. I spoke with the ABC Agent present about possible violations I observed in the business. It is my understanding that Casa Torres is classified as a restaurant. In the kitchen area, the ovens appeared to be nonfunctioning. One oven appeared to be gutted. The freezer was not working and was quite warm inside. The only food items I observed were a few bags of tortillas and some chips. There were at least two underage people present when the shooting occurred; a sixteen year old white female who was pregnant and a nine or ten year old Hispanic male who was sleeping in the DJ area. Both subjects were identified by Detectives. All subjects present in the business were photographed as their personal information was gathered and statements took.

I, along with Officers McKinney and Lawson, were the last Night Shift personnel to clear the scene at 8:39 AM. Morning Shift Officers Reed and Selvey had arrived to assist the Detectives. Please see the additional reports filed by Officers and Detectives for further information.

Case #2006-120355
Det. Paul Shepard
11/28/06
Investigative Supplement

On Sunday, November 26, 2006, at approximately 4:20am, I received a telephone call from Detective Sergeant Franklin concerning a shooting at 1673 North College (Casa Torres). Detective French contacted me shortly after and asked me to go to WRMC to speak with the two victims. Detective Roberts, Probationary Officer Segura, and I traveled to WRMC.

Upon arrival, we met with Officers Willyard and Copeland. Officer Copeland was the first to arrive at WRMC. He explained the two victims were stable and both were able to speak. The first victim, Juan Rivera, was the brother-in-law of the owner of Casa Torres. Juan said four Hispanic males dressed in blue-jeans and white shirts began to fight inside the establishment. Juan tried to break up the fight and was punched in the face. Then, he heard three gunshots. He felt pain in his lower right abdomen and realized he had been shot. He was unable to identify the shooter. He said after the shots were fired, people began to run everywhere. He had his niece transport him to WRMC.

I photographed Rivera's wounds. There was an obvious gunshot wound to his lower right back. There was evidence of stippling and powder burns around the entrance wound indicating a close-contact shot. The exit wound was in the victim's lower right abdomen. The two wounds were fairly close together. Hospital staff said the bullet did not strike any internal organs. It only traveled through the fatty area before exiting the front side. Rivera did not speak English. Probationary Officer Segura and Rivera's niece translated. Rivera indicated the suspects appeared to have gang affiliations based on the colors they were wearing and the argument that preceded the fight was over gang-related issues. Rivera was released from the hospital after I completed my interview and collected the photographs.

The second victim, Modesto Resendez (1/2/83) was uncooperative to say the least. According to a nurse, Daisy LNU, Resendez explained to her he had been associated with Sur 13 at one point, but no longer had any affiliation. He had seen the suspects on a previous occasion and they tried to fight him then. Resendez told Daisy they wanted to fight again. So, he told them he would fight, but without guns or knives. The next he knew, he had been shot.

However, when Officer Segura, Detective Roberts, and I interviewed Resendez, he denied knowledge of any gang activity. He described the subject who shot him as a Hispanic male, short, with shaved hair. The suspect was wearing blue-jeans and a white shirt. I noted while Resendez was talking to me, he spoke fluent English. However, he appeared more comfortable speaking Spanish with Officer Segura. While he was speaking with her, he began flashing gang signs with his right hand. Officer Segura commented on this, and he became defensive. Resendez would not tell me why the fight started. He kept avoiding the question and complained his throat hurt. However, as mentioned before, he spoke with Officer Segura without hesitation.

Case #2006-120355
Det. Paul Shepard
11/28/06
Investigative Supplement

While speaking with Resendez, I photographed his face. Resendez had a gunshot entrance wound on his right cheek near the ear. The wound was bandaged and the nursing staff requested we not remove it due to possible infection and/or bleeding. The victim had a clear bandage on his left cheek. According to the medical staff, the bullet entered the right cheek and traveled through to the left cheek without striking anything vital. Resendez' face was swollen on both sides. Blood was present, but I did not note any stippling or powder burns. This indicated the gunshot was not a close-contact wound.

Resendez said he did not know the names of any of the suspects. He told us (police) he had not seen them before. This differed from his version of events told to Daisy.

INCOMPLETE DOCUMENT.....

Officer Dawson #305
Supplemental Report
Case #2006-120355
11/27/2006

On November 26, 2006 at approximately 3:43 am, I responded to a call at 1673 North College Avenue, Casa Torres, in reference to a shooting. Upon arrival at Casa Torres I noticed that all of the exterior doors to the business were locked, however, you could see people inside. Approximately a minute later an employee from the inside of the business and unlocked the north door.

Once inside of the building, I along with several other officers began clearing the building attempting to locate a possible subject, while inside I came into contact with approximately 30-40 individuals in the club. Once inside I noticed that there was blood on the dance floor area, at which time we started clearing all of the individuals in the building and had them sit against the southern most side of the building. Once the individuals were off of the dance floor area, I then found two shell casings, which were 380 caliber. Some white Styrofoam cups were placed on top of the shell casings to prevent any type of tampering. I also found a brass slug on the dance floor as well; a white Styrofoam cup was placed on top of this as well to prevent tampering. Once all of the evidence had been marked with Styrofoam cups, units placed a yellow crime scene tape around the dance floor to prevent anyone from contaminating the area by walking through it.

While in the business I found a nine to ten year old Hispanic male asleep on the east most side of the building, inside by the DJ equipment. He appeared to have been asleep and appeared to have been asleep through the entire shooting. We believed the child to be the child of one of the employees. I also noticed that several individuals were still consuming alcohol and at that time it was between 3:45-4:00 am. CID was notified and Detective French and Detective Brooks responded to the scene. After the Detectives arrived I, along with Detective French, were on the northwest side of the building speaking with a subject who only identified himself as Oscar (unknown spelling) who at first gave us a date of birth of 02/19/1988 and then later gave us the date of birth of 02/19/1986. Several subjects inside referred to him as Franklin. When asked he stated that he knew no one named Franklin.

Shortly after Detective French advised that the subject was going to be placed under and arrest at which time I handcuffed the subject and placed him into my vehicle. Detective French advised that he needed to be taken to the Washington County Jail and fingerprinted for a positive identification. While at the Washington County Jail, the subject advised that his true name was Oscar Paul Franklin (unknown spelling), date of birth 12/19/1986. ACIC check on that name and date of birth showed a Springdale Failure to Appear Warrant for No Driver's License.

I transported Mr. (unknown) back to the station where Detective French interviewed him. Prior to the interview with Detective French I conducted a GSR Test on the suspects hands, which was later turned over to Detective Brooks.

Transcribed by LRota

Harter #152
2006-120355
Casa Torres

On 11-26-06, Investigators Shepard and Brooks reported to me a shooting occurred in the ABC permitted establishment Casa Torres. They had further concerns that the outlet had violated several ABC rules. I contacted ABC Agent Howard Robinson and responded to Casa Torres at 7:00 a.m. on 11-26-06.

My first observation was seeing the manager Arturo Torres on the street and curb of Sycamore outside the outlet cleaning up trash that included beer bottles. Inside, I received information from officers that the shooting had occurred at approximately 3:45 a.m.

I toured the establishment noting its condition. The outlet was messy, and I documented discarded beer bottles and other items in various locations throughout the outlet. The condition of the outlet was evidence to me that patrons had possession of alcoholic beverages after the legal time of 2:00 a.m.

In the central area for patrons located east of the bar, I took a count of the number of beer bottles on the floor. There were eleven beer bottles in this area. In this central area was the presence of broken glass that was a Corona Beer Bottle. In this area near the south wall, I inspected an industrial sized trashcan that was full of empty beer bottles. In the area of the southwest wall, there were two troughs. These troughs contained liquid a few inches deep in the bottom and several beer bottles that had been discarded. In the patrons' area of the northeast wall, I located an industrial sized trash can that was full of beer bottles. On the north wall of the patrons' area, again east of the bar, I located a large vodka bottle that was half-full.

Down the hallway to the west, past the bathrooms, and located in the southwestern part of the building, we inspected a room that is potentially not permitted for alcoholic beverages and patrons by the ABC permit. The room entry has a working door with a deadbolt lock. Inside the room is a pool table and a bar running the length of the wall on the west wall. Marijuana was located on the top of this bar as well as cut marks on the surface of the bar. I also observed a cut cigar on the floor near the pool table and a small plastic bag with white residue. Officer McKinney collected the marijuana and the small plastic bag as evidence. I made note that this room with the pool table had several empty beer bottles throughout.

As I inspected this room, I believed it to be the same room reported by an anonymous person on a previous date. The report was taken on 11-9-06 and stated the following information: "Anonymous source came to CID lobby today. She reported that on Saturday October 28th at approximately 0300 hrs she and a friend were at Casa Torres, Sycamore/College. The anonymous source advised she was not drinking that night due to she was the designated driver. As they walked down the hallway to the restrooms, there was a room on the opposite side of the hallway being guarded by a bouncer. He offered to let them in for a 5 dollar cover charge. The complainant advised they had already paid a 5 dollar charge at the door, the bouncer informed them this was a special room. Source advised there was a very strong odor of marijuana coming from this room and that the room was occupied by several people. After going back to the bar, someone

came in saying the police were on their way, the bartenders went around grabbing everyone's drinks and dumping them out. Everyone was then asked to leave around 4am and no more drinks were served. The source saw several people filing out of the "special party" room. She thought this was suspicious and wanted to report it."

Fayetteville District Court Business History

Record: Arturo Torres for 1673 N. College

6-9-04 Failure to Pay HMR Tax (Guilty)

8-1-04 Operating without City Alcohol Permit (Guilty)

8-1-04 Dispensing Alcoholic Beverages After Hours (Guilty)

8-4-04 Operating without City Alcohol Permit (Guilty)

5-22-05 Violation City Noise Ordinance (Guilty)

December 04, 2006
2:24:49 pm

Fayetteville District Court

Docket

Case #: 1-CS043336

1673 N. College, Fayetteville, Arkansas 72701

Defendant Information

Torres, Arturo

Name: Torres, Arturo DOB: 07/19/68 Age: 38 SSN: 619-16-5104 SID:
Sex: Male HT: 5.08 DL #: AR / 925295013 NCIC:
Race: Hispanic Wt: 200 Employer: WkPhone: FP:
Attorney:
Revoke Perm:
Page 88 of 1

Case Information

Case #: 1-CS043336 Filing Date: 06/09/04 Case Type: Ordinance Case Category: Local Ordinance - Criminal First Appear Date: 07/09/04

Charge Document Information

Chrg Doc#: CS043336 Accident: No Booking#: 0 Witness(s)\Victim(s)\Interpreter(s):
Viol Date: 06/09/04 Radar: No Jail:
Filing Date: 06/09/04 Paced: No Release:
Type: Arrest Report Seatbelt: No Release Date:
Juris: City of Fayetteville Speed: 0 / 0 Bond Amt: \$ 0.00
PIN#: 0 BAC: 0.00 Bond Co:
Officer: Bacile, Robert J Jr Statute#: CityOrd

Comments:

Charge Information

Chrg Doc#	Chrg#	Cnt#	Off#	Charge	Plea	Finding	Disposition
CS043336	1	1	1	Violation of City Ordinance	Not Guilty	Guilty	Finding Entered

Order Information

Chrg Doc#	Chrg#	Date	Type	Description	Start	Due	Mon	Unit	T/P #	Qty Amt	Susp Qty	
CS043336	1	06/09/04	Sentence	Fine, Cost, Fee & Restitution	06/09/04		Yes			\$ 25.00	\$ 0.00	
Order Total: \$ 25.00										Adj Total: \$ 0.00	Total Receipts: \$ 25.00	Balance: \$ 0.00

Receipt Information

1. 10/27/04 B236150-24757 \$25.00

Event Information

Date	Description	Employee	Event Text
11/05/06	Conversion	JBS	Offense Description: FAIL TO PAY HOTEL/MOTEL/RESTAURANT TAX. 102704, PBW/DEF, GUILTY, \$25.00 CC.

December 04, 2006
B. 1
Page 24:22 pm

Fayetteville District Court

Page 1 of 1

Docket

Case #: 1-A282391

Defendant Information

Torres, Arturo

1673 N. College, Fayetteville, Arkansas 72701

Name: Torres, Arturo

DOB: 07/19/68

Age: 38

SSN: 619-16-5104

HomePhone: (000)313-0354

SID:

Attorney:

Sex: Male

Hi: 5.08

DL #: AR/925295013

WkPhone:

NCIC:

Attorney:

Race: Hispanic

Wt: 200

Employer:

FP:

Case Information

Case #: 1-A282391

Filing Date: 08/01/04

Case Type: Ordinance

Case Category: Local Ordinance

First Appear Date: 08/30/04

Charge Document Information

Chrg Doc#: A282391

Accident: No

Booking#: 0

Witness(s)\Victim(s)\Interpreter(s):

Viol Date: 08/01/04

Radar: No

Jail:

Filing Date: 08/01/04

Paced: No

Release:

Type: Arrest Report

Seatbelt: No

Release Date:

Juris: City of Fayetteville

Speed: 0 / 0

Bond Amt: \$ 0.00

Comments:

BAC: 0.00

Bond Co:

Charge Information

Chrg Doc#: A282391

Chrg# 1

Cnt#: 1

Off#: 1

Charge

Plea

Finding

Disposition

A282391

1

1

1

Violation of City Ordinance

Not Guilty

Guilty

Finding Entered

Order Information

Chrg Doc#	Chrg#	Date	Type	Description	Start	Due	Mon	Unit	T/P #	Qty Amt	Susp Qty
A282391	1	08/01/04	Sentence	Fine, Cost, Fee & Restitution	08/01/04		Yes			\$ 225.00	\$ 0.00

Order Total: \$ 225.00

Adj Total: \$ 0.00

Total Receipts: \$ 225.00

Balance: \$ 0.00

Receipt Information

1.	03/07/05	B241648-25403	\$100.00	2.	05/16/05	B244721-25749	\$50.00	3.	10/11/05	B252323-26601	\$75.00
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Event Information

Date	Description	Employee	Event Text
11/05/06	Conversion	JBS	Offense Description: OPERAT W/OUT CITY PERMIT. 120104, PBW/DEF, GUILTY, \$200.00 + \$25.00 WF. 111704 WARRANT ISSUED PER PROS OFFCE 051605 PER LYNN PA OFFICE 30 MORE DAYS TO PAY.

December 04, 2006
12:24:35 pm

Fayetteville District Court

B. 1
Casa Torres
Age 90 of

Docket

Case #: 1-A282392

Re: Ke Permi

1673 N. College, Fayetteville, Arkansas 72701

Defendant Information

Torres, Arturo

Name: Torres, Arturo DOB: 07/19/68 Age: 38 SSN: 619-16-5104 HmPhone: (000)313-0354 SID:
Sex: Male Race: Hispanic Ht: 5'08 Wt: 200 Employer: DL #: AR / 925295013 WkrPhone: NCIC: FP:
Attorney:

Case Information

Case #: 1-A282392 Filing Date: 08/01/04 Case Type: Ordinance Case Category: Local Ordinance - Criminal First Appear Date: 08/30/04

Charge Document Information

Chrg Doc#: A282392 Accident: No Booking#: 0 Witness(s)\Victim(s)\Interpreter(s):
Viol Date: 08/01/04 Radar: No Jail:
Filing Date: 08/01/04 Paced: No Release:
Type: Arrest Report Seatbelt: No Release Date:
Juris: City of Fayetteville Speed: 0 / 0 Bond Amt: \$ 0.00
PIN#: 0 BAC: 0.00 Bond Co:
Officer: Tabor, Gregory S Statute#: CityOrd

Comments:

Charge Information

Chrg Doc#	Chrg#	Cnt#	Off#	Charge	Plea	Findine	Disposition
A282392	1	1	1	Violation of City Ordinance	Not Guilty	Guilty	Finding Entered

Order Information

Chrg Doc#	Chrg#	Date	Type	Description	Start	Due	Mon	Unit	T/P #	Qty	Ami	Susp	Qty	
A282392	1	08/01/04	Sentence	Fine, Cost, Fee & Restitution 08/01/04			Yes				\$ 300.00		\$ 0.00	
Order Total: \$ 300.00											Adj Total: \$ 0.00	Total Receipts: \$ 300.00		Balance: \$ 0.00

Receipt Information

1.	01/03/05	B238691-25054	\$50.00	2.	03/07/05	B241648A-254	\$100.00	3.	10/11/05	B252323-26601	\$150.00
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Event Information

Date	Description	Employee	Event Text
11/05/06	Conversion	JBS	Offense Description: DISPENSING ALCOHOLIC BEVERAGES AFTER HOURS. 120104, PBW/DEF, GUILTY, \$300.00 CC. SEE 0409010 ON PMT.. 111704 WARRANT ISSUED PER PROS OFFICE

B. 1
December 04, 2006
02:24:05 pm

Fayetteville District Court

Page 1 of 1

Docket

Case #: 1-A331836

1673 N. College, Fayetteville, Arkansas 72701

Defendant Information

Torres, Arturo

Name: Torres, Arturo

DOB: 07/19/68

Age: 38

SSN: 619-16-5104

HomePhone: (000)313-0354

SID:

Sex: Male

Ht: 5.08

DL #: AR / 925295013

WorkPhone:

NCIC:

Race: Hispanic

Wt: 200

Employer:

FP:

Case Information

Case #: 1-A331836

Filing Date: 08/04/04

Case Type: Ordinance

Case Category: Local Ordinance

Criminal First Appear Date: 09/03/04

Charge Document Information

Chrg Doc#: A331836

Accident: No

Booking#: 0

Witness(s)\Victim(s)\Interpreter(s):

Viol Date: 08/04/04

Radar: No

Jail:

Filing Date: 08/04/04

Paced: No

Release:

Type: Arrest Report

Seatbelt: No

Release Date:

Juris: City of Fayetteville

Speed: 0 / 0

Bond Amt: \$ 0.00

PIN#: 0

BAC: 0.00

Bond Co:

Statute#: CityOrd

Officer: Phillips, Kevin E

Comments:

Charge Information

Chrg Doc#: A331836

Chrg# 1

Cnt#: 1

Off#: 1

Charge Violation of City Ordinance

Plea Not Guilty

Finding Guilty

Disposition Finding Entered

Order Information

Chrg Doc# 1 Chrg# 1 Date 08/04/04 Type Sentence

Description Fine, Cost, Fee & Restitution 08/04/04

Start Due Mon Unit T/P # Yes

Qty Amt \$ 225.00

Susp Qty \$ 0.00

Order Total: \$ 225.00

Adl Total: \$ 0.00

Total Receipts: \$ 225.00

Balance: \$ 0.00

Receipt Information

1. 01/03/05 B238691-25054 \$225.00

Event Information

Date 11/05/06 Description Conversion Employee JBS

Event Text

Offense Description: OPERAT W/OUT CITY PERMIT: 120104, PBW/DEF, GUILTY, \$200.00 + \$25.00 CC. 010305
SEE 0409010.

December 04, 2006
2:23:39 pm

Fayetteville District Court

Page 1 of 1

Docket

Case #: 1-A344346

1673 N. College, Fayetteville, Arkansas 72701

Defendant Information

Torres, Arturo

Name: Torres, Arturo
DOB: 07/19/68
Sex: Male
Race: Hispanic
Age: 38
Ht: 5'08
Wt: 200
SSN: 619-16-5104
DL #: AR/925295013
Employer:
HomePhone: (000)313-0354
WorkPhone:
NCIC:
FP:

Case Information

Case #: 1-A344346
Filing Date: 05/22/05
Case Type: Ordinance
Case Category: Local Ordinance - Criminal
First Appear Date: 06/27/05

Charge Document Information

Chrg Doc#: A344346
Viol Date: 05/22/05
Filing Date: 05/22/05
Type: Arrest Report
Juris: City of Fayetteville
PIN#: 0
Officer: Surley, M Kurtis
Accident: No
Radar: No
Paced: No
Seabelt: No
Speed: 0 / 0
BAC: 0.00
Booking#: 0
Jail:
Release:
Release Date:
Bond Amt: \$ 0.00
Bond Co:
Statute#: CityOrd
Witness(s)\Victim(s)\Interpreter(s):

Comments:

Charge Information

Chrg Doc#	Chrg#	Cnt#	Off#	Charge	Plea	Finding	Disposition
A344346	1	1	1	Violation of City Ordinance	Guilty	Guilty	Finding Entered

Order Information

Chrg Doc#	Chrg#	Date	Type	Description	Start	Due	Mon	Unit	T/P #	Qty Amt	Susp Qty	
A344346	1	05/22/05	Sentence	Fine, Cost, Fee & Restitution	05/22/05		Yes			\$ 75.00	\$ 0.00	
Order Total: \$ 75.00										Adj Total: \$ 0.00	Total Receipts: \$ 75.00	Balance: \$ 0.00

Receipt Information

1. 06/27/05 B246591-25960 \$75.00

Event Information

Date	Description	Employee	Event Text
11/05/06	Conversion	JBS	Offense Description: VIOL CITY NOISE ORD(150 FT). 062705, GUILTY, \$50.00 + \$25.00 CC.

Call History Documents

Casa Torres, 1673 N. College, December, 2002 to present (4 pgs.)

Acambaro, (Comparison Query), 2605 N. College, December, 2002 to present (1 pg.)

Incidents at Casa Torres 1673 N. College Ave. beginning 12-01-2002 thru 12-04-2006				
CALL DATE	CALL TIME	INCIDENT NUMBER	INCIDENT TYPE	STREET ADDRESS
02/10/2003	09:28:01	200300013964	Breaking or Entering	1673, N. COLLEGE, AVE.,
02/23/2003	01:10:59	200300017549	Criminal Mischief	1673, N. COLLEGE, AVE.,
02/23/2003	01:48:31	200300017560	Criminal Mischief	1673, N. COLLEGE, AVE.,
02/23/2003	13:03:02	200300017718	Theft	1673, N. COLLEGE, AVE.,
03/08/2003	0:38:41	200300021708	Disturbance Domestic, fight	1673, N. COLLEGE, AVE.,
03/08/2003	23:13:51	200300022079	Out of Car PD Business	1673, N. COLLEGE, AVE.,
03/08/2003	23:19:53	200300022082	Out of Car PD Business	1673, N. COLLEGE, AVE.,
03/08/2003	23:29:40	200300022085	Checking Vehicle	1673, N. COLLEGE, AVE.,
04/13/2003	02:12:38	200300034418	Disturbance Domestic, fight	1673, N. COLLEGE, AVE.,
04/20/2003	21:28:30	200300037281	Criminal Mischief	1673, N. COLLEGE, AVE.,
04/27/2003	0:12:33	200300039470	Suspicious Activity	1673, N. COLLEGE, AVE.,
04/27/2003	0:43:18	200300039483	Checking Vehicle	1673, N. COLLEGE, AVE.,
04/27/2003	03:56:51	200300039566	Checking Vehicle	1673, N. COLLEGE, AVE.,
06/29/2003	0:54:02	200300062639	Welfare Concern	1673, N. COLLEGE, AVE.,
07/20/2003	01:44:47	200300070797	Noise Loud Music, Loud Car	1673, N. COLLEGE, AVE.,
07/27/2003	02:00:25	200300073441	Checking Person	1673, N. COLLEGE, AVE.,
08/04/2003	09:42:59	200300076281	Special Assignment	1673, N. COLLEGE, AVE.,
08/30/2003	22:38:23	200300085849	Out of Car PD Business	1673, N. COLLEGE, AVE.,
08/31/2003	0:35:44	200300085922	Disturbance Domestic, fight	1673, N. COLLEGE, AVE.,
08/31/2003	03:20:26	200300085988	Disturbance Domestic, fight	1673, N. COLLEGE, AVE.,
09/07/2003	03:01:16	200300088718	Business Check	1673, N. COLLEGE, AVE.,
10/19/2003	0:55:34	200300104288	Noise Loud Music, Loud Car	1673, N. COLLEGE, AVE.,
11/01/2003	01:32:37	200300108966	Noise Loud Music, Loud Car	1673, N. COLLEGE, AVE.,
11/02/2003	02:16:45	200300109378	Noise Loud Music, Loud Car	1673, N. COLLEGE, AVE.,
11/04/2003	18:56:30	200300110255	Disturbance Domestic, fight	1673, N. COLLEGE, AVE.,
11/10/2003	10:41:52	200300111965	Unlock-emergency	1673, N. COLLEGE, AVE.,
11/16/2003	01:54:40	200300114075	Checking Person	1673, N. COLLEGE, AVE.,
11/16/2003	03:54:59	200300114124	Disturbance Domestic, fight	1673, N. COLLEGE, AVE.,
11/28/2003	0:23:53	200300118427	Noise Loud Music, Loud Car	1673, N. COLLEGE, AVE.,
11/29/2003	01:19:20	200300118745	Checking Person	1673, N. COLLEGE, AVE.,
11/30/2003	0:14:17	200300119049	Extra Patrol	1673, N. COLLEGE, AVE.,
11/30/2003	02:46:06	200300119099	Out of Car PD Business	1673, N. COLLEGE, AVE.,
11/30/2003	05:35:57	200300119128	Checking Vehicle	1673, N. COLLEGE, AVE.,
12/14/2003	02:06:39	200300124071	Noise Loud Music, Loud Car	1673, N. COLLEGE, AVE.,

12/16/2003	14:50:10	200300124840	Assault and Battery	1673, N, COLLEGE, AVE.,		
01/05/2004	11:19:51	200400001571	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
01/18/2004	01:51:41	200400006198	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
01/30/2004	12:55:11	200400010956	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
02/06/2004	14:45:03	200400013698	Roadway Hazard	1673, N, COLLEGE, AVE.,		
03/06/2004	23:00:05	200400024702	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
03/21/2004	0:07:09	200400029765	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
03/25/2004	14:42:02	200400031350	Follow Up Investigation	1673, N, COLLEGE, AVE.,		
03/27/2004	23:15:34	200400032343	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
04/03/2004	01:37:59	200400034575	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
04/03/2004	02:00:00	200400034581	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
04/03/2004	22:59:22	200400034922	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
06/22/2004	10:01:52	200400063686	Alarm	1673, N, COLLEGE, AVE.,		
07/04/2004	04:18:20	200400068184	Other Agency, Citizen, Motorist, Officer	1673, N, COLLEGE, AVE.,		
07/11/2004	03:04:41	200400070845	Business Check	1673, N, COLLEGE, AVE.,		
07/25/2004	03:32:33	200400075891	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
07/29/2004	21:13:13	200400077560	Special Assignment	1673, N, COLLEGE, AVE.,		
08/01/2004	03:03:27	200400078525	Business Check	1673, N, COLLEGE, AVE.,		
08/02/2004	22:12:02	200400079118	Extra Patrol	1673, N, COLLEGE, AVE.,		
08/04/2004	14:23:24	200400079701	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
08/08/2004	02:21:24	200400081118	Extra Patrol	1673, N, COLLEGE, AVE.,		
03/26/2005	22:02:33	200500001441	Service Call	1673, N, COLLEGE, AVE.,		
04/10/2005	02:43:23	200500001671	Assist (CEMS)	1673, N, COLLEGE, AVE.,		
01/09/2005	0:53:11	200500002533	Business Check	1673, N, COLLEGE, AVE.,		
09/18/2005	0:50:00	200500004636	Assist (CEMS)	1673, N, COLLEGE, AVE.,		
01/23/2005	03:59:57	200500007096	Business Check	1673, N, COLLEGE, AVE.,		
01/30/2005	15:24:19	200500009362	Theft	1673, N, COLLEGE, AVE.,		
02/13/2005	0:03:46	200500013804	Business Check	1673, N, COLLEGE, AVE.,		
02/13/2005	02:52:01	200500013865	Business Check	1673, N, COLLEGE, AVE.,		
02/20/2005	03:12:12	200500016204	Extra Patrol	1673, N, COLLEGE, AVE.,		
02/27/2005	01:02:17	200500018331	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
03/11/2005	23:04:58	200500022615	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
03/12/2005	23:15:28	200500022972	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
03/20/2005	02:59:52	200500025226	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
03/22/2005	0:10:36	200500025754	Checking Person	1673, N, COLLEGE, AVE.,		
04/10/2005	02:38:05	200500032052	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
04/17/2005	03:37:11	200500034440	Drunk Driver	1673, N, COLLEGE, AVE.,		

05/03/2005	19:21:04	200500039895	Threat or Harassment	1673, N, COLLEGE, AVE.,		
05/08/2005	01:08:13	200500041481	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
05/08/2005	02:31:26	200500041515	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
05/08/2005	05:24:14	200500041552	Checking Vehicle	1673, N, COLLEGE, AVE.,		
05/15/2005	12:11:52	200500043883	Lost and Found Property	1673, N, COLLEGE, AVE.,		
05/22/2005	0:41:08	200500046255	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
05/22/2005	02:00:37	200500046284	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
05/22/2005	02:46:19	200500046302	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
08/21/2005	04:05:42	200500079339	Theft	1673, N, COLLEGE, AVE.,		
09/18/2005	0:51:35	200500089131	Other Agency, Citizen, Motorist, Officer	1673, N, COLLEGE, AVE.,		
09/18/2005	02:35:50	200500089167	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
10/02/2005	03:39:36	200500094243	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
01/15/2006	04:08:08	200600004938	Out of Car PD Business	1673, N, COLLEGE, AVE.,		
11/26/2006	03:46:28	200600005939	Assist (CEMS)	1673, N, COLLEGE, AVE.,		
04/01/2006	07:46:51	200600032975	Accident road blocked no injury	1673, N, COLLEGE, AVE.,		
04/09/2006	02:05:01	200600036092	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
04/16/2006	03:17:33	200600038905	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
04/30/2006	03:42:58	200600044125	Armed Person	1673, N, COLLEGE, AVE.,		
05/13/2006	04:23:12	200600048692	Checking Vehicle	1673, N, COLLEGE, AVE.,		
05/21/2006	18:23:08	200600051621	Abandoned Vehicle	1673, N, COLLEGE, AVE.,		
06/04/2006	02:21:08	200600056480	Accident No Injury Road Not Blocked	1673, N, COLLEGE, AVE.,		
06/23/2006	23:59:45	200600063761	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		
06/25/2006	02:44:06	200600064147	Assault and Battery	1673, N, COLLEGE, AVE.,		
07/15/2006	01:38:12	200600071709	Checking Vehicle	1673, N, COLLEGE, AVE.,		
08/26/2006	02:38:25	200600087976	Checking Vehicle	1673, N, COLLEGE, AVE.,		
09/09/2006	04:04:56	200600093400	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
09/10/2006	02:41:56	200600093744	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
09/16/2006	01:43:18	200600096028	Extra Patrol	1673, N, COLLEGE, AVE.,		
09/23/2006	03:34:11	200600098617	Business Check	1673, N, COLLEGE, AVE.,		
09/29/2006	01:44:21	200600100841	Extra Patrol	1673, N, COLLEGE, AVE.,		
10/01/2006	03:55:42	200600101755	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
10/06/2006	0:25:03	200600103357	Checking Person	1673, N, COLLEGE, AVE.,		
10/15/2006	02:41:47	200600106447	Assault and Battery	1673, N, COLLEGE, AVE.,		
10/28/2006	03:10:48	200600110931	Checking Vehicle	1673, N, COLLEGE, AVE.,		
10/28/2006	03:48:31	200600110942	Extra Patrol	1673, N, COLLEGE, AVE.,		
11/12/2006	03:04:03	200600115858	Extra Patrol	1673, N, COLLEGE, AVE.,		
11/18/2006	0:27:39	200600117674	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		

11/19/2006	03:24:48	200600118062	Welfare Concern	1673, N, COLLEGE, AVE.,		
11/26/2006	03:43:38	200600120355	Shots Fired	1673, N, COLLEGE, AVE.,		
11/26/2006	04:17:13	200600120360	Disturbance Domestic, fight	1673, N, COLLEGE, AVE.,		
11/30/2006	0:08:36	200600121509	Business Check	1673, N, COLLEGE, AVE.,		
12/03/2006	02:21:47	200600122455	Noise Loud Music, Loud Car	1673, N, COLLEGE, AVE.,		

Incidents at Acambaro 2605 N. College Ave. beginning 12-01-2002 thru 12-04-2006				
CALL DATE	CALL TIME	INCIDENT NUMBER	INCIDENT TYPE	STREET ADDRESS
02/15/2003	0:10:28	200300014758	Alarm	2605, N, COLLEGE, AVE.,
02/16/2003	02:35:26	200300015204	Alarm	2605, N, COLLEGE, AVE.,
02/26/2003	18:39:12	200300018557	Unlock-emergency	2605, N, COLLEGE, AVE.,
03/05/2003	21:11:04	200300020941	Welfare Concern	2605, N, COLLEGE, AVE.,
07/07/2003	21:53:43	200300066036	Loitering etc	2605, N, COLLEGE, AVE.,
09/08/2003	18:35:20	200300089287	Unlock-emergency	2605, N, COLLEGE, AVE.,
02/15/2004	23:27:15	200400017374	Alarm	2605, N, COLLEGE, AVE.,
03/26/2004	21:35:25	200400031853	Accident road blocked no injury	2605, N, COLLEGE, AVE.,
04/09/2004	16:31:52	200400037050	Unlock-emergency	2605, N, COLLEGE, AVE.,
04/14/2004	12:15:31	200400038889	Follow Up Investigation	2605, N, COLLEGE, AVE.,
12/04/2004	19:01:08	200400121837	Breaking or Entering	2605, N, COLLEGE, AVE.,
12/23/2004	23:19:29	200400127937	Business Check	2605, N, COLLEGE, AVE.,
07/17/2005	13:01:16	200500003431	Extrication/MVA/Industrial Accident	2605, N, COLLEGE, AVE.,
04/18/2005	09:02:08	200500034796	Alarm	2605, N, COLLEGE, AVE.,
05/31/2005	08:39:14	200500049513	Alarm	2605, N, COLLEGE, AVE.,
06/09/2005	08:18:53	200500052684	Burglary	2605, N, COLLEGE, AVE.,
06/13/2005	08:21:01	200500054035	Alarm	2605, N, COLLEGE, AVE.,
07/17/2005	13:01:23	200500066573	Accident w/ Injury and Road Blocked	2605, N, COLLEGE, AVE.,
12/07/2005	07:45:16	200500116168	Alarm	2605, N, COLLEGE, AVE.,
12/15/2005	20:13:07	200500119095	Follow Up Investigation	2605, N, COLLEGE, AVE.,
12/22/2005	15:12:06	200500121280	Welfare Concern	2605, N, COLLEGE, AVE.,

City of Fayetteville Accounting Office Tax Information

Memorandum (One page)

City Tax Record (One page)



THE CITY OF FAYETTEVILLE, ARKANSAS
ACCOUNTING DIVISION

TO: Sergeant Jay Harter, Fayetteville Police Department

FROM: Kristin Atha, Revenue Clerk *KA*

THRU: Shelly Turberville, Accounting Coordinator *ST*

DATE: December 5, 2006

RE: Casa Torres Tax Payments

Please see the attached schedule of payments received from Casa Torres for the months of December 2004 – October 2006. The beer and wine sales are included with the food in the Hotel, Motel, and Restaurant (HMR) Tax. The On Premises Beverage Tax is only charged on mixed drinks. There are only two months in which the taxes were paid on time, all other months, payment has been late and penalties have been assessed.

Casa Torres

HMR Tax		
date paid	reporting month	amounts
1/27/2005	December-04	\$12.60
5/16/2005	January-05	\$0.00
5/16/2005	February-05	\$24.16
5/12/2005	March-05	\$63.28
7/1/2005	April-05	\$33.86
9/28/2005	May-05	\$9.56
9/28/2005	June-05	\$35.86
9/28/2005	July-05	\$40.12
11/22/2005	August-05	\$44.62
11/22/2005	September-05	\$33.88
11/22/2005	October-05	\$36.30
4/13/2006	November-05	\$36.32
4/13/2006	December-05	\$23.82
4/13/2006	January-06	\$39.86
4/13/2006	February-06	\$28.98
4/13/2006	March-06	\$23.98
7/5/2006	April-06	\$32.46
7/5/2006	May-06	\$33.64
11/27/2006	June-06	\$48.08
11/27/2006	July-06	\$41.48
11/27/2006	August-06	43.86
11/27/2006	September-06	48.84
11/27/2006	October-06	56.06
		\$791.62

On Premises Beverage Tax		
date paid	reporting month	amounts
1/27/2005	December-04	\$20.25
5/16/2005	January-05	\$0.00
5/16/2005	February-05	\$17.55
5/12/2005	March-05	\$14.96
7/1/2005	April-05	\$0.00
9/28/2005	May-05	\$0.00
9/28/2005	June-05	\$0.00
9/28/2005	July-05	\$0.00
11/22/2005	August-05	\$0.00
11/22/2005	September-05	\$0.00
11/22/2005	October-05	\$0.00
4/13/2006	November-05	\$0.00
4/13/2006	December-05	\$0.00
4/13/2006	January-06	\$0.00
4/13/2006	February-06	\$0.00
4/13/2006	March-06	\$0.00
7/5/2006	April-06	\$0.00
7/5/2006	May-06	\$0.00
11/27/2006	June-06	\$0.00
11/27/2006	July-06	\$0.00
11/27/2006	August-06	0.00
11/27/2006	September-06	25.59
11/27/2006	October-06	
		\$78.35

form was not received for
this month

City of Fayetteville Planning Department Report

Letter from Jeremy Pate- 12-05-06

Letter from Jesse Fulcher- 5-24-05

Letter from Jesse Fulcher- 5-24-05

Certified Mail Record- 5-25-05

Copy of Business Advertisement



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

05 December 2006

Sergeant Jay Harter
City of Fayetteville Police Dept.

RE: 1673 North College Avenue -- Casa Torres

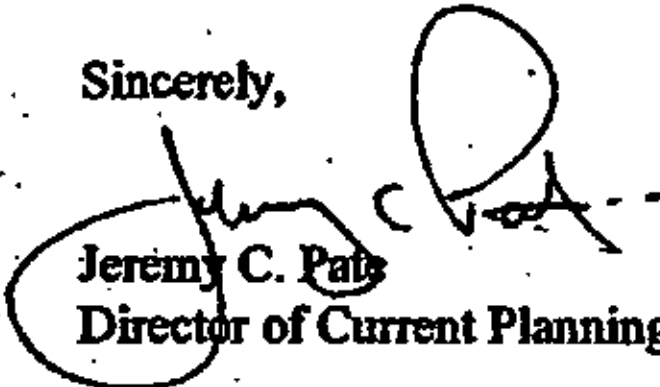
Sergeant Harter:

The Planning Division of the City of Fayetteville would like to offer the following information in your continued research into this property. The most recent Certificate of Zoning Compliance, which is required for any business operating in the City of Fayetteville, was issued by this office on July 09, 2004 for a business operating as Balderas Mexican Restaurant. A Certificate of Zoning Compliance has not been issued for the subject business at 1673 North College Avenue, operating as Casa Torres Restaurant.

With regard to complaints and code violation investigations, from July 26, 2002 to October of 2005, there have been six separate code violation investigations on this property. Many of these code violations were in conjunction with the City's Sign Ordinance, though two were identified as noise and grass/weeds violation, respectively.

On May 24, 2005, the City of Fayetteville Planning Division sent a Certified Mail Violation Notice to the subject property owner, Globe CEO, LLC c/o Mr. Hossein Kouchehbagh, and to the tenant of the property, Casa Torres c/o Mr. Arturo Torres, for a complaint related to investigations that the site was operating as a night club that provides dancing. Without a Conditional Use Permit in this location, a night club that provides dancing is a violation of Chapter 162.01 of the Unified Development Code of the City of Fayetteville. No further complaints have been lodged, and any subsequent investigation has not revealed a night club in operation, to my knowledge. However, I do not believe this office has formally investigated the matter further, for no complaints have been filed in the matter.

Sincerely,



Jeremy C. Pate
Director of Current Planning

Atch: Violation Notices, Flyer advertising dancing

cc: Gary Dumas, Director of Operations
Kit Williams, City Attorney

K:\Jeremy\2006 Correspondence\Casa Torres.doc

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 575-8264

PLANNING DIVISION CORRESPONDENCE

Violation Notice

May 24, 2005

Globe CEO, LLC
c/o Hossein Kouchehbagh
1225 Canterbury
Fayetteville, AR 72701

Re: Zoning Violation

Dear Property Owner:

We have received a complaint regarding Casa Torres Restaurant located at 1673 N. College. City staff has investigated this complaint and determined that a night club that provides dancing is being operated at this location. This property is zoned C-2, Thoroughfare Commercial, which does allow for a night club, however, establishments that want to provide dancing must apply and be approved for a Conditional Use Permit by the Fayetteville Planning Commission. Therefore, your property is in violation of Chapter 162.01 of the City of Fayetteville Unified Development Code.

You are hereby given notice to correct this violation within 30 days from receipt of this letter. If the matter is not resolved to the satisfaction of the city at that time, the City Prosecutor will be asked to take immediate action. If the violation is corrected prior to the criminal summons being requested, you may contact the Planning Division for an inspection to verify the violation has been corrected.

We are also writing to notify you of the serious nature of continuing the violation. A violation of the provisions of this chapter shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not less than \$25.00 and not more than \$500.00. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties provided.

The city may take such other lawful action as is necessary to prevent or remedy this violation. An appeal may be filed with the Board of Adjustment if you are aggrieved by an interpretation or decision regarding this matter. If you have any questions or need more information regarding this letter, please contact Jesse Fulcher, Associate Planner, at 575-8264.

Sincerely,



Jesse Fulcher
Associate Planner

cc: Jeremy Pate-Zoning and Development Administrator

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 575-8264

PLANNING DIVISION CORRESPONDENCE

Violation Notice

May 24, 2005

Casa Torres
1673 N. College Ave.
Fayetteville, AR 72703

Re: Zoning Violation

Dear Mangement:

We have received a complaint regarding Casa Torres Restaurant located at 1673 N. College. City staff has investigated this complaint and determined that a night club that provides dancing is being operated at this location. This property is zoned C-2, Thoroughfare Commercial, which does allow for a night club, however, establishments that want to provide dancing must apply and be approved for a Conditional Use Permit by the Fayetteville Planning Commission. Therefore, your property is in violation of Chapter 162.01 of the City of Fayetteville Unified Development Code.

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Sincerely,


Jesse Fulcher
Associate Planner

cc: Jeremy Pate-Zoning and Development Administrator

FAYETTEVILLE

Y OF FAYETTEVILLE, ARKANSAS
ST MOUNTAIN
EVILLE, AR 72701-6063

RN SERVICE REQUESTED

UNCLAIMED

Casa Torres
1673 N. College Ave.
Fayetteville, AR 72703

CERTIFIED MAIL



04.42

0004980304 MAY 25 2011
2011 MAY 25 10:00 AM FROM ZIP CODE 72701

to open
his to see who
give it back to
Globe
8/26
Sunny
1994

72703+1513 14



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)	

5/25/05

Postmark
Here

Total Postage
Sent To
Street, Apt. 1
or PO Box N
City, State, ZIP

Globe CEO, LLC
c/o Hossein Kouchehbagh
1225 Canterbury
Fayetteville, AR 72701

Globe CEO, LLC
c/o Hossein Kouchehbagh
1225 Canterbury
Fayetteville, AR 72701

5555 2204 4022 5555

CASA TORRES

ENTRADA GRATIS ANTES DE LAS 11PM

DE 9PM A 3:30AM

ENTRADA \$5.00

SABADO MERENGUE

26

SALSA

1376 N. College,
Fayetteville 72701

Tel. 313-0354



CALLEJERO

CALLEJERO

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

C. 1
R-PZD 06-1884, Westside Village
Page 1 of 72

21-Nov-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 06-1884: Residential Planned Zoning District, Westside Village, submitted by Todd Jacobs with Critical Path Design for property located south of Wedington, east of Ruppel Road. The property is zoned RMF-24, Residential Multi-Family, 24 units per acre and contains approximately 21.63 acres. The request is for re-zoning and large scale development approval with 352 attached dwelling units and 71,120 square feet of non-residential and mixed use space.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director
10-27-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney
10-27-06
Date

Original Contract Number: n/a

Paul A. Buhm
Finance and Internal Service Director
10-27-06
Date

Received in City Clerk's Office

ENTERED
10/27/06
UN


Mayor
10/30/06
Date

Received in Mayor's Office

ENTERED
10/27/06
PK

Comments:

Tabled to the 12/19/06 CC mtg 12/5/06
Left on the second reading 11/21/07

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JK*

Date: October 26, 2006

Subject: Residential Planned Zoning District for Westside Village (R-PZD 06-1884)

RECOMMENDATION

The Planning Commission voted to forward the subject request for an ordinance creating a Residential Planned Zoning District (R-PZD) for Westside Village. This action would establish a unique zoning district for a mixed-use development on a 21.63-acre tract located on the east side of Ruppel Road, south of Wedington Drive, immediately north of the Boys and Girls Club.

BACKGROUND

The site is zoned RMF-24, and is generally flat, undeveloped, disturbed grassland with minimal tree canopy. The Boys and Girls Club is located directly south, with Ruppel Row to the west.

The applicant requests rezoning and large scale development approval for a mixed use development with 352 attached dwelling units and 71,120 square feet of non-residential mixed use space. The property is not intended to be subdivided at this time, and would be maintained by a Property Owner's Association. The development would consist of mixed use buildings containing retail/commercial on lower levels and residential condominiums on the upper levels, live/work townhouses, townhouses, and flats. The development would also provide a community greenspace area with a civic building and a pedestrian greenway extending west-east through the entire site. 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 23, 2006, the Planning Commission voted 8-0-0 in favor of forwarding this request to the City Council, with several modifications and amendments to the conditions of approval. City Council final determination of certain conditions is required.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-1884, WESTSIDE VILLAGE, LOCATED SOUTH OF WEDINGTON, EAST OF RUPPLE ROAD, CONTAINING APPROXIMATELY 21.63 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 06-1884 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 06-1884

TRACK 3, FINAL PLAT OF W.H.M. LAND INVSTMENTS, INC., AN ADDITION TO
FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING FILED FOR RECORD
12-19-05 AS PLAT 17-102.

EXHIBIT "B"

C.1
R-PZD 06-1884, Westside Village
Page 5 of 72

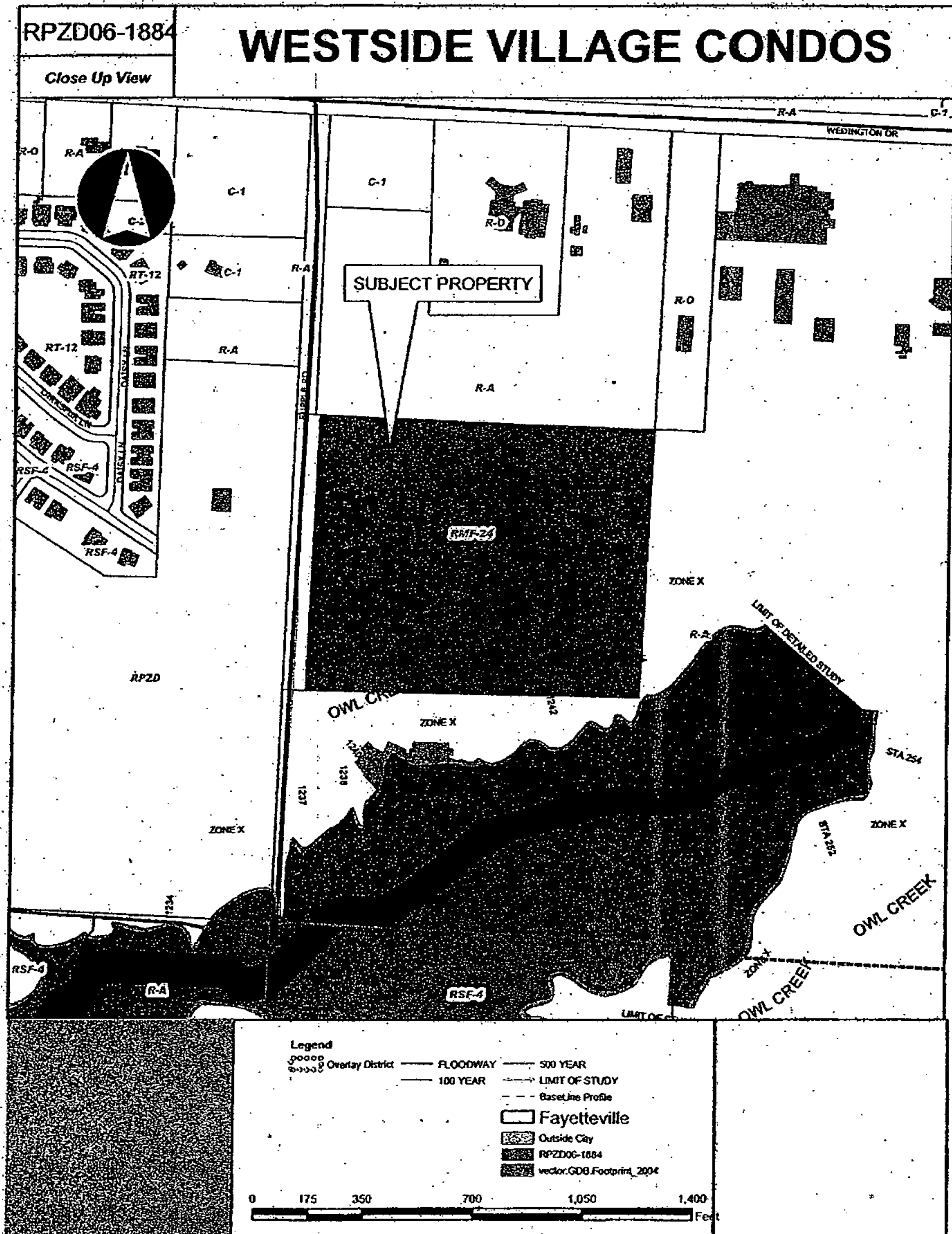


EXHIBIT "C"
R-PZD 06-1884
(Page 1 of 7)

Conditions of Approval

1. Planning Commission determination of street improvements.

- a. *Residential Development: Impact fees to Ruppel Road are based on a contractual agreement for development of the property for residential units (see attached) signed by the City as part of the final plat including the subject property in the amount listed as follows:*

**Westside Village
Ruppel Road Impact Fees**

Type of Units	Proposed No. of Units	Contracted Total Units	Excess Units	Cash Per Unit	Letter of Credit Per Unit	Total Cash Due	Total Letter of Credit Due
Apartments	352	260	92	\$320.51	\$213.67	\$29,486.92	\$19,657.64

Notes:

*See attached contractual Agreement, in conjunction with the Final Plat 01-07.00, in which the current proposal is Lot 3.

*The Cash and Letter of Credit amounts are due prior to building permit.

The applicant shall submit \$29,486.92 and a letter of credit for \$19,657.64 prior to issuance of building permit.

The applicant requests to pay these impact fees based on the number of units built rather than on the maximum number of units allowed by the proposed PZD. The applicant proposes to pay these impact fees per construction phase as delineated on the plans prior to the building permit issuance for that phase only.

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (10-23-06).

- b. *Commercial Development: The contract for the Ruppel Road impact fees covered only residential development on this lot. The applicant is also proposing 55,000 square feet of non-residential development on this lot (not including the civic building and live-work units). Appropriate assessment for the traffic impacts generated by the proposed non-residential use has been evaluated by the City Planning and Engineering Divisions and an assessment amount of \$44,396.49 shall be paid prior to issuance of a building permit for the commercial portion of the development for improvements to Ruppel Road. A memo from City staff to the applicant describing the methodology used to derive the assessment amount is attached to this report.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (10-23-06).

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2. Planning Commission determination of adequate connectivity: The project proposes an access easement stub-out and a public right-of-way stub-out to largely undeveloped property to east. The existing Boys and Girls Club is located adjacent to the southern border of the site and is not proposed for vehicular connectivity, but is proposed for a pedestrian connection. The applicant proposes an access easement/right-of-way stub-outs for the three streets to undeveloped property to the north. The stub-out to the north shall be revised to indicate a 20' one-way paved section for a northbound lane, and a 20' one-way paved section for a southbound lane, divided by a median, extending the boulevard section to the northern property line. On all of the street connections proposed the applicant proposes not to construct physical paved stub-outs, but to install signs indicating future street extension, and proposes to pay an assessment to the City for the future construction of the stub-outs. An assessment shall be paid to the City for the construction of the stub-outs to the east, in an amount to be approved by the City Engineering Division prior to building permit. The applicant shall coordinate with the City Engineering and Transportation Divisions prior to construction to agree upon appropriate signage to indicate future street extensions, but still be aesthetically compatible with the development. The applicant shall work with the City Attorney's Office to carefully write an easement document to prevent large utility trucks from accessing the street stub-outs to the east. The intention of the easement document is to prevent using the streets in this development as a cut-through. This easement shall be recorded prior to building permit and referenced by document number on the easement plat. *Staff finds the location and number of street connections adequate for the development. However, staff recommends that all street stub-outs be constructed with pavement to the property line, along with a sign to more clearly indicate future street connection as opposed to the applicant's proposal not to physically construct the stub-outs as part of the development. Staff finds that constructing stub-outs along with signage is necessary to clearly indicate to the public and future developers the location of future street connections.*

PLANNING COMMISSION APPROVED AND MODIFIED THIS CONDITION AS NOTED, RECOMMENDING IN FAVOR OF THE STREET CONNECTIVITY PRESENTED, AND AGREEING WITH THE APPLICANT'S REQUEST THAT FULL STUB-OUTS BE CONSTRUCTED TO THE NORTH, AND RIGHT-OF-WAY/EASEMENT ONLY AND SIGNS BE PROVIDED FOR THE CONNECTIVITY TO THE EAST. (10-23-06).

3. Planning Commission determination of a waiver of street design standards.

- a. The applicant requests a waiver to allow a 15' curb return radius (CRR) at all street intersections and driveways when City Code requires a 30' CRR for streets (UDC Section 171.02(C)), and 25' for commercial driveways (UDC Section 172.04(D)(2)(a)(iv)). *Staff recommends denial of this waiver, finding that with both reduced street width and reduced curb return radius at all intersections, turning moments become problematic for passenger vehicles and could result in conflicts.*

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PLANNING COMMISSION APPROVED THIS CONDITION (10-23-06).

- b. The applicant requests a waiver to allow a different street cross section than are required by the current Master Street Plan standard. The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows parallel parking as proposed. Public Drive #2 shall remain a public drive as shown on the drawings submitted. *Staff recommends in favor of a waiver to construct the street cross sections as requested, although staff recommends that Public Drive #2 as labeled on the site plan be a private street. The City is not interested in owning and maintaining what is essentially drive aisles and parking lots for the private development. Staff will review detailed construction plans at the time of development.*

PLANNING COMMISSION APPROVED THIS CONDITION AS NOTED, AGREEING WITH THE APPLICANT'S REQUEST THAT PUBLIC DRIVE #2 BE A PUBLIC STREET (10-23-06).

4. Planning Commission determination of commercial design standards for the commercial structures and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of the non-residential structures are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings, townhouses, live-work units, and flats. The zoning criteria for the residential structures requires buildings to front the street, and small building setbacks help create a streetscape and facilitate an overall compact and complete development, with the urban structures broken up by a village green and pedestrian greenway at key visual points, preventing a monotony of structures.*

PLANNING COMMISSION APPROVED THIS CONDITION (10-23-06).

5. Planning Commission determination of a waiver of Chapter 166 and 172 of the Unified Development Code, for 24' wide drive aisles/parking stub-outs. Street/driveway widths shall be modified to a minimum width of 24' for two-way access, and 12' for one-way access in all instances. The two-way drive aisles around the perimeter of the development are 23'. Several other drive aisles have different widths such as 22', 23', and 25'. *Staff recommends denial of this waiver, finding there is not suitable space in many locations for parking and driving to co-exist without the potential for accidents, especially in those areas containing 90 degree parking across from parallel parking. Staff recommends the standard 24' (back-of-curb to back-of-curb) be utilized for all driveways, drive aisles, public streets and private streets; where two-way traffic proposed.*

PLANNING COMMISSION APPROVED THE WAIVER AS REQUESTED (10-23-06).

6. Sidewalks along Ruppel Road shall be constructed to city standards and dedicated to the City. Sidewalks along all interior public streets shall be constructed to city standards with a

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minimum of 6' in width. All sidewalks and greenspace adjacent to private streets shall not be owned by the City, but shall be within a public pedestrian access easement. Private street improvements shall also be constructed by the property owner to City standards and maintained to acceptable City standards by the property owner or property owner's association. *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)).*

7. Pedestrian walkways/sidewalks and landscaping as shown on the site plan and Master Development Plan 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.
8. Right-of-way dedication in the amount of 55' from centerline of the existing Ruppel Road right-of-way needs to be provided with this development. Right-of-way for internal public streets to be dedicated in variable widths as indicated on the site plan, by way of easement plat prior to issuance of building permits.
9. Due to the very large and complex nature of this project, a detailed review of all aspects of the site and landscape plans in each phase of construction shall take place prior to issuance of building permits. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.
10. The applicant shall submit a guarantee (letter of credit, bond, or cash) of \$1,000 per dwelling unit and for non-residential uses, a fee based on square feet of use and determined by the City Engineer prior to issuance of a building permit 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.
11. This project is required to obtain all permits for Phase I within one year of approval by City Council, and required to obtain all permits for Phase II within eight years of approval by City Council. A one-year extension may be approved by the Planning Commission subject to ordinance criteria.
12. All private streets shall be included in a shared access easement. This access easement

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shall be included on the easement plat.

13. Dimension the northern access point to Ruppel with a two-way exit at a minimum of 24' wide.
14. Solid Waste. It does not appear that the number of dumpsters shown on the site plan is adequate to service the amount of solid waste generated by this development. As discussed with the applicant and Solid Waste Division, it is likely that compactors (shown) will be required in addition to several dumpsters throughout the development. The location of all compactors and dumpster pads shall be coordinated with the Solid Waste Division to ensure adequate turning radii and space. All dumpsters shall be screened with materials that are compatible with and complimentary to the architecture of the surrounding structures.
15. Prior to issuance of a building permit an easement plat shall be signed by all utilities providing service to this project.
16. The Civic Building will come back to Planning Commission for review as a Conditional Use Permit, and will be required to meet commercial design standards.
17. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements, other than those as specified in the zoning criteria.
18. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards.
19. Parks fees for 352 Multi-Family Units are due in the amount of \$138,336. Fees are due prior to issuance of a building permit for those units in that development phase.
20. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.
21. 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.

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Tree Preservation Conditions

22. Mitigation will be required on this site in the amount of 19 (2) inch caliper large species trees. These trees are proposed to be planted on-site.
23. A 3-year maintenance bond, letter of credit, or check equaling \$4750 shall be deposited with the City of Fayetteville before final Certificate of Occupancy. After the 3 year period, the Urban Forester will inspect the site. Finding 90% or better of the trees to be healthy the bond will be released.

Landscape Plan Conditions

24. Street trees that are removed along the Ruppel Road frontage with this development will be required to be replaced.
25. Please keep the parking lot lighting in mind when designing the landscape plan to ensure that required trees shown on the landscape plan are not replaced with lights, or do not block lighting.
26. Street tree plantings will be required along the all public and private street frontages with one tree per 30 feet. These trees will need to be planted in urban tree wells with structural soils, or with adequate green space for planting, and the species subject to the approval of the City's Urban Forester.
27. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester 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.

Standard Conditions of Approval

28. 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).

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29. Trash enclosures shall be screened with materials compatible with the buildings in the development with access not visible from the public or private streets or drive aisles. Architectural renderings depicting the colors and materials for the trash enclosures shall be submitted for review prior to issuance of a building permit.
30. 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.
31. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
32. 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.
33. 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.



Planning Commission Meeting
October 23, 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
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: October 18, 2006 *Updated October 25, 2006*

PZD 06-1884: Planned Zoning District (WESTSIDE VILLAGE, 439): Submitted by TODD JACOBS CRITICAL PATH DESIGN for property located at SOUTH OF WEDINGTON, EAST OF RUPPLE ROAD. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 21.63 acres. The request is for re-zoning and large scale development approval for a Residential Planned Zoning District with 352 attached dwelling units and 71,120 square feet of non-residential and mixed use space.

Property Owner: WESTSIDE DEVELOPMENT, LLC
Planner: ANDREW GARNER

Findings:

Background: This item was heard at the March 16, 2006 Subdivision Committee meeting. The development proposed at that meeting consisted of 420 attached dwelling units dispersed in 14 apartment buildings and 128 townhouses. At that meeting the Subdivision Committee discussed that including non-residential uses in the project would be highly desirable for the introduction of so many residential units. The applicant substantially revised the site plan, including nonresidential uses and introduced several new building types and a new layout. This item was subsequently heard at the September 14th, then October 12th, 2006 Subdivision Committee meetings, where it was forwarded with a favorable recommendation to the full Planning Commission.

Property Description: The subject property consists of approximately 21.63 acres located on the east side of Ruppel Road, south of Wedington Drive, north of the Boy's and Girl's Club. The site is zoned RMF-24, and is generally flat, undeveloped, disturbed grassland with minimal tree canopy.

Proposal: The applicant requests a rezoning and large scale development approval for a mixed use development within a unique R-PZD zoning district. All of the land would be under a common ownership, or property owner's association, and is not proposed to be subdivided. The proposed use of the site is listed in *Table 1*.

Table 1
Proposed Project
Westside Village R-PZD 06-1884

Type of Use	Planning Area	Number of Units	Size of Unit	Retail (sq. ft.)	Office (sq. ft.)	Restaurant (sq. ft.)	Civic Space (sq. ft.)	Greenspace (acres)
Mixed Use Apartments	PA-1	88	900 sq. ft.	17,260	32,000	6,000	NA	NA
Live/Work	PA-2	23	24' x 35'	NA	10,860	NA	NA	NA
Townhouses	PA-3	73	25'x40'; 24'x40'; 22'x50'	NA	NA	NA	NA	NA
Flats	PA-4	168	900 sq. ft.	NA	NA	NA	NA	NA
Civic Building	PA-5	NA	NA	NA	NA	NA	5,000	NA
Greenspace	PA-6	NA	NA	NA	NA	NA	NA	0.92
TOTAL	NA	352	NA	17,260	42,860	6,000	5,000	0.92

The project booklet and the plats provided give the zoning criteria in detail. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Phasing: The applicant proposes to develop Westside Village in five phases to space over the next two to eight years.

Phase I: Public streets and major infrastructure, mixed use Buildings A and B, 34 townhouses, the Civic Building, the Village Green

Phases II – V: Townhouses, live/work units, flats, mixed use Building C. Full phase build out will be completed in approximately eight years.

Permits are proposed to be pulled for Phase I within one year of City Council approval of the PZD; permits are proposed to be pulled for Phase II within eight years of City Council approval. The applicant requests the allowance of a one year extension if necessary.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single-Family Residential	R-A, Residential-Agricultural
South	Boys and Girls Club	R-A, Residential-Agricultural
East	Undeveloped	R-A, Residential-Agricultural
West	Ripple Row PZD	PZD, Ripple Row Planned Zoning District

Water & Sewer: Water and sewer lines are being extended to serve the development.

Access: Access to the proposed development would be directly off of Ruppel Road along the western property line. Four proposed public drives would be constructed through the development with the approximate right-of-way width listed below:

<u>Street</u>	<u>Approximate Right-of-Way Width</u>
Meadowlands Drive	56'
Public Drive 1	53'
Public Drive 2	114'
Public Drive 3	55'

These streets would feature parallel parking on both sides of the street. Meadowlands Drive will extend east from Ruppel Road and will be stubbed out at the easternmost boundary of the subdivision. Three other proposed public streets would extend north from Meadowlands Drive to the northernmost boundary of the property. Public Drive 2 is a divided street featuring parallel parking on the interior and angled parking on the exterior. *Staff is recommending that this street in particular not be a public street, but private, as it does not meet street design standards.* A private, two-way parking drive will encompass the perimeter of the development. This drive will feature parallel parking on the interior portion and perpendicular parking along the exterior portion. A pedestrian green way starts at Ruppel Road and traverses east through the project. A number of interior sidewalks around all of the buildings provide well-connected walkways throughout the development. Parking would be provided on streets and in garages with an adequate number of spaces as presented in *Table 2*.

Connectivity: The project proposes an access easement stub-out and a public right-of-way stub-out to largely undeveloped property to east. The existing Boys and Girls Club is located adjacent to the southern border of the site and is not proposed for vehicular connectivity, but is proposed for a pedestrian connection. The applicant proposes an access easement/right-of-way stub-out for the three streets to undeveloped property to the north. On all of the street connections proposed the applicant proposes not to construct the pavement for the stub-out, but to install a sign indicating future street extension, and proposes to pay an assessment to the City for the future construction of the stub-outs. *Staff finds the location and number of street connections adequate for the development. However, staff recommends that all street stub-outs be constructed with pavement to the property line, along with a sign to more clearly indicate future street connection as opposed to the applicant's proposal not to physically construct the stub-outs as part of the development. Staff finds that constructing stub-outs along with signage is necessary to clearly indicate to the public and future developers the location of future street connections.*

Adjacent Master Street Plan Streets: Ruppel Road (principal arterial)

Street Improvements: Impact fees for Ruppel Road are based on a contractual agreement (see attached) agreed to by the City as part of the final plat for this subdivision including the subject property in an amount listed in the conditions of approval of this staff report. These fees are intended to be utilized by the city to widen Ruppel Road to a minimum four-lane street. Staff finds that additional improvements are warranted by the traffic generated from the additional

commercial uses proposed on the site and recommends an assessment be paid based on the rough proportionality of the additional commercial uses in an amount of \$44,396.49 (see attached memo from staff to the applicant regarding this item) for improvements to Ruppel Road.

Table 2
Parking Requirements
Westside Village R-PZD 06-1884

Use	Buildings	Type of Unit	Amount of Unit	Parking Ratio (1 space per ratio)	Parking Required
Retail	Mixed Use Buildings	square feet	17,260	250	69
Office	Mixed Use Buildings and Live-Work Units	square feet	42,860	300	143
Restaurant	Mixed Use Buildings	square feet	6,000	100	60
Multi-family Units	Various	# of bedrooms	532	1	532
Civic Building	Civic Building	square feet	5,000	500	10
Total Parking Required					814
Minimum Parking at 30% Under Required					570
Total Off-Street Parking Provided*					711
Parking Excess					141
Total On- and Off- Street Parking Provided					892
Parking Excess					322

* 519 off-street parking + 192 covered garage parking spots. This 519 parking count does not include the one-way streets (Public Drive #2) that the applicant proposes as public but City staff recommends as private. If the street does become Private then the parking count for off-street parking would be 797 total off-street parking and excess of 227 parking spaces.

Note: Off-street parking is defined as all parking provided off of a public street. Parking on private streets, drive-aisles, alleys, garages, and parking lots is included in the off-street parking numbers.

Parks: On May 2, 2005, the Park and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the park land dedication ordinance. Additionally, the plans for the development include a pedestrian greenway and village green interior to the project.

Tree Preservation:

Existing Canopy:	0.85%
Preserved Canopy:	0.0%
Required Canopy:	0.85%
Mitigation:	Required; 19 two-inch caliper trees (onsite planting)

Recommendation: Staff recommends forwarding **R-PZD 06-1884** to the City Council with a recommendation for approval with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements.

- a. *Residential Development: Impact fees to Ruppel Road are based on a contractual agreement for development of the property for residential units (see attached) signed by the City as part of the final plat including the subject property in the amount listed as follows:*

**Westside Village
Ruppel Road Impact Fees**

Type of Units	Proposed No. of Units	Contracted Total Units	Excess Units	Cash Per Unit	Letter of Credit Per Unit	Total Cash Due	Total Letter of Credit Due
Apartments	352	260	92	\$320.51	\$213.67	\$29,486.92	\$19,657.64

Notes:

*See attached contractual Agreement, in conjunction with the Final Plat 01-07.00, in which the current proposal is Lot 3.

*The Cash and Letter of Credit amounts are due prior to building permit.

The applicant requests to pay these impact fees based on the number of units built rather than on the maximum number of units allowed by the proposed PZD. The applicant proposes to pay these impact fees per construction phase as delineated on the plans prior to the building permit issuance for that phase only.

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (10-23-06).

- b. *Commercial Development: The contract for the Ruppel Road impact fees covered only residential development on this lot. The applicant is also proposing 55,000 square feet of non-residential development on this lot (not including the civic building and live-work units). Appropriate assessment for the traffic impacts generated by the proposed non-residential use has been evaluated by the City Planning and Engineering Divisions and an assessment amount of \$44,396.49 shall be paid prior to issuance of a building permit for the commercial portion of the development for improvements to Ruppel Road. A memo from City staff to the applicant describing the methodology used to derive the assessment amount is attached to this report.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION (10-23-06).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THIS CONDITION (10-12-06).

2. Planning Commission determination of adequate connectivity. The project proposes an access easement stub-out and a public right-of-way stub-out to largely undeveloped property to east. The existing Boys and Girls Club is located adjacent to the southern

border of the site and is not proposed for vehicular connectivity, but is proposed for a pedestrian connection. The applicant proposes an access easement/right-of-way stub-outs for the three streets to undeveloped property to the north. The stub-out to the north shall be revised to indicate a 20' one-way paved section for a northbound lane, and a 20' one-way paved section for a southbound lane, divided by a median, extending the boulevard section to the northern property line. On all of the street connections proposed the applicant proposes not to construct physical paved stub-outs, but to install signs indicating future street extension, and proposes to pay an assessment to the City for the future construction of the stub-outs. An assessment shall be paid to the City for the construction of the stub-outs to the east, in an amount to be approved by the City Engineering Division prior to building permit. The applicant shall coordinate with the City Engineering and Transportation Divisions prior to construction to agree upon appropriate signage to indicate future street extensions, but still be aesthetically compatible with the development. The applicant shall work with the City Attorney's Office to carefully write an easement document to prevent large utility trucks from accessing the street stub-outs to the east. The intention of the easement document is to prevent using the streets in this development as a cut-through. This easement shall be recorded prior to building permit and referenced by document number on the easement plat. Staff finds the location and number of street connections adequate for the development. However, staff recommends that all street stub-outs be constructed with pavement to the property line, along with a sign to more clearly indicate future street connection as opposed to the applicant's proposal not to physically construct the stub-outs as part of the development. Staff finds that constructing stub-outs along with signage is necessary to clearly indicate to the public and future developers the location of future street connections.

PLANNING COMMISSION APPROVED AND MODIFIED THIS CONDITION AS NOTED, RECOMMENDING IN FAVOR OF THE STREET CONNECTIVITY PRESENTED, AND AGREEING WITH THE APPLICANT'S REQUEST THAT FULL STUB-OUTS BE CONSTRUCTED TO THE NORTH, AND RIGHT-OF-WAY/EASEMENT ONLY AND SIGNS BE PROVIDED FOR THE CONNECTIVITY TO THE EAST. (10-23-06).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THE STREET CONNECTIVITY PRESENTED, AND RECOMMENDED THAT FULL STUB-OUTS BE CONSTRUCTED TO THE NORTH, AND RIGHT-OF-WAY/EASEMENT ONLY AND SIGNS BE PROVIDED FOR THE CONNECTIVITY TO THE EAST (10-12-06).

3. Planning Commission determination of a waiver of street design standards.
 - a. The applicant requests a waiver to allow a 15' curb return radius (CRR) at all street intersections and driveways when City Code requires a 30' CRR for streets (UDC Section 171.02(C)), and 25' for commercial driveways (UDC Section 172.04(D)(2)(a)(iv)). Engineering staff commented at the October 12th Subdivision Committee meeting that they did not have enough information to recommend approval of the waiver at that time. Additional information and justification for this waiver was submitted at the time of publication of this report

and engineering is still reviewing this information (see attached).

PLANNING COMMISSION APPROVED THIS CONDITION (10-23-06).

SUBDIVISION COMMITTEE HAD NO RECOMMENDATION FOR THIS CONDITION (10-12-06).

- b. The applicant requests a waiver to allow a different street cross section than are required by the current Master Street Plan standard. The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows parallel parking as proposed. Public Drive #2 shall remain a public drive as shown on the drawings submitted. *Staff recommends in favor of a waiver to construct the street cross sections as requested, although staff recommends that Public Drive #2 as labeled on the site plan be a private street. The City is not interested in owning and maintaining what is essentially drive aisles and parking lots for the private development. Staff will review detailed construction plans at the time of development.*

PLANNING COMMISSION APPROVED THIS CONDITION AS NOTED, AGREEING WITH THE APPLICANT'S REQUEST THAT PUBLIC DRIVE #2 BE A PUBLIC STREET (10-23-06).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THIS CONDITION (10-12-06).

4. Planning Commission determination of commercial design standards for the commercial structures and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of the non-residential structures are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings, townhouses, live-work units, and flats. The zoning criteria for the residential structures requires buildings to front the street, and small building setbacks help create a streetscape and facilitate an overall compact and complete development, with the urban structures broken up by a village green and pedestrian greenway at key visual points, preventing a monotony of structures.*

PLANNING COMMISSION APPROVED THIS CONDITION (10-23-06).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THIS CONDITION (10-12-06).

5. Planning Commission determination of a waiver of Chapter 166 and 172 of the Unified Development Code, for 24' wide drive aisles/parking stub-outs. Street/driveway widths shall be modified to a minimum width of 24' for two-way access, and 12' for one-way access in all instances. The two-way drive aisles around the perimeter of the development are 23'. Several other drive aisles have different widths such as 22', 23', and 25'. *Staff recommends denial of this waiver, finding there is not suitable space in many locations for parking and driving to co-exist without the potential for accidents, especially in those areas containing 90 degree parking across from parallel parking.*

Staff recommends the standard 24' (back-of-curb to back-of-curb) be utilized for all driveways, drive aisles, public streets and private streets; where two-way traffic proposed.

PLANNING COMMISSION APPROVED THE WAIVER AS REQUESTED (10-23-06).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THIS CONDITION (10-12-06).

6. Sidewalks along Ruppel Road shall be constructed to city standards and dedicated to the City. Sidewalks along all interior public streets shall be constructed to city standards with a minimum of 6' in width. All sidewalks and greenspace adjacent to private streets shall not be owned by the City, but shall be within a public pedestrian access easement. Private street improvements shall also be constructed by the property owner to City standards and maintained to acceptable City standards by the property owner or property owner's association. *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)).*
7. Pedestrian walkways/sidewalks and landscaping as shown on the site plan and Master Development Plan 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.
8. Right-of-way dedication in the amount of 55' from centerline of the existing Ruppel Road right-of-way needs to be provided with this development. Right-of-way for internal public streets to be dedicated in variable widths as indicated on the site plan, by way of easement plat prior to issuance of building permits.
9. Due to the very large and complex nature of this project, a detailed review of all aspects of the site and landscape plans in each phase of construction shall take place prior to issuance of building permits. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.
10. The applicant shall submit a guarantee (letter of credit, bond, or cash) of \$1,000 per dwelling unit and for non-residential uses, a fee based on square feet of use and

determined by the City Engineer prior to issuance of a building permit 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.

11. This project is required to obtain all permits for Phase I within one year of approval by City Council, and required to obtain all permits for Phase II within eight years of approval by City Council. A one-year extension may be approved by the Planning Commission subject to ordinance criteria.
12. All private streets shall be included in a shared access easement. This access easement shall be included on the easement plat.
13. Dimension the northern access point to Ruppel with a two-way exit at a minimum of 24' wide.
14. Solid Waste. It does not appear that the number of dumpsters shown on the site plan is adequate to service the amount of solid waste generated by this development. As discussed with the applicant and Solid Waste Division, it is likely that compactors (shown) will be required in addition to several dumpsters throughout the development. The location of all compactors and dumpster pads shall be coordinated with the Solid Waste Division to ensure adequate turning radii and space. All dumpsters shall be screened with materials that are compatible with and complimentary to the architecture of the surrounding structures.
15. Prior to issuance of a building permit an easement plat shall be signed by all utilities providing service to this project.
16. ~~Booklet revisions to be completed prior to City Council:~~
 - a. ~~Page 16. C. Intensity. List the acreage, maximum amount of square feet for the civic building structure, and intensity expressed in square feet per acre.~~
 - b. ~~Should Public Street #2 become private, it shall be encompassed with an ingress/egress and shared parking easement. Setbacks shall be measured from the lines currently representing the right of way. Add this statement to the booklet for those Planning Areas affected.~~

THIS CONDITION WAS ADDRESSED IN THE REVISIONS SUBMITTED FOR CITY COUNCIL.

17. The Civic Building will come back to Planning Commission for review as a Conditional Use Permit, and will be required to meet commercial design standards.
18. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements, other than those as specified in the zoning criteria.
19. Buildings shall be constructed to be consistent with the concepts depicted in the building

elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards.

20. Parks fees for 352 Multi-Family Units are due in the amount of \$138,336. Fees are due prior to issuance of a building permit for those units in that development phase. City Council approval of a waiver is required.
21. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.
22. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Tree Preservation Conditions:

23. Mitigation will be required on this site in the amount of 19 (2) inch caliper large species trees. These trees are proposed to be planted on-site.
24. A 3-year maintenance bond, letter of credit, or check equaling \$4750 shall be deposited with the City of Fayetteville before final Certificate of Occupancy. After the 3 year period, the Urban Forester will inspect the site. Finding 90% or better of the trees to be healthy the bond will be released.

Landscape Plan Conditions:

25. Street trees that are removed along the Ruppel Road frontage with this development will be required to be replaced.
26. Please keep the parking lot lighting in mind when designing the landscape plan to ensure that required trees shown on the landscape plan are not replaced with lights, or do not block lighting.
27. Street tree plantings will be required along the all public and private street frontages with one tree per 30 feet. These trees will need to be planted in urban tree wells with structural soils, or with adequate green space for planting, and the species subject to the approval of the City's Urban Forester.

28. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester 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.

Standard Conditions of Approval:

29. 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).
30. Trash enclosures shall be screened with materials compatible with the buildings in the development with access not visible from the public or private streets or drive aisles. Architectural renderings depicting the colors and materials for the trash enclosures shall be submitted for review prior to issuance of a building permit.
31. 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.
32. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
33. 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.
34. 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.

Planning Commission Action: Approval Tabled X Forwarded to C.C.

Motion: Myres
Second: Trumbo
Vote: 8-0-0
Meeting Date: October 23, 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 06-1884 (Westside Village)

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 designates this area as an Intended Growth Sector. Rezoning this property to R-PZD 06-1884 with mixed use, attached single- and multi- family dwelling units, and a mix of density is consistent with the land use plan and compatible with surrounding land uses and density within surrounding developed and developing property to the west, and south, and largely undeveloped property to the east and north.

- (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 mixed use, attached single- and multi- family residential uses, and a mix of density. The proposed zoning criteria would provide for three mixed use buildings along Rupple Road, with townhouses, three apartment/flat buildings, and live/work units interspersed at strategic places throughout the site. The site incorporates a pedestrian greenway starting at Rupple Road and traversing east through the project. A Civic Building and common

greenspace area would also be provided in the south-central portion of the site, with a pedestrian connection south of the Civic Building to the Boys and Girls Club walking trail immediately to the south. The site layout is compatible with the Boys' and Girls' Club to the south, the Ruppel Row Planned Zoning District across Ruppel Road to the west, and provides an opportunity for connectivity and transition to adjacent, largely underdeveloped property to the east and north.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is an undeveloped relatively flat site with minimal tree canopy. The natural environment is suitable for the type of development proposed.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended land use, commercial and residential, will impact the existing traffic conditions. Currently this site only has one point of ingress and egress, though street and cross-access stub-outs are being provided for future connections to the east and north to ease the burden of traffic. A contractual agreement agreed to by the City as part of the final plat for the original subdivision creating the subject tract included fees required to improve Ruppel Road to a minimum four-lane street. These assessment and fees agreed in that contract only covered residential development on the property. The developer has agreed to staff's recommendation that additional assessment be paid to accommodate the traffic generated by the commercial/non-residential development proposed. These assessments would ultimately be used to improve Ruppel Road to its full designation as a Principal Arterial, which would ensure that this development would not create traffic congestion or burden the existing road network substantially.

- (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 Westside Village PZD provides for a transition between the existing Boys' and Girls' Club to the south, and the developing Ruppel Row PZD to the west. The largely underdeveloped property to the north and east would be provided the opportunity for transition into this project if they are ever developed. The mixed use buildings provide non-residential services for this growing area with an elementary school and the Boy's and Girls' Club immediately to the south, along with a relatively high-density residential development to the west. The mixed use buildings will reduce vehicle trips the immediate and surrounding neighborhood would have to make for non-residential services. Circulation is compact and connected, adequate parking has been provided, and the inclusion of landscaping/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: Screening is proposed for the parking adjacent to Ruppel Road, and for the large internal surface parking areas. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, 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: Meadowlands Drive will extend east from Ruppel Road and will be stubbed out at the easternmost boundary of the subdivision. Three other streets would extend north from Meadowlands Drive to the northernmost boundary of the property. Public Drive 2 is a divided street featuring parallel parking on the interior and angled parking on the exterior. A private, two-way parking drive will encompass the perimeter of the development. This drive will feature parallel parking on the interior portion and perpendicular parking along the exterior portion. A pedestrian green way starts at Ruppel Road and traverses east through the project. A number of interior sidewalks around all of the buildings provide well-connected walkways throughout the development. The dwellings face onto streets, greenspace, or walkways, and are accessed primarily off of the secondary streets, alleys, or drive aisles, providing a hierarchy of circulation that encourage an efficient flow of traffic.

- (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: All parking ratios are to be met with this proposal as listed earlier in Table 2 of this report.

- (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: Public sidewalks are to be constructed adjacent to Ruppel Road along the property frontage with the ultimate improvement of Ruppel Road. Internal to the development, sidewalks are provided along both sides of the public streets, along all private streets, between units and within the development. As conditioned, all sidewalks and pedestrian walkways shall be constructed as part of the development, in conjunction with

the units they serve. Many of the sidewalks are located within access easements that permit public access, but are owned and maintained by the POA.

(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, as this development proposes both public and private streets. Private streets are proposed to be a variety of

widths, all greater than 20 feet in width, and the public streets have additional right-of-way over a standard street section, allowing for on-street parking.

- (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 complied with all tree preservation and Protection requirements, and will be required to plant 19 two-inch caliper mitigation trees onsite.

- (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 non-residential structures on the site include the mixed use buildings and the Civic Building. Architectural elevations have been provided for the mixed use buildings and staff finds the structures to be in compliance with commercial design standards. The proposed Civic Building within the Village Green area is also a non-residential structure and shall comply with commercial design standards, which will be reviewed at the time of Conditional Use Permit application. The live-work units throughout the development are considered to be primarily residential structures, not required to meet commercial design standards, but are required to be consistent with the architectural design standards presented.

- (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 out of proportion 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 many of the parameters of the City Plan 2025, as well as the above ten criteria, including flexibility in density, compatibility and transition of land use, provision of a variety of housing types and a mix of commercial and residential uses, common open spaces. 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: The primary uses proposed are residential (352 units), with mixed use buildings, live/work townhouses, and civic buildings providing a total of 71,120 square feet of non-residential use. The total amount of residential use is greater than fifty-one percent of the gross floor area within the overall development.

(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 density, from small lot attached and detached residential dwellings to the west, to large undeveloped residential lot to the north, and undeveloped property to the east. The Boys' and Girls' Club and an elementary school are located to the south. Density and zoning criteria under the current zoning (RMF-24) would not allow for the variety of uses and mix of densities as proposed, although the overall density for the proposed development is 24 units/acre, when the current zoning would allow for 24 units/acre. The proposed re-zoning and development plan accomplish the city's development goals, and infrastructure for this area supports the density and mixed use as proposed.

- (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 varied on this project, as it provides for a mix of unity type, uses, and density. The project is being developed without subdivision of land, thus a horizontal property regime will likely be filed. Smaller lot and decreased setback development has been approved across the street with Ruppel Row PZD.

- (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, and the mixed use and apartment flat buildings are appropriate and compatible with the existing and proposed development.

- (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 or building area on this project is relatively high, given the high density, mix of commercial uses. The lot coverages are appropriate given the urban environment proposed.

***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 06-1884, with the associated Master Development Plan, allows this future land use to vary somewhat, 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 City Plan 2025 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 the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced the number of guiding policies for Residential Areas this proposal meets. Rezoning the property will accommodate both the future land use plan for residential uses in this intended growth sector area, and also allow for a variety of uses and housing types, sizes and development pattern, thus providing more choice for more citizens.

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 primarily residential use. The proposed mix of uses, residential density and site layout included with this re-zoning is more appropriate for this area than the existing zoning. Rezoning of this property as proposed is 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, with the street improvements recommended

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 not increase from that which currently exists, although the commercial uses proposed would create additional demand on public services. 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 adjacent to the site. There is a 12" waterline along Ruppel Road. Water service will need to be looped through the property at the time of development.

Sanitary sewer is not available on the site. There is an 8" sewer main located to the east in the Ruppel Row subdivision and to the south along Owl Creek. Sewer service will need to be extended to and through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. This property is within the Hamestring Creek lift station drainage area.

The site has access to Ruppel Road. This street is an improved two-lane paved roadway with curb, gutter, and storm drains

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 less than 200 feet from the FS #7. 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

PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

10 October 2006

Mr. Todd Jacobs
Critical Path Design

Re: Westside Village Planned Zoning District
Street Improvements evaluation

Dear Todd,

The Planning and Engineering Divisions have reviewed your proposal for improvements (or assessments thereof) to Ruppel Road to mitigate the potential detrimental impact to existing infrastructure due to the proposed mixed-use development Westside Village. We are unable to support your current proposal for these improvements, without modifications.

As we have discussed in the past, the City of Fayetteville and the sub-divider of the subject property entered into an agreement in 2001 for a certain amount of dwelling units projected to be developed on this property without additional improvements or assessments in-lieu of improvements necessary. The City of Fayetteville intends to honor this agreement, and will not be basing any assessment or improvement recommendation on the dwelling units that were originally projected. The contractual agreement also includes an impact fee to be paid for each dwelling unit above and beyond the projected number, as follows:

Westside Village

Ruppel Road Impact Fees -- Residential Use

Type of Units	Proposed No. of Units	Contracted Total Units	Excess Units	Cash Per Unit	Letter of Credit Per Unit	Total Cash Due	Total Letter of Credit Due
Apartments	366*	260	106	\$320.51*	\$213.67*	\$33,974.06*	\$22,649.02*

**Numbers may change, based upon the actual number of units approved and constructed.*

In addition to the proposed dwelling units in excess of that originally projected, a substantial amount of non-residential development is proposed in the submitted mixed-use Planned Zoning District. The traffic generated from this development will also impact surrounding infrastructure. Staff reviewed the methodology for the generation of the amount per dwelling unit that is utilized in the above graph

and the contract between the City and property owners, which derived an agreed-upon impact fee cost of \$80.57 per vehicle trip generated onto Ruppel Road. Also evaluated were the square feet and usage of the non-residential development proposed, as vehicle trips generated vary between uses.

Westside Village

Ruppel Road Impact Fees – Non-residential Use

Proposed Use	Proposed Square Feet	24-hour Two-Way Volume	Cost per vehicle trip per day	Projected Assessment
Restaurant	6,000	540 vpd	\$80.57	\$43,507.80
Specialty Retail	17,000	691 vpd	\$80.57	\$55,673.87
General Office	32,000	352 vpd	\$80.57	\$28,360.64
Total	55,000	1,583 vpd	\$80.57	\$127,542.31

Based on this approved methodology, a total of \$127,542.31 would be the recommended assessment in-lieu of improvements to Ruppel Road. However, staff also has taken into account that some vehicle trips may be reduced because of the mixed-use component of the proposed development, and that many residents in the area may choose to walk to the restaurants, retail or offices. Additionally, staff finds the projected assessment to be above that which we would recommend meets the rough proportionality for the proposed mixed-use component of the development, given existing infrastructure in the area. Utilizing this theory, staff has also prepared a rational nexus methodology that takes into account the recently estimated costs prepared for the street bond program to improve Ruppel Road, and what percentage of traffic from this development would impact Ruppel Road if constructed to full capacity.

Projected Traffic from development: 1,583 vpd
Ruppel Road traffic capacity (Principal Arterial): 20,600 vpd
% Traffic from development: 0.0768446

Project frontage: 893 feet
Ruppel Road length (Persimmon to Ruppel): 2,640 feet
% Ruppel Road frontage: 0.3382575

Ruppel Road expansion costs (Persimmon to Wedington): \$1,708,000

Westside Village frontage Percentage of Costs:
 $0.3382575 (\$1,708,000) = \$577,743.81$

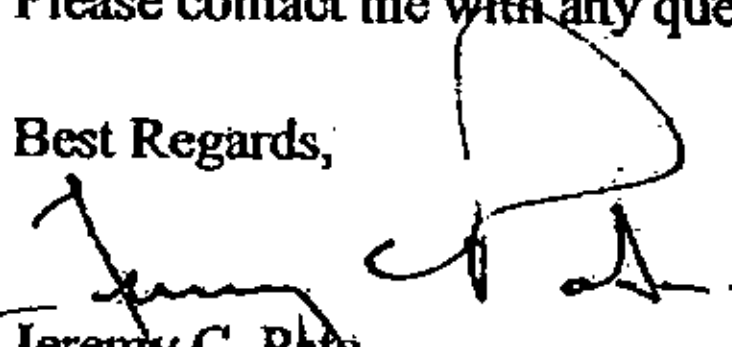
Westside Village Percentage of Costs:
 $0.0768446 (\$577,743.81) = \underline{\$44,396.49}$

Staff finds that while the numbers generated from these two methodologies are disparate, we support the latter assessment in lieu of improvements to Ruppel Road. This cost is roughly equal to the

provision of an additional lane of traffic along the Ruppel Road frontage for this project, without the removal of curb, gutter, relocation of utilities, etc. As mentioned previously, staff can not support the proposal initially submitted for a turn lane from one entrance into the development, finding the impact to be greater than that which is presented. Unless further traffic information can be provided, staff will be recommending the above figure as an assessment in lieu of improvements to Ruppel Road, in addition to those impact fees collected pursuant to the contractual agreement for residential uses on this property. We hope that an agreement can be reached in order for staff to fully recommend this project without any major issues to address to the Planning Commission and City Council.

Please contact me with any questions.

Best Regards,



Jeremy C. Pate
Director of Current Planning

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this 10th day of October, 2001, by and between the City of Fayetteville, Arkansas, (hereinafter called "City") and WHM Land Investments, Inc. (hereinafter called "WHM").

WITNESSETH:

WHEREAS, on September 10, 2001 the City Planning Commission approved the final plat of WHM, located at City Atlas Page 439, but referred the establishment of an impact fee to the City Council for its approval.

WHEREAS, WHM desires to have an executed agreement formalizing the current understanding before transferring Tract 5 to the City.

NOW, THEREFORE, the City and WHM agree as follows:

1. The City has agreed to build Ruppel Road, classified as a minor arterial, in order to provide access to the proposed Fayetteville Boys and Girls Club. WHM shall pay, based on the rational nexus formula, an impact fee for a proportionate share of the cost of Ruppel Road as a Minor Arterial. Based on the formula, the applicant shall be assessed \$176,724.25 for a road impact fee. The impact fee was based on the projected future residential development of Tracts 3 & 7 that shall be using Ruppel Road.

At the time the Boys and Girls Club meet all requirements to obtain the Reynolds grant, WHM shall pay the entire \$176,724.25 if the City Council approves and completes construction of Ruppel Road as a four (4) lane street with curbs, gutters, and storm sewer.

If the City Council approves construction of a two (2) lane street with plans for future widening, then at the time the Boys and Girls Club meet all requirements to obtain the Reynolds grant, WHM shall:

- a) Pay to the City \$100,000.00 (non-refundable, not dependant on any development of vacant lots),
- b) Provide the City an irrevocable letter of credit in the amount of \$76,724.25 with additional principal to be added each year based on the increase in the Consumer Price Index during the previous calendar year, as quoted in the Wall Street Journal on January 2 of the previous year and the year of the increase. Such letter of credit shall run for a term of six (6) years from date of when all conditions are met for the Fayetteville Boys and Girls Club to obtain the Reynolds grant and shall be due upon the City completing the widening of Ruppel Road to four (4) lanes with curbs, gutters, and storm

CONTRACTUAL AGREEMENT
PAGE 2 OF 3 PAGES

sewer. In the event, Ruppel Road is not improved to such standards within six (6) years, the letter of credit shall expire.

c) The irrevocable letter of credit shall be issued for a one year period at the beginning of each twelve (12) month fiscal period during the six (6) year term.

2. The projected future development of Tracts 3 & 7 are 81 single family units, 28 duplex units, and 260 apartment units. If during the six year period indicated above a development is approved by the Planning Commission in excess of any of the above indicated units WHM shall pay an additional impact fee for each unit in excess of the above as follows:

a) For each excess single family unit \$231.30 in cash and a letter of credit for \$154.20, total being \$385.50. The total amount will be paid in cash if Ruppel Road has been completed as a four (4) lane road with curbs, gutters, and storm sewers.

b) For each excess duplex unit \$141.64 in cash and a letter of credit for \$94.43, total being \$236.07. The total amount will be paid in cash if Ruppel Road has been completed as a four (4) lane road with curbs, gutters, and storm sewers.

c) For each excess apartment unit \$320.51 in cash and a letter of credit for \$213.67, total being \$534.18. The total amount will be paid in cash if Ruppel Road has been completed as a four (4) lane road with curbs, gutters, and storm sewers.

The cash impact fee and letter of credit shall be delivered upon the Planning Commission approving the final plat or large scale development. Any letters of credit received during the six (6) year period from the date the Boys and Girls Club meet all requirements, shall be returned back to WHM if the road is not widened to four (4) lanes with curbs, gutters, and storm sewers during the six (6) year period.

If after the six (6) year period WHM presents a preliminary plat to the Planning Commission in excess of the projected units, WHM shall pay an additional impact fee for each unit in excess of the projections based on whether or not Ruppel Road is completed at that time as a four (4) lane road, with curbs, gutters and storm sewer. If completed, the total amount indicated above shall be paid for each excess unit. If not complete, the cash amount indicated above shall be paid for each excess unit.

CONTRACTUAL AGREEMENT
PAGE 3 OF 3 PAGES

If during the six (6) year period indicated above WHM has a final plat approved for less than the projected units indicated above the \$76,724.25 letter of credit shall be reduced for each unit less than the projected units indicated above. WHM shall receive a reduction for each unit less as follows:

- a) For each less unit of single family in tract 7, a reduction in the letter of credit of \$154.20.
- b) For each less unit of duplex in tract 7, a reduction in the letter of credit of \$94.43.
- c) For each less unit of apartments in tract 3, a reduction in the letter of credit of \$213.67.

3. Upon the Boys and Girls Club meeting all requirements to obtain the Reynolds grant, all on-site and off-site improvements and fees, for any development by WHM, or its assigns, within the approved final plat area shall be based upon the above provisions and terms. The above provisions and terms will apply to WHM and any subsequent assigns. In consideration for this Agreement by the City, WHM shall deed Tract 5 to the City.

4. In the event the Boys and Girls Club fails to meet all requirements to obtain the Reynolds grant and is not constructed within the approved final plat area, all on-site and off-site improvements and fees for any development on tracts within the approved final plat area shall be based on current ordinance requirements at the time of development approval. Also, the City shall deed Tract 5 back to WHM.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

WHM LAND INVESTMENTS, INC.

By: Dan Coody
Dan Coody, Mayor

By: Hayden McIlroy
Hayden McIlroy
by Deborah Sexton
POA 10-8-01

Heather Woodruff
Heather Woodruff, City Clerk

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THE CITY OF FAYETTEVILLE, ARKANSAS

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

TO: Andrew Garner, Associate Planner
FROM: Kay Curry, Park Planner
DATE: October 10, 2006
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: October 12, 2006
Item: R-PZD 06-1884 (Westside Village, 439)
Park District: SW
Zoned: R-PZD
Billing Name & Address: Westside Development Company, LLC / Critical Path Design
11 N. West Street, Fayetteville, AR 72701 / 21 W. Mountain, STE 121, Fayetteville, AR 72701

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	@ .024 acre per unit = _____ acres	@ \$555 per unit = \$ _____
Multi Family	@ .017 acre per unit = _____ acres	352 @ \$393 per unit = \$138,336
Mobile Home	@ .024 acre per unit = _____ acres	@ \$555 per unit = \$ _____
Lot Split		@ \$555 per unit = \$ _____
		Total = \$138,336

COMMENTS:

- On May 2nd 2005 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 the Boys and Girls Club and Dale Clark Park. Additionally, the plans for the development include several small parks within the site.
- A resolution from City Council accepting money in lieu of land is required for this project due to the proposed number of units being over 100 units.
- Fees are due in the amount of \$138,336 prior to issuance of the building permits.



PC Meeting of October 23, 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: October 17, 2006

ITEM # R-PZD 06-1884: Planned Zoning District (Westside Village Condos)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	21.63
square feet	942,206
Existing Tree Canopy	
acres	0.18
square feet	8,000
percent of site area	0.85%
Existing Tree Canopy Preserved	
acres	0
square feet	0
percent of total site area	0%
Percent Minimum Canopy Required	0.85%

FINDINGS:

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

- **This site is mostly clear of tree canopy. Many trees exist within the right of way of Ruppel Road but should not be affected by this**

development. There are several small eastern redcedars and ash trees that make up the removed canopy. No significant trees currently exist on the site.

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

- **Environmental degradation should not occur on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Canopy removed should not affect the adjacent property owners.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **Size and shape of the lot does not reduce flexibility of design**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees is good.**

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

- **All canopy on the lot will be removed with this project.**

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

- **What few trees exist on this site will be removed for the project.**

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

- **N/A**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on the site to replace the 8000 square feet of canopy removed. These mitigation trees will be extremely beneficial to this area.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **N/A**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- N/A

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

- 1. Mitigation will be required on this site in the amount of 19 (2) inch caliper large species trees. These trees are proposed to be planted on-site.**
- 2. A 3-year maintenance bond, letter of credit, or check equaling \$4750 shall be deposited with the City of Fayetteville before final Certificate of Occupancy. After the 3 year period, the Urban Forester will inspect the site. Finding 90% or better of the trees to be healthy the bond will be released.**



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 18, 2006

ITEM #: R-PZD 06-1884 (Westside Village Condos)

Applicable Requirements:

X	Off-Street Parking
	Commercial Design Standards
	Buffers and Screening
	U-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
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 06-1884 with the following conditions:

Conditions of Approval:

1. Street trees that are removed along the Ruppel Road frontage with this development will be required to be replaced.
2. Please keep the parking lot lighting in mind when designing the landscape plan to ensure that required trees shown on the landscape plan are not replaced with lights, or do not block lighting.
3. Street tree plantings will be required along the all public and private street frontages with one tree per 30 feet. These trees will need to be planted in urban tree wells with structural soils, with adequate green space for planting, and the species subject to the approval of the City's Urban Forester.
4. 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.

From: Dale Riggins
To: Garner, Andrew
Date: 10/19/06 7:05AM
Subject: Westside Village

I'm not sure which zoning review you were looking at. I went back to the September 18, 2006 review and found these comments about Westside Village

R-PZD06-1884 (Westside Village Condos)

These 21.91 acres are covered by Engine 7 at 835 Ruppel Road.

It is 0.1 mile from the station with an expected response time of 1 minute (Development is right across the street from the station).

The Fire Department anticipates 83 (50 EMS – 33 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 1590 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.

Was there another review that I messed up on?

Dale Riggins
Captain
IT/Planning
Fayetteville Fire Department
(479)444-3449 Office
(479)587-5251 Pager
(479)601-1155 Cell
driggins@ci.fayetteville.ar.us



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 1
R-PZD 06-1884, Westside Village
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POLICE DEPARTMENT

January 17, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Planned Zoning District R-PZD 06-1884 (Westside Village Condos, 439) submitted by Critical Path Design for property located S of Wedington, E of Ruppel Rd. would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

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R-PZD 06-1884, Westside Village
Page 54 of 72

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.

FAYETTEVILLE POLICE DEPARTMENT
100-A WEST ROCK STREET
FAYETTEVILLE, ARKANSAS 72701

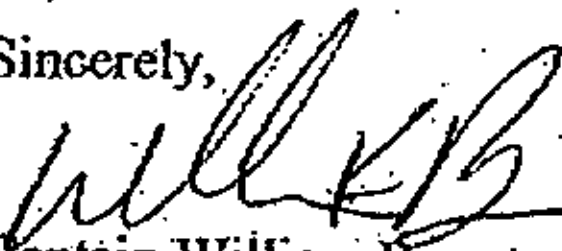
(DELIVERIES) POLICE: 100-A WEST ROCK STREET 72701
PHONE: 479.587.3555 FAX: 479.587.3522

It is the opinion of the Fayetteville Police Department that this request for a Residential Planned Zoning district will not create an undesirable load increase on police services. It will not create an appreciable increase in traffic danger and congestion.

In reference to R-PZD 06-2212: Planned Zoning District (STADIUM CENTRE TOWNHOMES, 557): Submitted by H2 ENGINEERING, INC. for property located at OLD FARMINGTON ROAD, W OF ONE MILE RD. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.00 acres.

It is the opinion of the Fayetteville Police Department that this Master Development Plan for a Residential Planned Zoning district will not create an undesirable load increase on police services. It will not create an appreciable increase in traffic danger and congestion.

Sincerely,

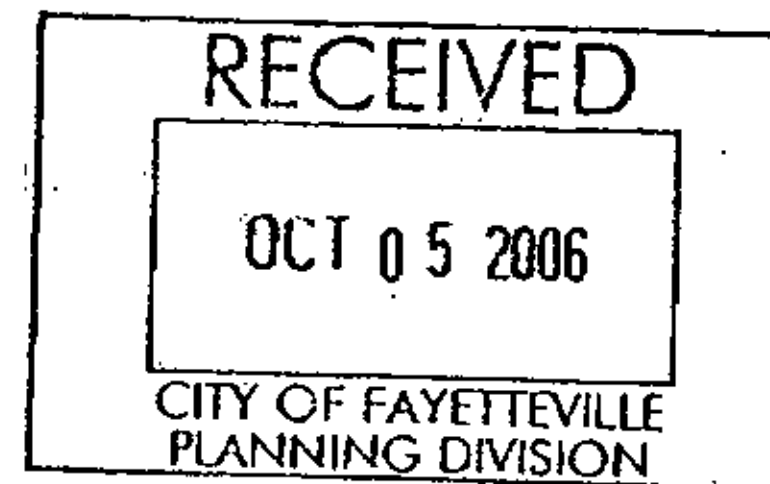

Captain William Brown
Fayetteville Police Department



21 W. Mountain, Ste 121 • Fayetteville, AR 72701 • Office: 479 527.0055 • Fax: 479 527.2798

October 4, 2006

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR, 72701



Dear Mr. Pate

Critical Path Design is writing to request waivers granting permission to:

1. Construct curb return radii (CRR) of 15' on street intersections
2. Allow designated on-street parallel parking street for the proposed street cross sections

Please consider the following as grounds for granting the waivers:

1. The request is to allow 15' curb return radius (CRR) at all streets intersections to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe to pedestrians. 15' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

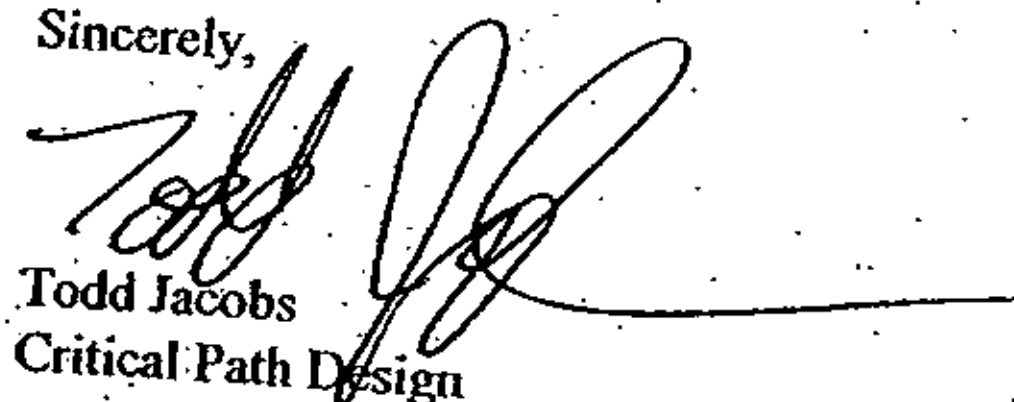
Institute of Transportation Engineers guidelines for Traditional Neighborhood Development Street Design states that a CRR above 15 feet significantly adds to crossing distance and crossing time. An example, 25' foot CRR adds 10' to the crossing distance and about 3 seconds to the crossing time.

Critical Path Design has design the curbs to be a minimum of six inches (6") thick, with 4000 psi concrete, and fiber reinforced to prevent damage. Additional, no above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted within fifteen feet (15') of an intersection of streets. Along with the reinforced curbs and no parking zones designed to allow apparatus to utilize curbs for their turning needs if the roadway is other wise restricted.

2. The request is for a waiver granting permission to design street cross sections differently than are required by the current Master Street Plan standard with regards to Westside Village. The request is to allow designated on-street parallel parking street cross sections. Parallel parking is a basic element to a new urbanism and traditional neighborhood street design. Our proposed street cross sections are intended to create the backbone of what we hope will be a successful development. The streets are

interconnected, reducing through traffic on any one street and providing more than one route for any given destination. We hope our proposed street cross sections promote a strong connection to the community. On-street parallel parking is designed to provide a safe environment for pedestrians on the sidewalk from moving vehicles in the traveled lanes and provide street activity while developing a sense of neighborhood and sense of place.

Sincerely,



Todd Jacobs
Critical Path Design

CC: Jeremy Pate Director of Current Planning
Andrew Garner Sr. Planner
Matt Casey P.E. Assistant City Engineer



21 W. Mountain, Ste 121 • Fayetteville, AR 72701 • Office: 479 527.0055 • Fax: 479 527.2798

October 18, 2006

Matt Casey P.E.
Assistant City Engineer City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Westside Village
Curb Return Radii

Dear Mr. Casey:

As requested, Critical Path Design is providing additional information to support our waiver granting permission to allow 15' curb return radius (CRR) at all streets intersections with the exception of Ruppel Road intersections. We are basing our request on the Institute of Transportation Engineers (ITE) publication *Context Sensitive Solutions in Designing Major Urban Thoroughfares for Walkable Communities*.

This publication promotes the successful use of context sensitive solutions (CSS) in the planning and design of major urban thoroughfares for walkable communities. It provides guidance and demonstrates for practitioners how CSS concepts and principles may be applied in roadway improvement projects that are consistent with their physical settings. The report's chapters are focused on applying the principles of CSS in transportation planning and in the design of roadway improvement projects in places where community objectives support walkable communities-compact development, mixed land uses and support for pedestrians.

Attached is Chapter 10 of this publication that discusses curb return radii for street intersections to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe to pedestrians. A 15' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Jacobs". The signature is fluid and cursive.

Todd Jacobs
Critical Path Design

CC: Ron Petrie City Engineer
Tim Conklin Planning and Development Management Director
Jeremy Pate Director of Current Planning
Andrew Garner Sr. Planner

An ITE Proposed Recommended Practice

Context Sensitive Solutions
in Designing Major Urban Thoroughfares
for Walkable Communities

● 32 Vel
□ 16 Per

Institute of Transportation Engineers

The Institute of Transportation Engineers is an international educational and scientific association of transportation professionals who are responsible for meeting mobility and safety needs. ITE facilitates the application of technology and scientific principles to research, planning, functional design, implementation, operation, policy development and management for any mode of transportation. Through its products and services, ITE promotes professional development of its members, supports and encourages education, stimulates research, develops public awareness programs and serves as a conduit for the exchange of professional information.

Founded in 1930, ITE serves as a gateway to knowledge and advancement through meetings, seminars and publications and through its network of nearly 17,000 members working in more than 92 countries. ITE also has more than 70 local and regional chapters and more than 120 student chapters that provide additional opportunities for information exchange, participation and networking. To learn more about ITE and our services, visit www.ite.org or call +1 202-289-0222.

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ITE on the Web: www.ite.org



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Office of Infrastructure
Federal Highway Administration
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Washington, DC 20590



Office of Planning, Environment and
Realty
Federal Highway Administration
400 7th Street, SW
Washington, DC 20590

Office of Policy, Economics and
Innovation Development
U.S. EPA
1200 Pennsylvania Ave NW
Mailcode 1807T
Washington, DC 20460

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This project was partially funded by a cooperative agreement from the Environmental Protection Agency's Development, Community and Environment Division.

RP-036

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Preface and Acknowledgements

This report is published as a proposed recommended practice of the Institute of Transportation Engineers (ITE). As such, it is to be considered in its proposed form, but is subject to change after receipt and consideration of suggestions from those who have reviewed the report. Readers are encouraged to submit written suggestions for improving this report to:

Institute of Transportation Engineers
Attention: Lisa Fontana Tierney
1099 14th Street, NW, Suite 300 West
Washington, DC 20005
Fax +1 202-289-0772
ltierney@ite.org

Written suggestions should be received at the above address no later than December 31, 2006 to ensure consideration for incorporation into the final recommended practice report.

ITE wishes to thank the Federal Highway Administration's Office of Infrastructure, Office of Planning, Environment and Realty and the Environmental Protection Agency's Office of Policy, Economics and Innovation Development for financially supporting this work effort and providing leadership and guidance in the development of this report.

This report was developed through a partnership with ITE and the Congress for the New Urbanism (CNU) and is the result of several years of concerted effort by dedicated volunteers, including ITE and CNU members and many other interested parties. ITE wishes to thank the members of each of the following committees for their respective roles in the preparation of this report.

The project management team played an essential role in the identification, development and refinement of content, including numerous detailed reviews throughout the development process. The members of the project management team were:

Brian S. Bochner (F), Texas Transportation Institute
Philip J. Caruso (F), ITE
Lisa Fontana Tierney (M), ITE
Christopher V. Forinash (A), EPA
Ellen Greenberg, Freedman, Tung & Bottomley
Heather Smith, CNU
Jon T. Obenberger (M), FHWA
Harold E. Peaks, FHWA

Curb Return Radii

Background and Purpose

Curb returns are the curved connection of curbs in the corners formed by the intersection of two streets. A curb return's purpose is to guide vehicles in turning corners and separate vehicular traffic from pedestrian areas at intersection corners. The radius of the curve varies, with longer radii used to facilitate the turning of large trucks and buses. Larger radius corners increase the length of pedestrian crosswalks.

In CSS, the smallest practical curb return radii are used to shorten the length of the pedestrian crosswalks. Based on this function, this report suggests a general strategy for selecting curb return radii design criteria and discusses situations requiring larger design vehicles.

General Principles and Considerations

General principles and considerations regarding curb return radii include the following.

- Curb return radii should be designed to accommodate the largest vehicle type that will frequently turn the corner (sometimes referred to as the control vehicle). This principle assumes that the occasional large vehicle can encroach into the opposing travel lane as shown in Figure 10.7. If encroachment is not acceptable, then a larger design vehicle should be used.
- Curb return radii should be designed to reflect the "effective" turning radius of the corner. The effective turning radius takes into account the wheel tracking of the design vehicle utilizing the width of parking and bicycle lanes. Use of the effective turning radii allows a smaller curb re-

Related Thoroughfare Design Elements

- Selecting the design vehicle
- Speed
- On-street parking
- Right-turn channelization
- Pedestrian refuge islands

Effect of Curb Radii on Pedestrian Crossing Distance
(Compared to 15 ft. Radius)

Curb Return Radius (Feet)	Added Crossing Distance (Feet)	Added Crossing Time (Seconds) [1]
15	0	0
25	8	2
50	38	10

[1] Crossing time at 4 ft. per second.

turn radius while retaining the ability to accommodate larger design vehicles (Figure 10.8).

- In urban centers (C-5) and urban cores (C-6) where pedestrian activity is intensive, curb return radii should be as small as possible.
- On multi-lane thoroughfares, large vehicles may encroach entirely into the adjacent travel lanes (in the same direction of travel).
- To help select a design vehicle, identify bus routes to determine whether buses are required to turn at the intersection. Also check transit service plans for anticipated future transit routes. Map existing and potential future land uses along both streets to evaluate potential truck trips turning at the intersection.
- Apply curb return radii that are compatible with the design vehicle. Occasional turns by vehicles that are larger than the design vehicle could be accomplished by turning more slowly and possibly encroaching into oncoming travel lanes to complete the turn.
- Curb return radii of different lengths can be used on different corners of the same intersection to match the design vehicle turning at that corner. Compound, spiral, or asymmetrical curb returns can be used to better match the wheel tracking of the design vehicle (see AASHTO's Green Book for the design of spiral and compound curves).
- If large vehicles need to encroach into an opposing travel lane, consider placing the stop line for opposing traffic further from the intersection.

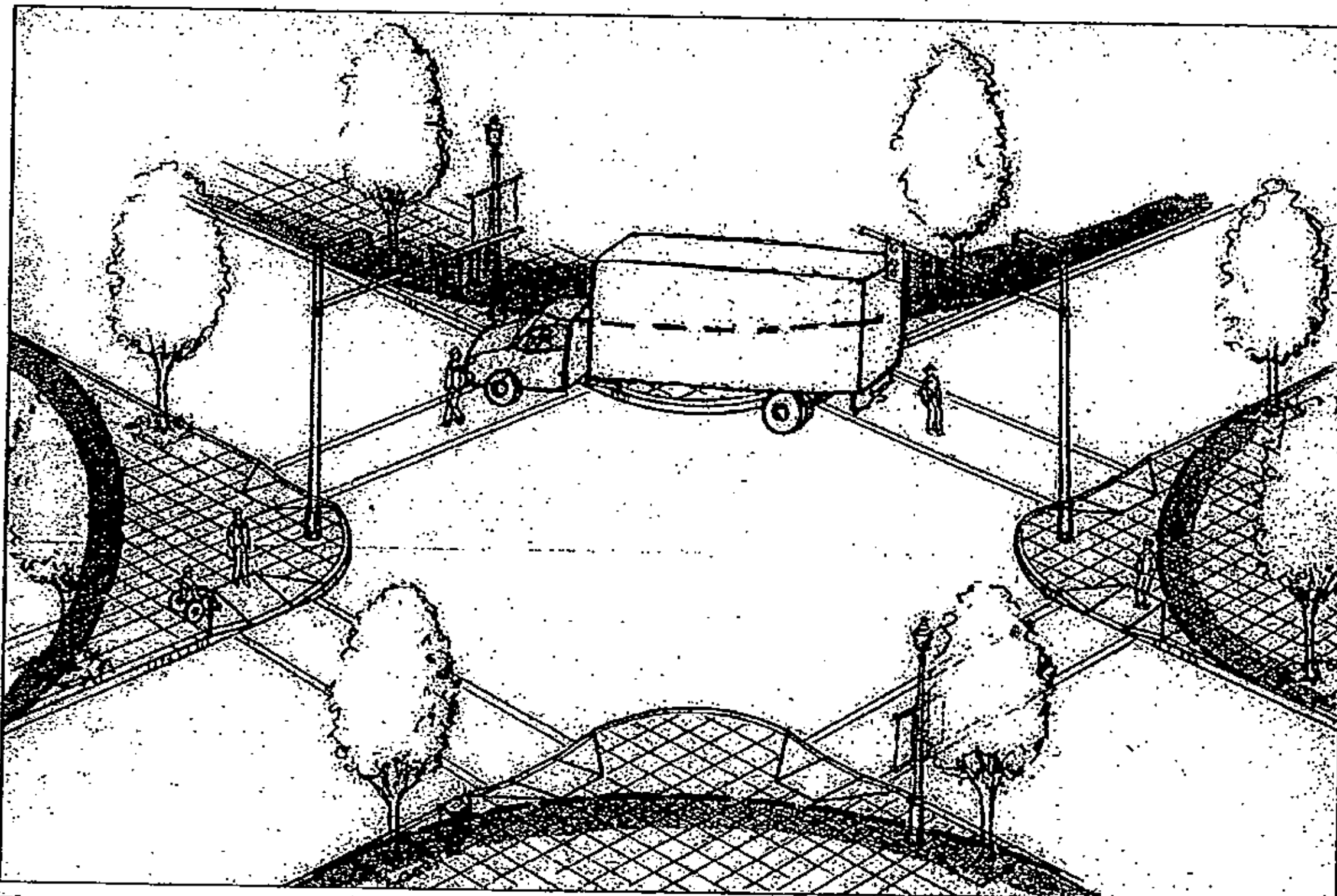


Figure 10.7 Smaller curb return radii shorten the distance that pedestrians must cross at intersections. The occasional turn made by large trucks can be accommodated with slower speeds and some encroachment into the opposing traffic lanes. Source: Kimley-Horn and Associates Inc.

Recommended Practice

Flexibility in the design of curb return revolves around: (1) choice of design vehicle, (2) combination of dimensions that make up the effective width of the approach and receiving lanes and (3) the curb return radius itself. The practitioner needs to consider the trade-offs between the traffic safety and operational effects of infrequent large vehicles and the creation of a street crossing that appears reasonable to pedestrians. The guidelines assume arterial and collector streets in urban contexts (C-3 to C-6) with turning speeds of city buses and large trucks of 5 to 10 mph. The guidance is not applicable to intersections without curbs.

Recommended practices include the following.

- In urban centers (C-5) and urban cores (C-6) at intersections with no vehicle turns, the minimum curb return radii should be 5 ft.

- A typical minimum curb return radius of 10 to 15 ft. should be used where:

1. High pedestrian volumes are present or reasonably anticipated;
2. Volumes of turning vehicles are low;
3. The width of the receiving intersection approach can accommodate a turning passenger vehicle without encroachment into the opposing lane;
4. Passenger vehicles constitute the majority of turning vehicles;
5. Bicycle and parking lanes create additional space to accommodate the "effective" turning radius of vehicles;
6. Low turning speeds are required or desired; and
7. Occasional encroachment of turning school bus, moving van, fire truck, or oversized delivery truck into an opposing lane is acceptable.

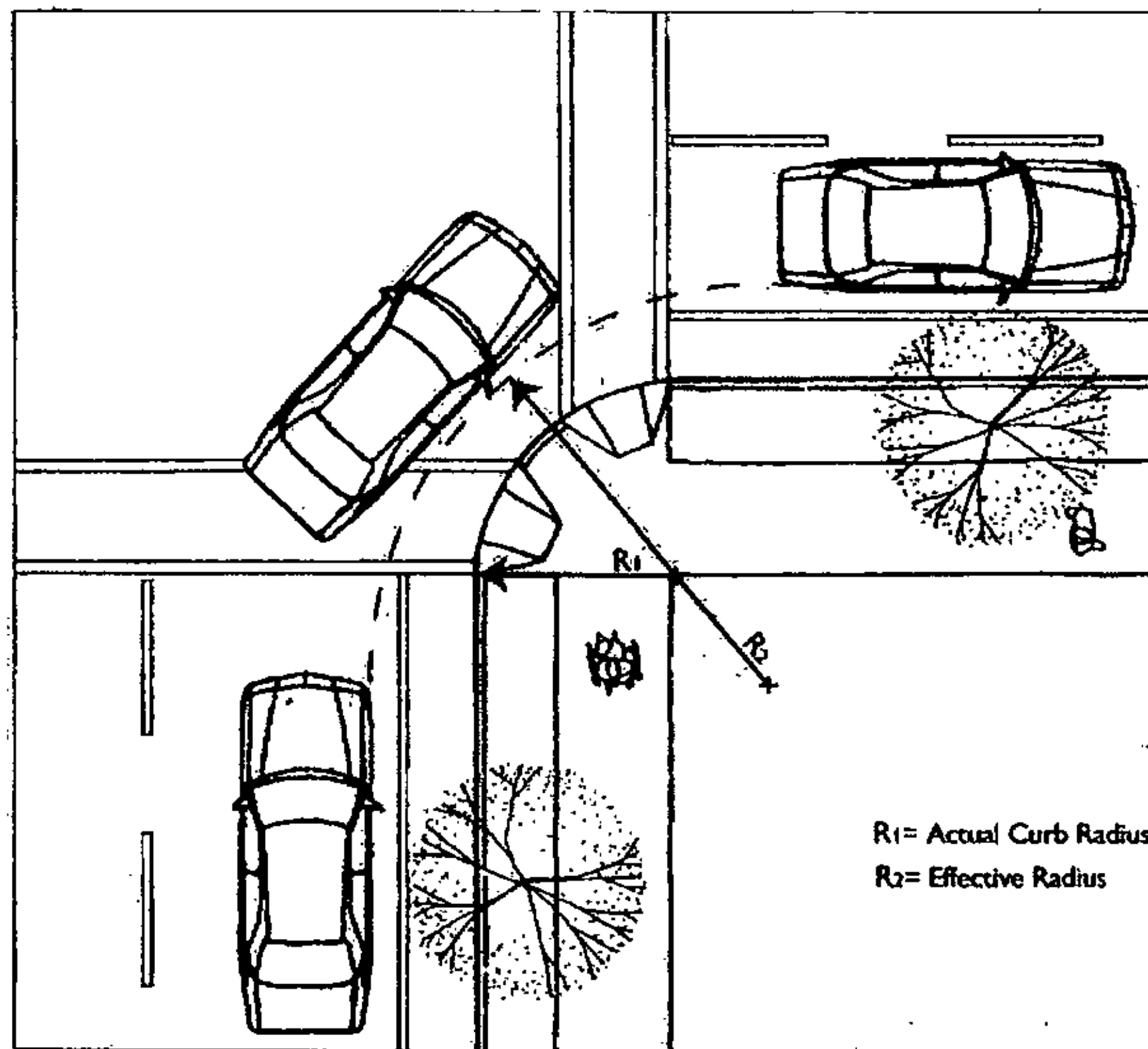


Figure 10.8 The existence of parking and bicycle lanes creates an "effective" turning radius that is greater than the curb return radius. Source: Community, Design + Architecture, adapted from the *Oregon Bicycle and Pedestrian Plan*.

- Curb radii will need to be larger where:
 1. Occasional encroachment of a turning bus, school bus, moving van, fire truck, or oversized delivery truck into the opposing lane is not acceptable;
 2. Curb extensions are proposed or might be added in the future; and
 3. Receiving thoroughfare does not have parking or bicycle lanes and the receiving lane is less than 12 ft. in width.

Recommendations for Curb Radii on Transit and Freight Routes

Trucks routes should be designated on a minimum number of appropriately selected streets to reduce the impact of large turning radii on pedestrian routes. Where designated local or regional truck routes con-

flict with high pedestrian volumes or activities, analyze freight movement needs and consider re-designation of local and regional truck routes to minimize such conflicts.

On bus and truck routes, the following guidelines should be considered.

- Curb return radii design should be based on the effective turning radius of the prevailing design vehicle.
- Where the potential for conflicts with pedestrians is high and large vehicle turning movements necessitate curb radii exceeding 50 ft., evaluate installation of a channelized right-turn lane with a pedestrian refuge island (see the section on pedestrian refuge islands in Chapter 9 and the section on channelized right-turn lanes in Chapter 10). To better accommodate the path of large

- vehicles use a three-centered compound curve in the design of the island (see the AASHTO Green Book's Chapter 9 for design guidance).
- Where frequent turning of large vehicles takes place, avoid inadequate curb return radii as it could potentially cause large vehicles to regularly travel across the curb and into the pedestrian waiting area of the roadside.

Justification

Intersections designed for the largest turning vehicle traveling at significant speeds with no encroachment results in long pedestrian crossings and potentially high-conflict areas for pedestrians and bicyclists. Radii designed to accommodate the occasional large vehicle will allow passenger cars to turn at high speeds. In CSS, the selection of curb returns ranging from 5 to 25 ft. in radius is preferable to shorten pedestrian crossings and slow vehicle turning speeds to increase safety for all users.

Channelized Right-Turns

Background and Purpose

In urban contexts, high-speed channelized right turns are often inappropriate because they create conflicts with pedestrians. Under some circumstances, providing channelized right-turn lanes on one or more approaches at a signalized intersection can be beneficial, but unless designed correctly, these right-turn lanes can be undesirable for pedestrians. According to the *Oregon Bicycle and Pedestrian Plan* a well-designed channelization island can:

- Allow pedestrians to cross fewer lanes at a time and judge conflicts separately;
- Provide refuge for slower pedestrians;
- Improve accessibility to pedestrian push-buttons; and

Related Thoroughfare Design Elements

- Curb return radii
- Crosswalks
- Bicycle lanes at intersections

- Reduce total crossing distance, which provides signal-timing benefits.

Right-turning drivers may not have to stop for the traffic signal when a poorly designed channelized right-turn lane is provided. Even where pedestrian signal heads are provided at the intersection, pedestrians are usually expected to cross-channelized right-turn lanes without the assistance of a traffic signal. Most channelized right-turn lanes consist of only one lane and the crossing distance tends to be relatively short. However, drivers are usually looking to their left to merge into cross-street traffic and are not always attentive to the presence of pedestrians.

General Principles and Considerations

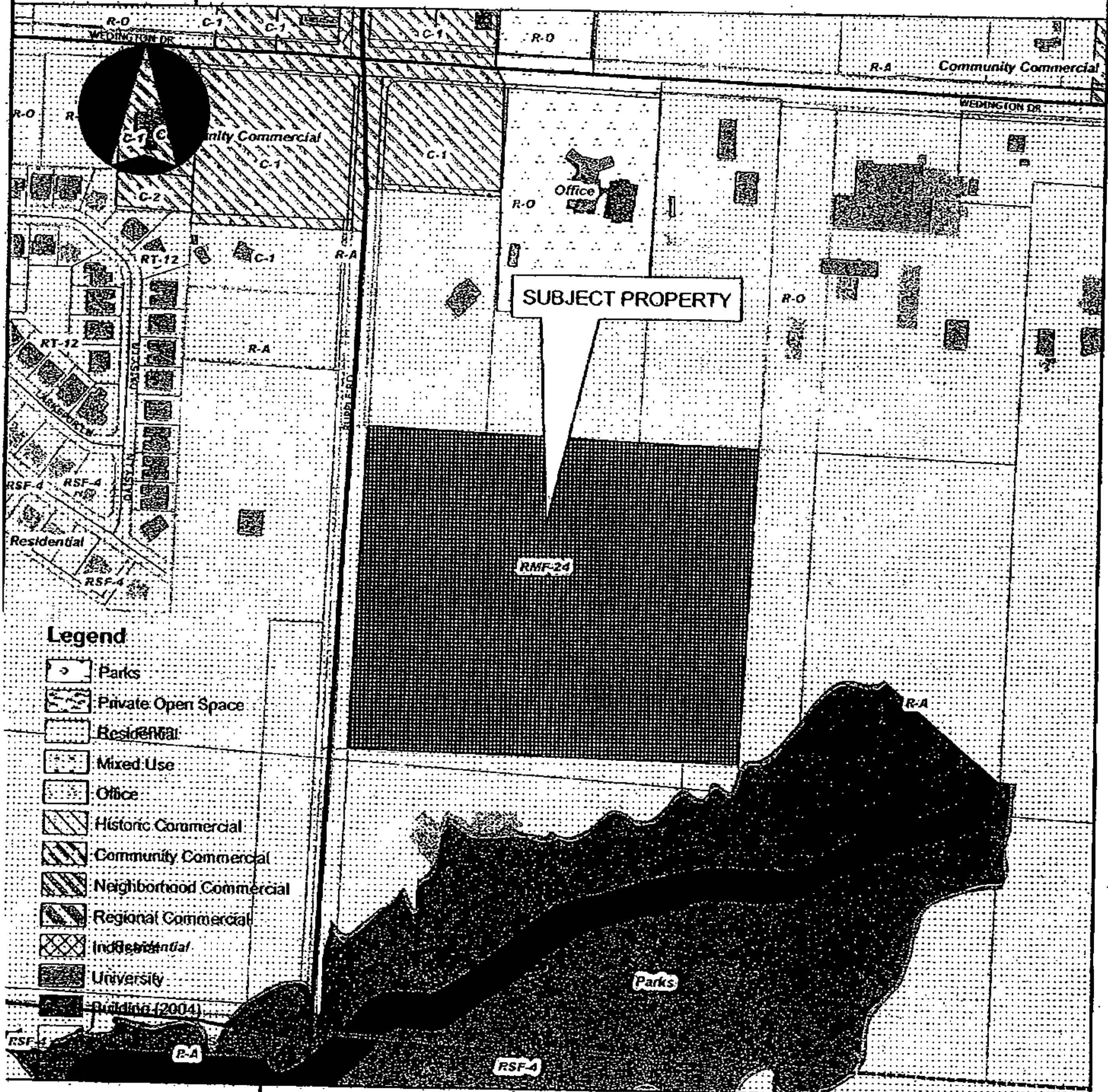
The general principles and considerations regarding channelized right turns include the following.

- Avoid using channelized right-turn lanes where pedestrian activity is significant. If a channelized right-turn lane is unavoidable, use design techniques described to lessen the impact on pedestrians.
- Exclusive right-turn lanes should be limited. A right-turning volume threshold of 200–300 vehicles per hour is an acceptable range for the provision of right-turn lanes. Once determined that a right-turn lane is necessary, a well-designed channelization island can help slow down traffic and separate conflicts between right-turning vehicles and pedestrians (Figure 10.9).
- If an urban channelized right-turn lane is justified, design it for low speeds (5 to 10 mph) and high-pedestrian visibility.
- For signalized intersections with significant pedestrian activity, it is highly desirable to have pedestrians cross fully under signal control. This minimizes vehicle-pedestrian conflicts and adds to the comfort of pedestrians walking in the area.
- Consider channelized right-turn lanes at multi-lane all-way stop controlled intersections to provide pedestrians an additional refuge among the complex right-of-way patterns that affect traffic movements.

RPZD06-1884

WESTSIDE VILLAGE CONDOS

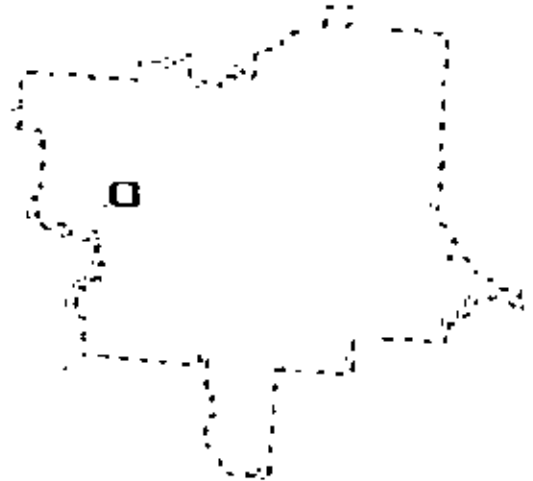
Future Land Use



Legend

- Parks
- Private Open Space
- Residential
- Mixed Use
- Office
- Historic Commercial
- Community Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- University
- Building (2004)

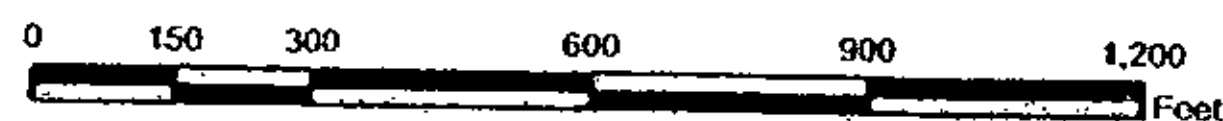
Overview



Legend

- Subject Property
- RPZD06-1884
- Boundary
- Planning Area
- Streets
- Existing
- Planned
- Overlay District
- Outside City

Legend



WESTSIDE VILLAGE CONDOS

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- Baseline Profile
- Fayetteville
- Outside City
- RPZD06-1884
- vector.GDELFootprint_2004

0 175 350 700 1,050 1,400 Feet

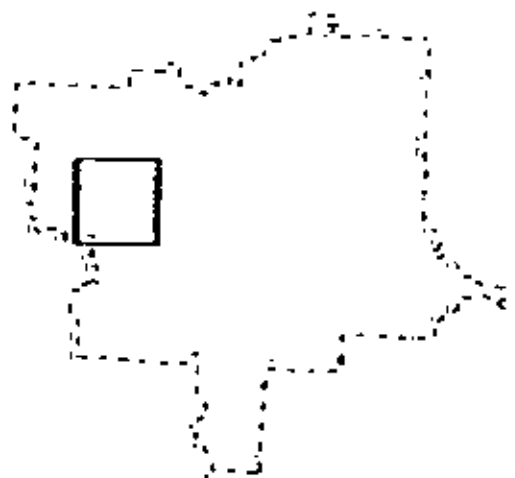
RPZD06-1884

WESTSIDE VILLAGE CONDOS

One Mile View



Overview



Legend

Subject Property

RPZD06-1884

Boundary

Planning Area

Overlay District

Outside City

Legend

0.0 0.125 0.25

0.5

0.75

1

Miles



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning *JP*
Date: November 29, 2006
Subject: Rupple Row R-PZD – Rupple/Persimmon Street improvements

The City Council is currently considering a Residential Planned Zoning District proposal under the name of Westside Village. At the agenda session of November 28, 2006, the City Council requested information regarding the street improvements/assessments required of the development across the street, **Rupple Row Planned Zoning District**, which consists of 182 single family residential dwelling units and 78 two-family dwelling units (a total of 260 dwelling units). Following are the street improvements and assessments that staff recommended and the City required to be dedicated, installed and inspected or submitted to the City for this project:

- 1) Dedication of right-of-way to meet Master Street Plan standards for Rupple Road (Minor Arterial, 45 feet from centerline) and Persimmon Street (Collector, 35 feet from centerline).
- 2) Persimmon Street required to be constructed to a full 28-foot cross-section along the southern boundary of the property, with curb and gutter on both sides, storm drains and 6-foot sidewalks on one side. The 28-foot wide street section tied Rupple Road to Cross Keys PZD (and to 46th Street), with approximately 1300 feet in street length.
- 3) Improvements to approximately ¼ of the intersection of Rupple Road and Persimmon Street, to tie the two streets together. The City cost-shared with this developer to add a turn lane at the intersection, in coordination with other properties developing in the area. A letter of credit from the developer in the amount of \$82,635 for the cost of this intersection improvement was submitted to the City.
- 4) Six-foot sidewalks on one side of Rupple Road.
- 5) Impact fees for Rupple Road pursuant to the WHM contract with the City of Fayetteville were paid as follows:
 - \$30,443.30 in cash
 - \$20,295.70 in letter of credit

B.S. 12/5/06
Westside Village

CONTRACT

Comes now Westside Development Company, LLC, John Nock, Richard Alexander, Rob Merry-Ship, and their heirs and assigns as the owners/developers of Westside Village PZD (hereinafter "Westside Village") and the City of Fayetteville, Arkansas which all agree as follows:

The City of Fayetteville will allow Westside Village not to extend the two platted stubout streets all the way to its eastern border upon the following conditions agreed to by Westside Village:

(1) Westside Village agrees to build both stubout street sections up to one foot of the eastern border of the Westside Village PZD and properly dedicate them as city streets.

(2) Westside Village agrees to construct a barricade at the end of each stubout section to prevent vehicular traffic from crossing the one foot unbuilt section of the stubout street. This barricade will contain an advisement that is large enough to be clearly legible from the adjoining north/south street stating: "This stubout city street shall be extended to the East when that property is redeveloped residentially or commercially."

(3) Westside Village agrees to dedicate to the City the one foot section on both stubout street sections upon request by the City when the property adjoining Westside Village to the East is being redeveloped either residentially, commercially or as a PZD.

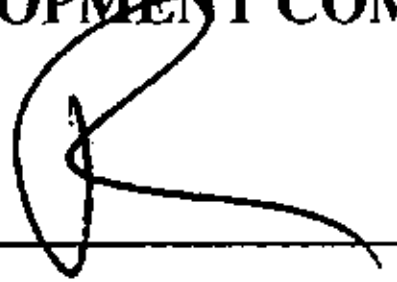
(4) Westside Village also agrees to remove or to pay to remove the barricades and to pay (as a cost share with the developers of the eastern

property) the construction costs for these one foot city street sections upon request by the City.

The City of Fayetteville agrees to waive its normal requirements that the stubout streets be fully constructed all the way to the property, border and dedicated to the City during the initial construction of Westside Village. Furthermore, the City will attempt to require construction traffic for the redevelopment of the land to the east of Westside Village to access the property from major city streets such as Wedington or Persimmon rather than through Westside Village if practicable.

In Agreement with all the terms and conditions above, we sign our names on this 5th day of December, 2006.

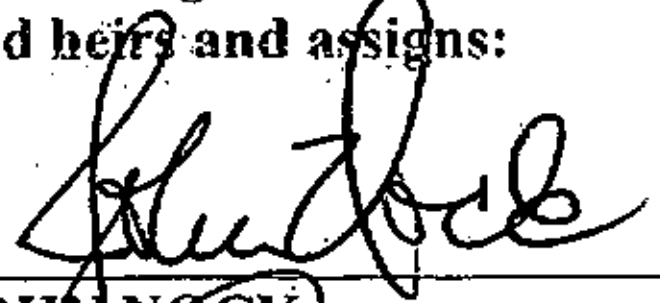
WESTSIDE
DEVELOPMENT COMPANY, LLC

By: 

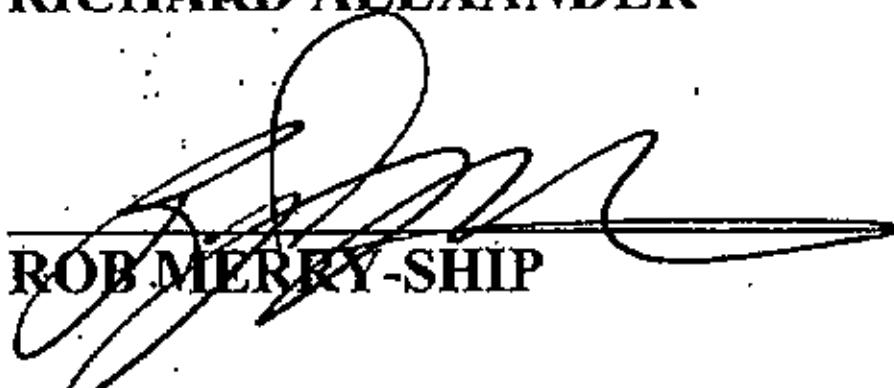
Printed Name: RICHARD ALEXANDER

Title: MANAGING MEMBER

Personal guarantees for themselves
and heirs and assigns:


JOHN NOCK


RICHARD ALEXANDER


ROB MERRY-SHIP

CITY OF FAYETTEVILLE,
ARKANSAS

By: _____
DAN COODY, Mayor

Attest:

By: _____
SONDRA SMITH, City Clerk

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

11/21/2006

City Council Meeting Date

Kevin Springer

Submitted By

Budget & Research

Division

Finance & Internal Services

Department

Action Required:

Approve a resolution adopting the Proposed 2007 Annual Budget & Work Program.

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 #

Original Contract Date:

Original Contract Number:

Department Director

Date

City Attorney

Date

Finance Director

Date

Mayor

Date

Received in Clerk's Office

Received in Mayor's Office

Comments:

Tabled to 12/19/06 CC Mtg 12/15/06
Tabled to 12/5/06 City Council Mtg



DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

FROM: Paul A. Becker, Finance Director *PAB*
Kevin Springer, Budget Manager *JS*

DATE: November 6, 2006

SUBJECT: **Proposed 2007 Annual Budget & Work Program**

Recommendation:

Consider the Proposed 2007 Annual Budget & Work Program for adoption by the December 19, 2006 City Council meeting.

Discussion:

The Proposed 2007 Annual Budget & Work Program were distributed to City Council on Tuesday, November 7, 2006

A brief overview of the Proposed 2007 Annual Budget & Work Program is scheduled for **Tuesday, November 14** during the City Council agenda session. Listed below is a schedule of hearing dates for the Proposed 2007 Annual Budget & Work Program.

Date	Budget Meeting/ Location
Tuesday, November 7, 2006	<i>Distribution of the Proposed 2007 Budget</i>
Tuesday, November 14, 2006	<i>Presentation of the Proposed 2007 Budget City Council Agenda Session, Room 326</i>
Tuesday, November 21, 2006	<i>City Council Meeting Room 219</i>
Tuesday, November 28, 2006	<i>Outside Agency Presentations (agenda session) Room 326</i>
Saturday, December 2, 2006	<i>Budget Working Session (8:00 am - TBD) Fayetteville Municipal Airport</i>
Tuesday, December 5, 2006	<i>City Council Meeting Room 219</i>
Tuesday, December 19, 2006	<i>City Council Meeting Room 219</i>

If you have any questions concerning the Proposed 2007 Annual Budget & Work Program, please feel free to contact either Paul A. Becker at 575-8330 or Kevin Springer at 575-8226. Thank you for your attention to this matter.

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE 2007 ANNUAL BUDGET AND
WORK PROGRAM AS APPROVED AND AMENDED.

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 adopts the 2007 Annual Budget & Work Program as approved and
amended. A copy of the Amended Budget, marked Exhibit "A" is attached
hereto and made a part hereof.

PASSED and APPROVED this 19th day of December, 2006.

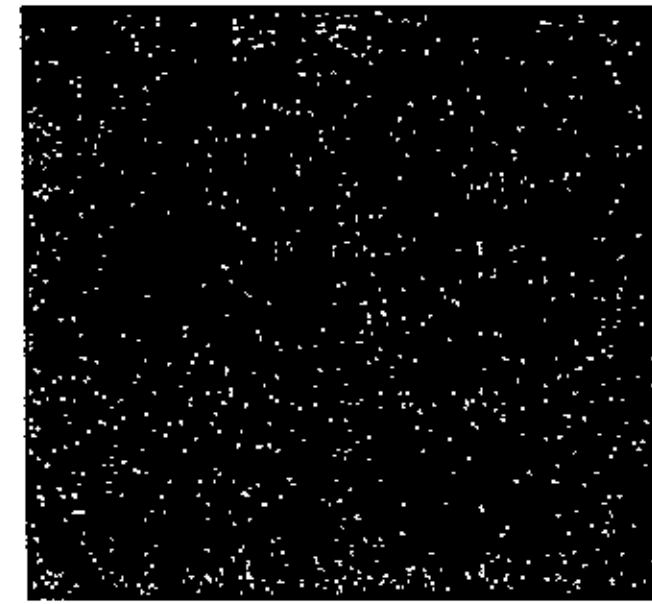
APPROVED:

By: DAN GOODY, Mayor

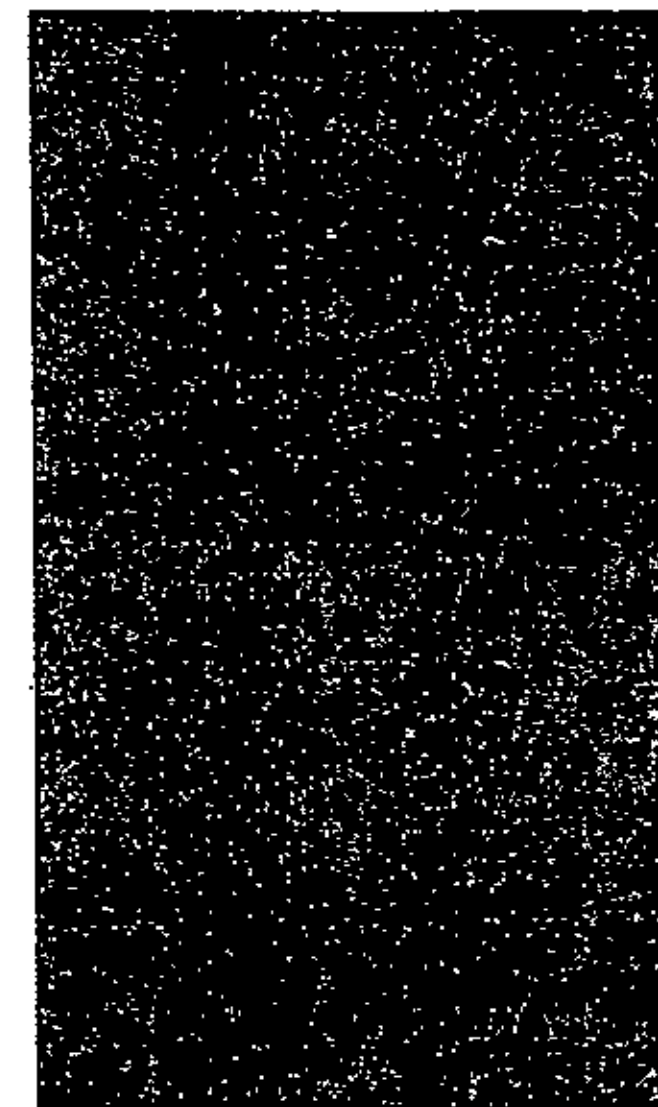
ATTEST:

By: SONDRA SMITH, City Clerk

DRAFT

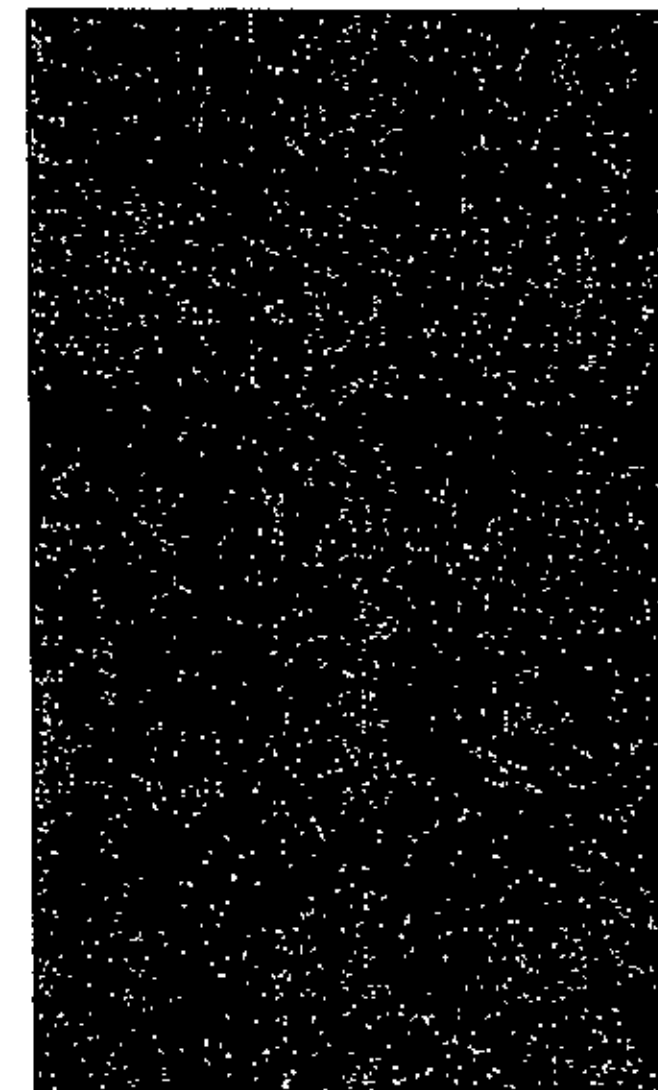


2007



City of Fayetteville, Arkansas

**Proposed
Annual Budget
& Work Program**



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

C. 3
ADM 06-2322 North Street ROW Dedication Variance
Page 1 of 28

21-Nov-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 06-2322 (North Street ROW Dedication Variance): Submitted by Josh and Eloise Pettit for property located at 1104 N. College Avenue requesting a variance of the Master Street Plan right-of-way for North Street from 55' to 44' from centerline to allow the existing building footprint to remain within the right-of-way and additions to the building which will further encroach within the Master Street Plan 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

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

10-30-06

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
10/30/06

Mayor

Date

Received in Mayor's Office

ENTERED
10/30/06

Comments:

Tabled to the 12/19/06 CC mtg 12/5/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: October 27, 2006

Subject: Master Street Plan Amendment for North Street Right-of-way at 1104 N. College Avenue (ADM 06-2322).

RECOMMENDATION

Planning Staff recommends approval of a Master Street Plan amendment to reduce the right-of-way on North Street, east of College Avenue, from 55' to 44' from centerline at 1104 N. College Avenue to allow renovation and expansion of the existing structure on the property.

BACKGROUND

On October 23, 2006, the Planning Commission approved the requested Master Street Plan amendment unanimously. Additionally, the Board of Adjustment approved a variance to allow the structure to be constructed to the Master Street Plan right-of-way line. The existing building on this property, along with most of those along North Street and College Avenue, encroach partially or totally into the Master Street Plan right-of-way, which currently requires a total of 110 feet. In order to develop the Master Street Plan cross-section in this manner, most of the buildings along North Street in this area would require purchasing and demolition. It was with this in mind that the Planning Commission and Board of Adjustment made their recommendations. Discussion regarding the feasibility of future expansion of the street did occur at these meetings; the Planning Commission ultimately found that encouraging projects to renovate and improve the businesses in this area is essential, and that future street improvements could potentially occur within the right-of-way currently existing. The Street Committee has not considered this item.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on October 23, 2006.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION REDUCING THE RIGHT OF WAY DEDICATION REQUIRED FROM NORTH STREET CENTERLINE FROM 55 FEET TO 44 FEET ACCOMODATING THE EXISTING STRUCTURE AND PROPOSED DEVELOPMENT FOR PROPERTY LOCATED AT 1104 N. COLLEGE AVENUE AS DESCRIBED IN ITEM ADM 06-2322.

WHEREAS, numerous existing structures are within the required Master Street Plan right-of-way for North Street in this vicinity, including an existing structure on the subject property that would have to be removed for redevelopment if required to comply with the current Master Street Plan;

WHEREAS, the required 55 feet from centerline Master Street Plan right-of-way for this portion of North Street is not deemed necessary for future road expansion and the applicant has agreed to dedicate adequate right-of-way to accommodate future road expansion;

WHEREAS, considerable expansion of North Street in this vicinity would be of great expense to the City to purchase properties and structures;

WHEREAS, the City Council encourages improvement and renovation of properties along Highway 71B/College Avenue.

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 reduction of right-of-way for this property along North Street from 55 feet to 44 feet from centerline, as demonstrated in Exhibit "A."

Section 2: That this approval for the reduction of right-of-way is subject to the conditions of approval as follows, and shall not be in effect until all conditions are met herein:

1. The applicant shall dedicate right-of-way for a total 44' right-of-way from the centerline of North Street prior to the issuance of a building permit. *The City recognizes the existing parking which will be located within the right-of-way. The*

parking may remain until such time as the right-of-way is necessary or a new development or expansion of 100% or more of the existing structure occurs.

2. At the time of development or change of use on the property, the curb cut on North Street shall be modified to allow right-in and right-out ingress and egress only. The curb cut onto College Avenue may allow two-way traffic with the exiting traffic limited to a right-out only. Signs and markings on the pavement shall be installed to effectively direct traffic.
3. Landscaping to meet city code shall be installed, as determined appropriate.

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

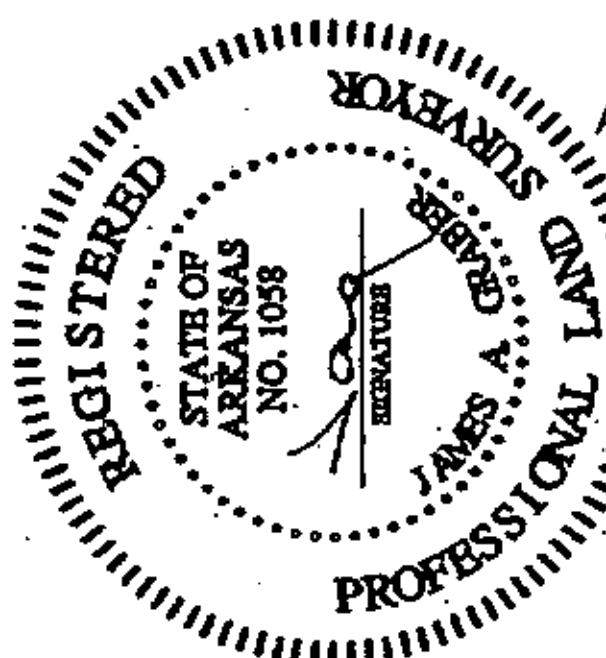
By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

LEGEND

- X COMPUTED POIN
- FOUND IRON PIN
- * UTILITY POLE
- △ WATER METER
- △ GAS METER
- TELEPHONE BO
- SANITARY SEW
- MANHOLE
- MANHOLE
- FENCE
- ROCK WALL
- RETAINING WAL
- TELEPHONE LIN
- SEWER LINE

EXHIBIT "A"



I HEREBY CERTIFY THAT I HAVE
SURVEYED THE PROPERTY SHOWN
AND THAT THIS PLAT IS AN ACCURATE
REPRESENTATION OF THE SAME

JOSH PETTIT

Washington County, Arkansas

BOUNDARY SURVEY

Scale: 1" = 40'

Sep 11, 2006

Block 1, Lots 1, 2, 3 Wanneetah Heights an Addition
to the City of Fayetteville, Arkansas as per
Plat of said Addition on file in the Office of the Circuit
Clerk of Washington County, Arkansas.

Field Book
101630Pettit

Filename: C:\0-drawings\101630pettit.pro

**Precision
Land
Surveying, Inc.**

JAMES A. GRABER, P.L.S.

P.O. Box 1700
Huntsville, AR 72740
Ph (479) 559-2217



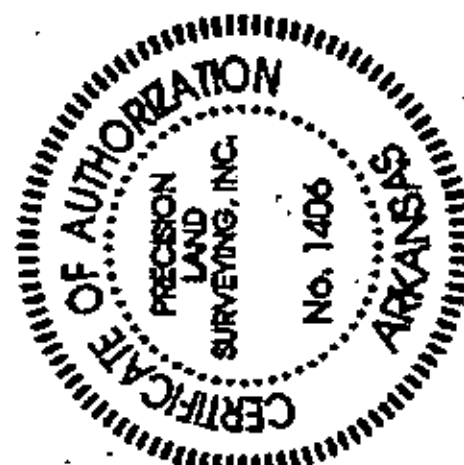
#165-04657-000
CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

#165-04658-000
WASHINGTON COUNTY, ARKANSAS
280 NORTH COLLEGE STE 100
FAYETTEVILLE, AR 72701

GRAPHIC SCALE:



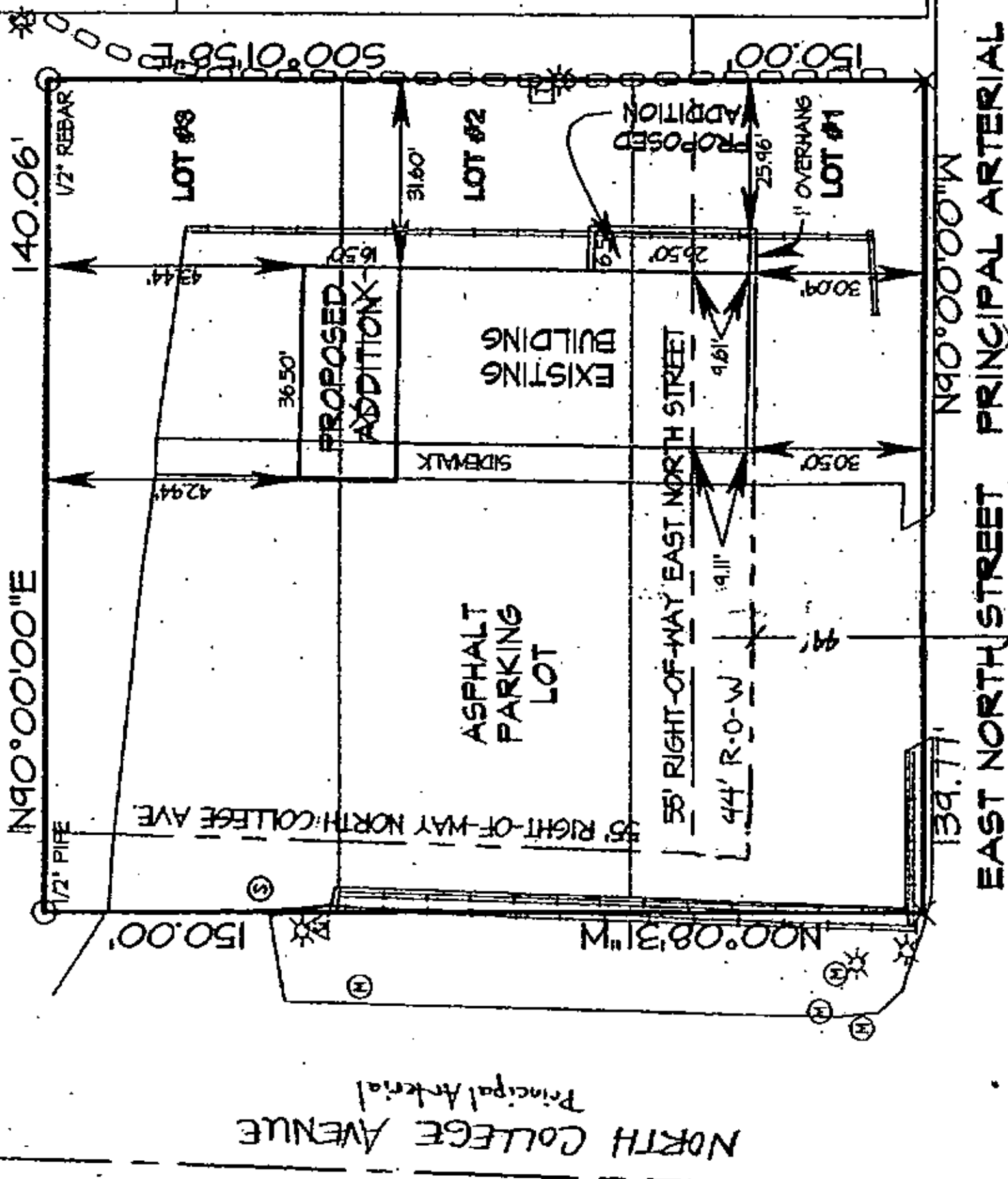
BASIS OF BEARINGS: ASSUMED



#165-04654-000
WASHINGTON COUNTY, ARKANSAS
COUNTY JUDGE
1125 NORTH COLLEGE WRM
FAYETTEVILLE, AR 72701

#165-11634-000
TROY L. & KATHERINE L. LOFTIN
117 WASHINGTON
FAYETTEVILLE, AR 72703

#165-11640-000
ANDREW MCCAIN & LYNN MONTEZ
853 RT. K
PINEVILLE, MO 64856-6104





PC Meeting of October 23, 2006

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING COMMISSION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: October 16, 2006

ADM 06-2322: (North Street ROW Dedication Variance) Submitted by Josh Pettit for property located at 1104 N. College Avenue requesting a variance of the Master Street Plan right-of-way for North Street in the manner indicated to allow the existing building footprint to remain within the right-of-way and additions to the building which will further encroach within the Master Street Plan right-of-way.

BACKGROUND:

The subject property is located at 1104 N. College Avenue, at the northeast corner of College Avenue and North Street. The property is zoned C-2, Thoroughfare Commercial. According to County tax records, the 1,800 square foot building and parking was constructed in 1966 as a pharmaceutical store.

Proposal: The applicant proposes to remodel and repair the existing structure to utilize it for restaurant use. The proposed additions include the following:

1. A 540 square foot addition is proposed to the north of the structure;
2. A 172.25 square foot addition is proposed at the southeast corner;
3. Remodel of the roof which would result in the addition of a 1 foot eave around the entirety of the building.

The existing structure is nonconforming, as it encroaches within the required building setback and Master Street Plan right-of-way setback adjacent to North Street. The 540 square foot addition to the north will not encroach into any setback; however, the 172.25 square foot addition and eave addition will extend the existing encroachment into the setback and proposed Master Street Plan right-of-way of North Street.

The Board of Adjustment reviewed and approved a proposal for a 0' building setback on North Street. The site plan reviewed by the Board of Adjustment varied from the site plan submitted for Planning Commission review. The addition at the southeast corner of the structure had been proposed to be 26.5' by 5' for a total 132.5 square foot addition as opposed to the 172.25 square

foot addition currently proposed. Board of Adjustment approval is required to permit the larger addition.

A variance of the existing and Master Street Plan right-of-way is required to be approved by the Fayetteville City Council in order to allow the renovation and additional construction of the existing structure on the property as proposed by the applicant.

The Master Street Plan in its entirety was adopted in 1996, after several public meetings to discuss future collector and arterial connections. The existing structures on this property, along with most of the other older buildings along North Street and the adjacent College Avenue, encroach partially or totally into the Master Street Plan right-of-way, which currently requires a total of 110 feet. In order to develop the Master Street Plan cross-section in this manner, most of the older buildings along North Street and College Avenue vicinity would require purchasing and demolition.

Request: The request is to vary the Master Street Plan right-of-way dedication requirements on North Street from 55' to 44' from centerline to allow the existing structure to remain in its current location and to allow additions to the structure within the Master Street Plan right-of-way. This is a variance of Chapter 166.18 Master Street Plan setbacks, which requires all structures and improvements to be located outside of setbacks established by the Master Street Plan right-of-way.

RECOMMENDATION:

Planning staff recommends approval of a resolution to vary the North Street Master Street Plan right-of-way at 1104 N. College Avenue from 55' to 44', to grant an allowance to renovate and construct an addition to the existing buildings on the site. As depicted on the drawings and survey attached to this report, the renovation and additional construction will extend the existing structures 1' further south and 6.5' further east into the right-of-way.

Recommended conditions of approval:

1. The applicant shall dedicate right-of-way for a total 44' right-of-way from the centerline of North Street prior to the issuance of a building permit. *The City recognizes the existing parking which will be located within the right-of-way. The parking may remain until such time as the right-of-way is necessary or a new development or expansion of 100% or more of the existing structure occurs.*
2. At the time of development or change of use on the property, the curb cut on North Street shall be modified to allow right-in and right-out ingress and egress only. The curb cut onto College Avenue may allow two-way traffic with the exiting traffic limited to a right-out only. Signs and markings on the pavement shall be installed to effectively direct traffic.
3. Landscaping to meet city code shall be installed, as determined appropriate.

Staff finds that this variance of the existing and Master Street Plan right-of-way in this location maintains the integrity and purpose of the Master Street Plan, and allows for a reasonable use of the existing structures where they are currently located. The City Council must also review and approve this right-of-way variance, and will take both staff's and the Planning Commission's comments as part of their review.

PLANNING COMMISSION ACTION: Required . YES

☒ Forwarded to City Council for Approval ☐ Tabled ☐ Denied

Motion: Clark
Second: Mayer
Vote: 8-0-0

Date: October 23, 2006

**Unified Development Code
Chapter 166 - Development**

166.18 Master Street Plan Setbacks

The city shall require the applicant/developer to establish a right-of-way setback line based on the right-of-way requirements for streets and highways designated by the Master Street Plan. Such setback line shall be considered the property line for such purpose of satisfying the requirements of the UDO. All building setbacks, required landscaping, parking lots, display areas, storage areas and other improvements and uses shall be located outside of such established setback area. The required width of setbacks, landscaped areas, buffers, and all other setback requirements shall be dimensioned from the established right-of-way setback line. The establishment of any new structure or other improvements within the right-of-way setback is prohibited.

October 17, 2006
Variance Application
1104 N College Ave.
Fayetteville, AR 72701

Applicant: Pettit Living Trust/ Josh and Eloise Pettit

Planning Commission

We are proposing improvements and building additions that require a variance for 1104 N College Ave. . The existing building was constructed in 1966 as a pharmacy. The current square footage is 1800 sf. We are proposing a 540 sf addition on the north side of the structure, a 172.25 sf addition on the east side of the structure, and a new roof for the existing building. This space is currently used as a car sales office, but it is our intention to convert it into a restaurant. The required number of parking spaces for a restaurant is 1 per 100sf, with a 30% variance. We propose 21 standard spaces with 1 handicap accessible space, which would meet the requirements.

The existing building and proposed addition are in violation of the MSP ROW of North Street. We have been approved for a variance by the Board of Adjustments with certain conditions. One of these conditions is to have a variance for the Master Street Plan right-of-way setback. As we understand it, this request must go to the Planning Commission before going to the City Council. This variance is required before applying for a building permit and before any structural work or improvements exceeding 10% of the building's value can be done. The east addition would follow the line of the existing building. We would like to add one foot to the building footprint to the south for roof eaves overhang. We are adding this addition to the east side to create space for the restaurant kitchen. We are proposing adding an 8/12 hipped roof to improve the appearance of a rather unattractive block building and to take care of some leakage in the existing roof.

The existing structure was built prior to the MSP and prior to current district regulations/set backs, and is therefore a special condition particular to this property. Literal interpretation of the provisions of current ordinances relating to a non-conforming structure would greatly limit our ability to improve, repair, or add to the existing structure. These rights are commonly enjoyed by the other properties in the same district. The location of the existing building is not a result of the actions of the applicant. The granting of this variance will not confer on us any special privilege that is denied by ordinance to other lands, building, or structures in the same district.

We thank you for your time and consideration in this matter. If you have any questions, please contact us at (479) 957-8343 or (479) 957-7703.

Respectfully,


Josh Pettit and Eloise Pettit

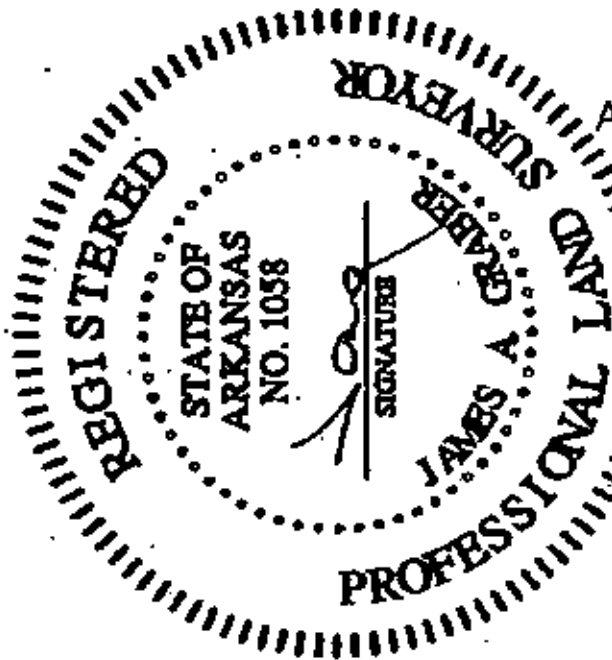
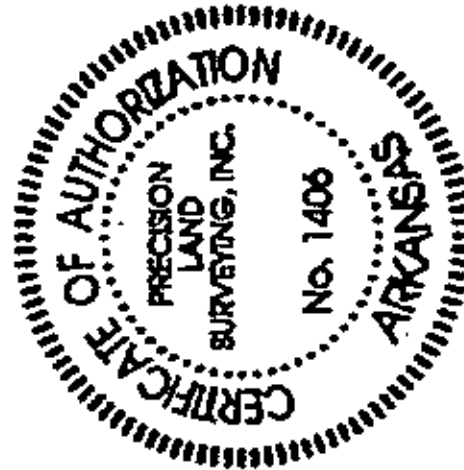
LEGEND

- COMPUTED POI
- FOUND IRON PII
- UTILITY POLE
- WATER METER
- GAS METER
- TELEPHONE BO
- SANITARY SEW
- MANHOLE
- MANHOLE
- FENCE
- ROCK WALL
- RETAINING WAL
- TELEPHONE LIN
- SEWER LINE

GRAPHIC SCALE:



BASIS OF BEARINGS: ASSUMED



I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY SHOWN AND THAT THIS PLAT IS AN ACCURATE REPRESENTATION OF THE SAME

JOSH PETTIT

Washington County, Arkansas

BOUNDARY SURVEY

Scale: 1" = 40'
Sep 11, 2006

Drawn by: Scott
BLOCK 1, LOTS 1, 2, 3 WAHNEETAH HEIGHTS AN ADDITION TO THE TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CLERK OF WASHINGTON COUNTY, ARKANSAS.

Field Book: 101630FBTBRAM

Filename: C:\0-drawings\101630pettit.pro

Precision Land Surveying, Inc.

JAMES A. GRABER, P.L.S.

P.O. Box 1700
Huntsville, AR 72740
Ph (478) 558-2217

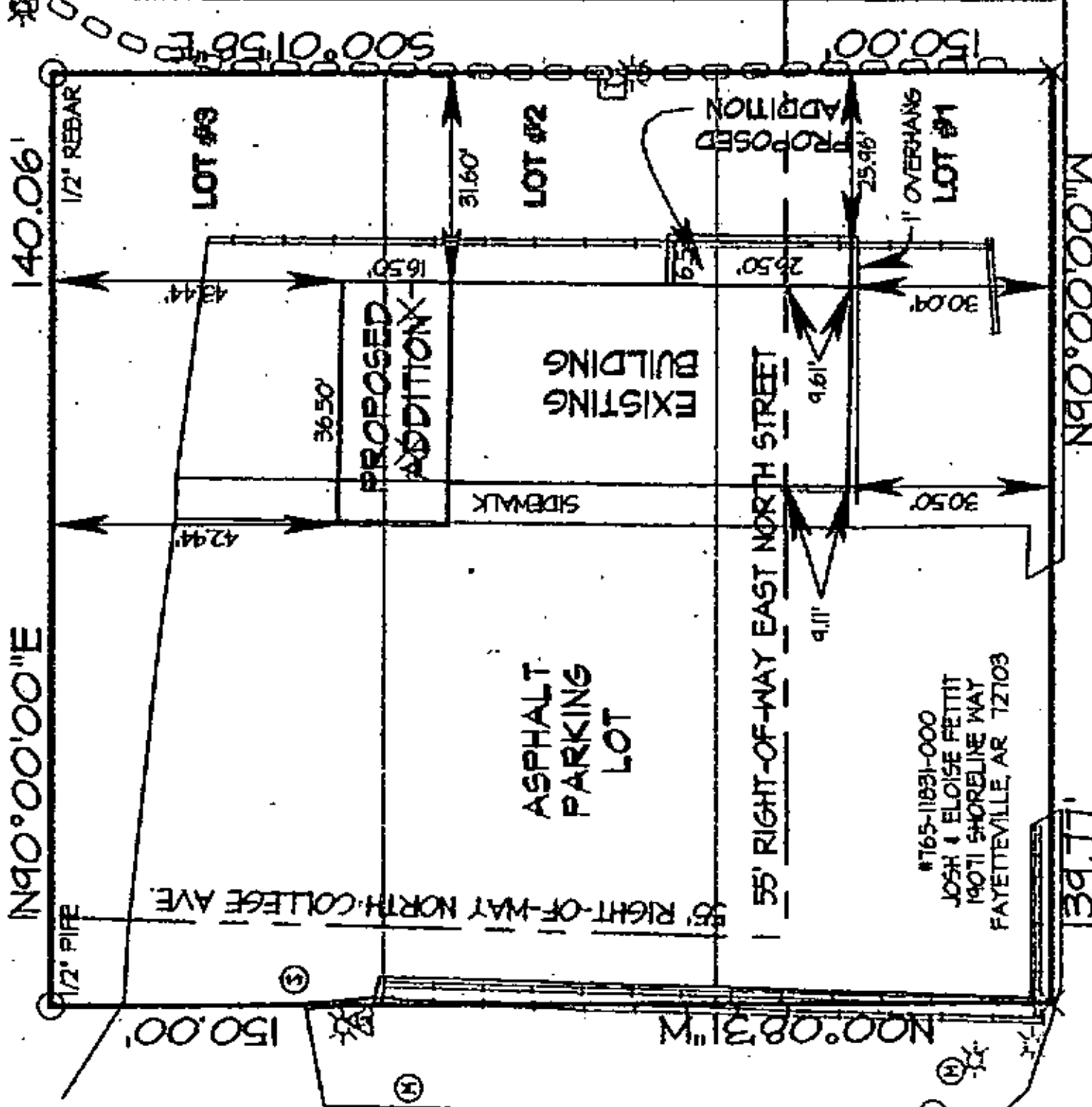


#165-04657-000
CITY OF FAYETTEVILLE
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FAYETTEVILLE, AR 72701

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280 NORTH COLLEGE STE. 100
FAYETTEVILLE, AR 72701

#165-04654-000
WASHINGTON COUNTY, ARKANSAS
COUNTY JUDGE
1125 NORTH COLLEGE WRM
FAYETTEVILLE, AR 72701

PRINCIPAL ARTERIAL



EAST NORTH STREET PRINCIPAL ARTERIAL

#165-11852-000
HAROLD B. & HELEN B. MCKINNEY
417 N. OLIVER AVE
FAYETTEVILLE, AR 72701-3932

#165-11840-000
ANDREW MCCAIN & LYNN MONTEZ
4353 RT. K
PINEVILLE, MO 64656-6104

#165-11831-000
JOSH & ELOISE PETTIT
1401 SHORELINE WAY
FAYETTEVILLE, AR 72703

Legend

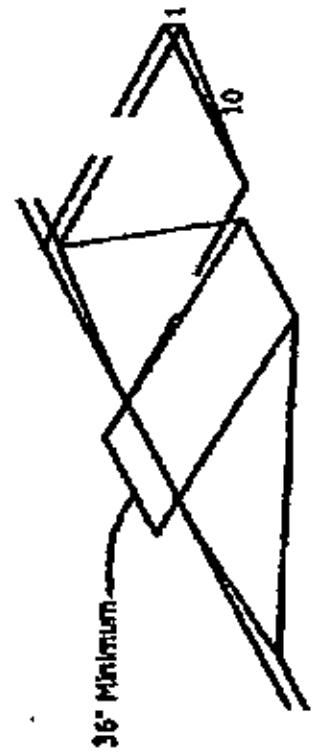
- Lot Boundary
- Building Setback (C-2 District)
- Retaining Wall
- Fence
- Utility Easement
- Centerline of Streets
- Right-of-Way (Master Street Plan 35' from CL)
- Sidewalk
- Utility Pole
- Walk Sign
- Tree Canopy
- Access Drive
- Sewer MH

1104 N. College - Site Plan

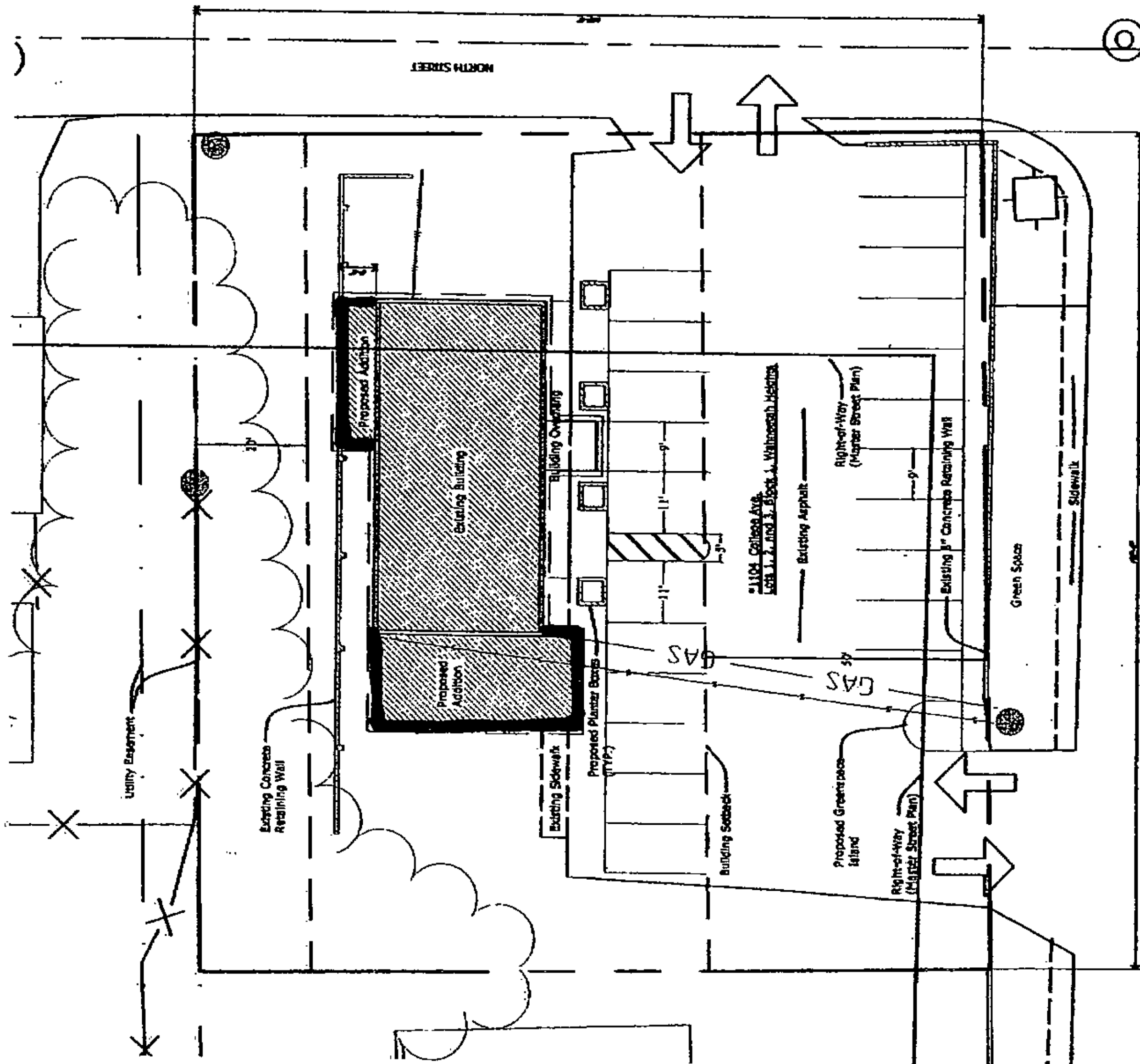
Owner: Josh Pettit Contact Info: (479) 937-7703

Date: 08/11/2006 Scale: 1" = 30'-0"

CD # 1715



Built Up Curb Ramp
 NOT TO SCALE



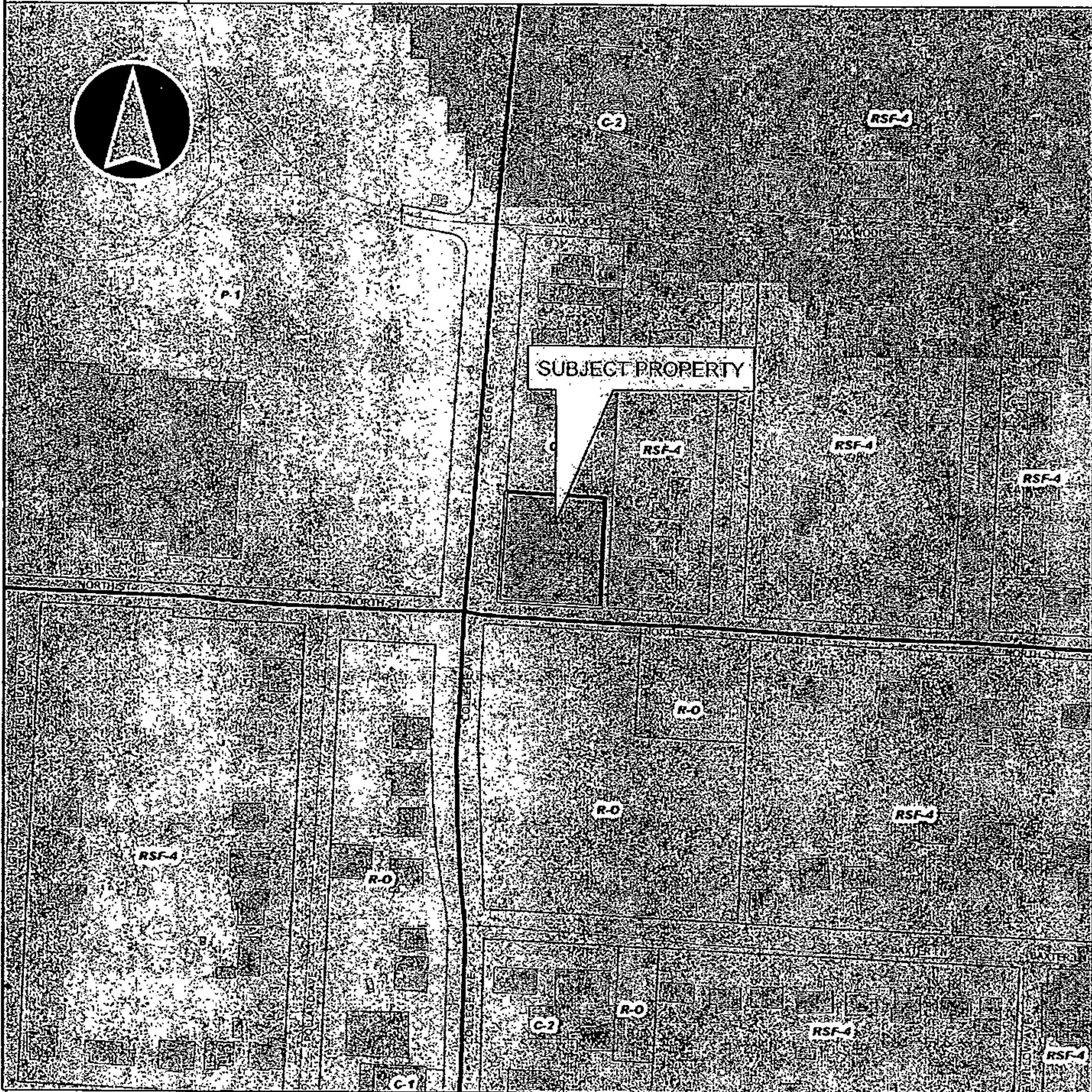
COLLEGE AVENUE



ADM 06-2322

Master Street Plan ROW Variance - North Street

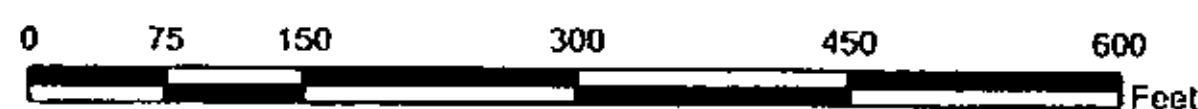
Close Up View



Overview

Legend

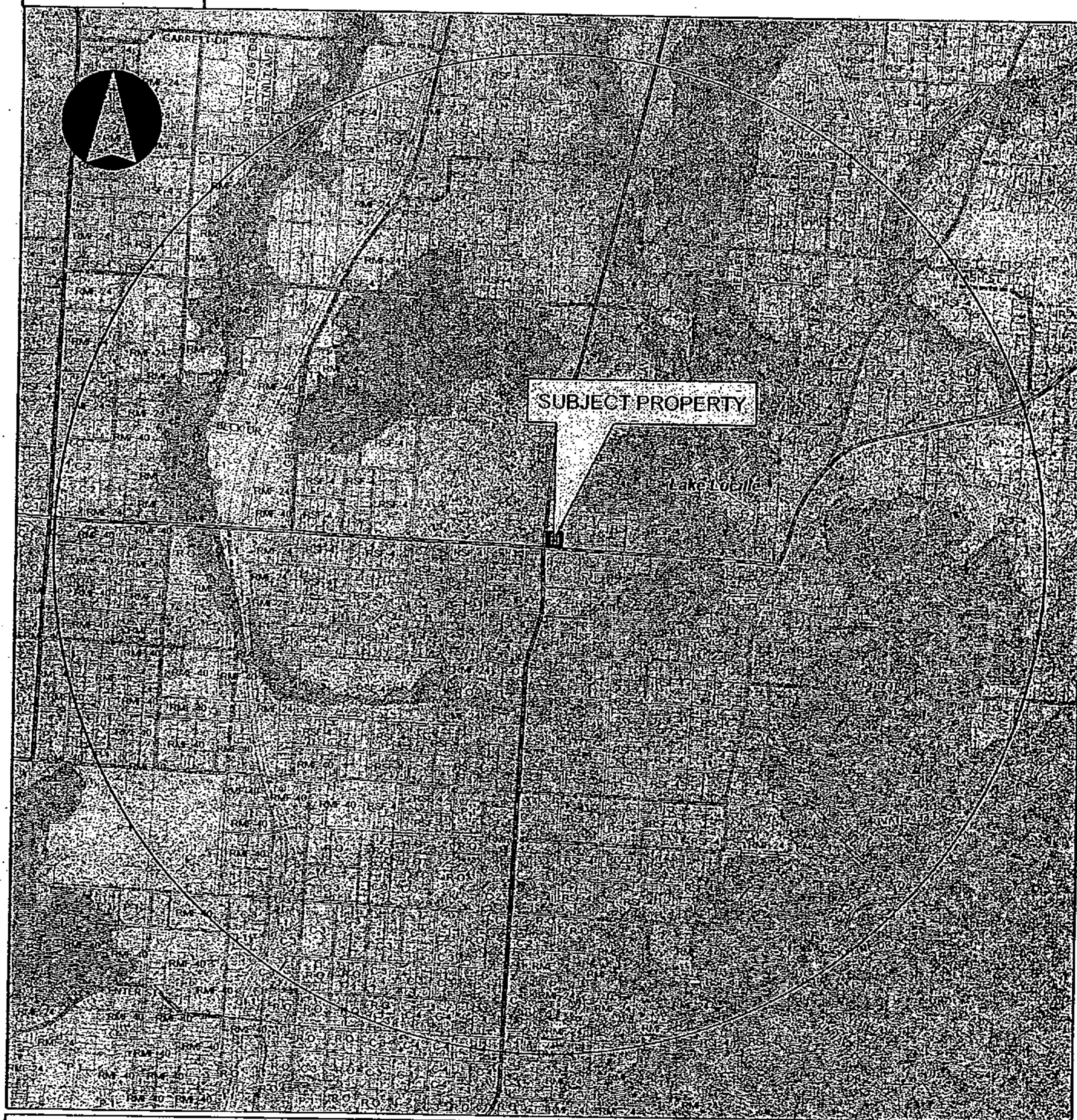
- 00000 Overlay District
- 100 YEAR FLOODWAY
- 500 YEAR FLOODWAY
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- BOA06-2274
- vector, GDB Footprint_2004
- Hillside-Hilltop Overlay District



ADM 06-2322

One Mile View

Master Street Plan ROW Variance - North Street



Overview

Legend

Subject Property

BOA06-2274

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0

0.25

0.5

1

Miles

November 17, 2006
Variance Application
1104 North College Ave.
Fayetteville, AR 72701

Applicant: Pettit Living Trust/Josh & Eloise Pettit

City Council

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The existing building and proposed addition are in violation of the MSP ROW of North Street. We have been approved for a variance by the Planning Commission with certain conditions. One of these conditions is to have a variance for the MSP right-of-way setback. This variance is required before applying for a building permit and before any structural work or improvements exceeding 10% of the building's value could be done. The east addition would follow the line of the existing building. We would like to add one foot to the building footprint for roof eaves overhang. We are adding this addition to the east side to create space for the restaurant kitchen. We are proposing adding an 8/12 hipped roof to improve the appearance of a rather unattractive block building and to take care of some leakage in the existing roof. We understand that if North Street were widened we could lose 2 parking spaces.

The Planning Commission approved our proposal with three conditions, one of which was the dedication of 44 feet on the south side of the property. This staff recommended condition is not acceptable to us. However, we would be willing to dedicate 32 feet, which would allow 13 feet for a turning lane and 6 feet for a sidewalk. Another condition was that we would install landscaping to meet city codes "as determined appropriate." We find this language too vague. Attached is our site plan showing the only areas available for green space. This is the maximum green space available if we are to retain enough parking. Please note the drainage plume directly behind the concrete retaining wall which makes that space

RECEIVED

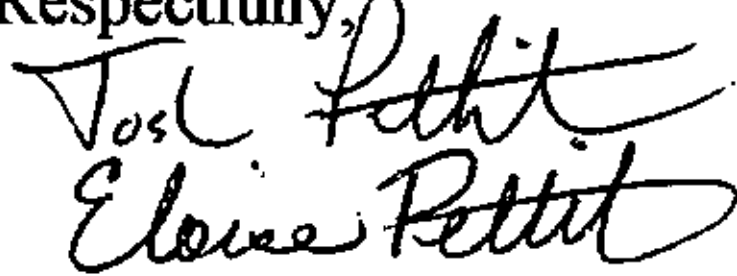
NOV 17 2006

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

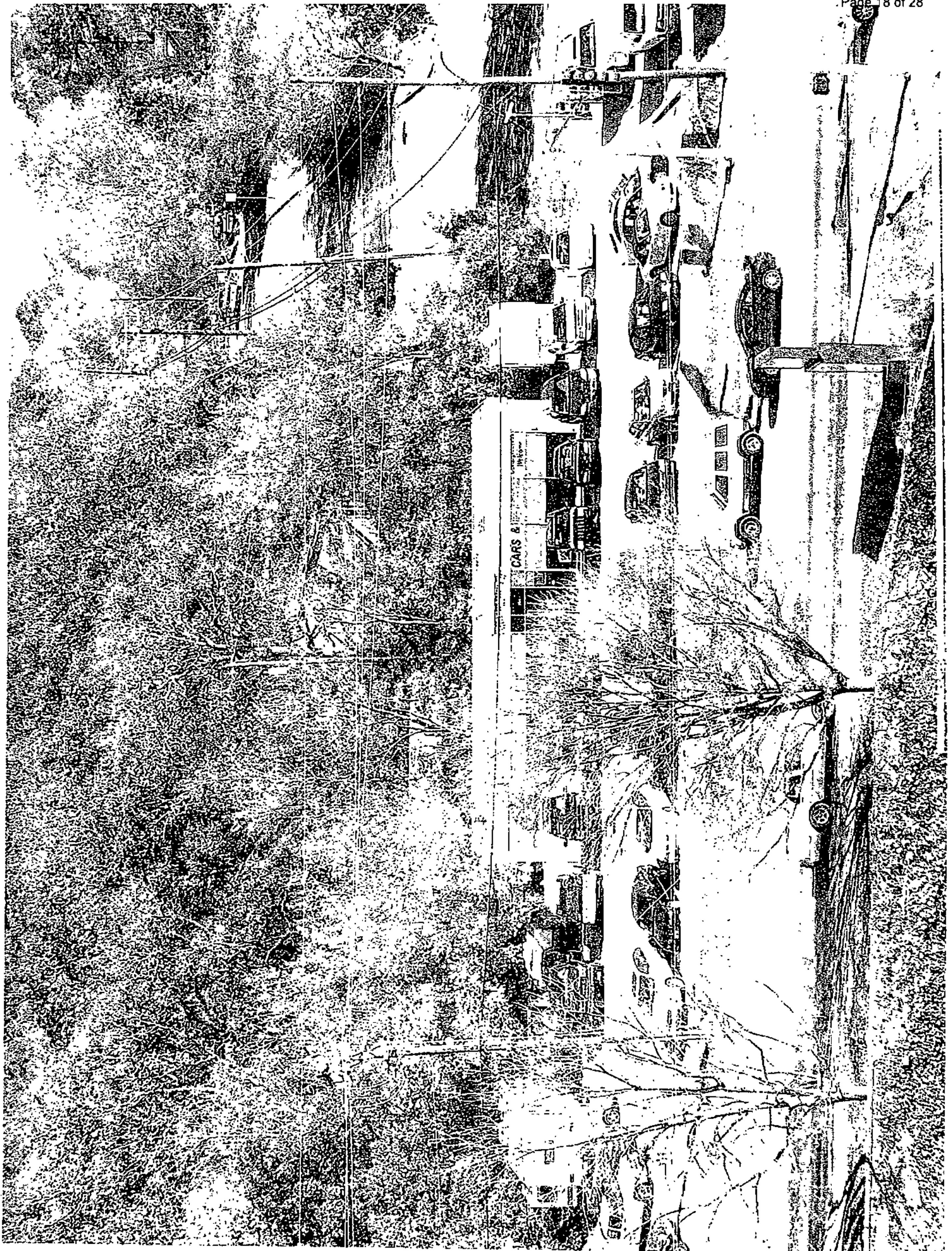
unavailable for landscaping. We are speaking with the State Highway Department about the possibility of utilizing the existing green space between College Avenue and the retaining wall for landscaping.

We thank you for your time and consideration in this matter. If you have any questions, please contact us at (479)957-8343 or (479)957-7703.

Respectfully,

Handwritten signatures of Josh Pettit and Eloise Pettit. The signature of Josh Pettit is on top, and the signature of Eloise Pettit is below it.

Josh Pettit and Eloise Pettit



Legend

- Lot Boundary
- Building Setback (C-2 District)
- Resolving Wall
- Fence
- Utility Easement
- Centerline of Streets
- Right-of-Way (Master Street Plan 55' from CL)
- Sidewalk

Green Space

- Utility Pole
- Walk Signs
- Tree Canopy
- Access Drives
- Sewer - NH

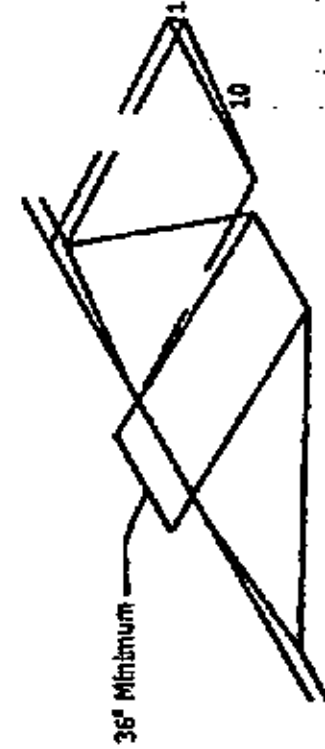
1104 N. College - Site Plan

Owner: Josh Pettit

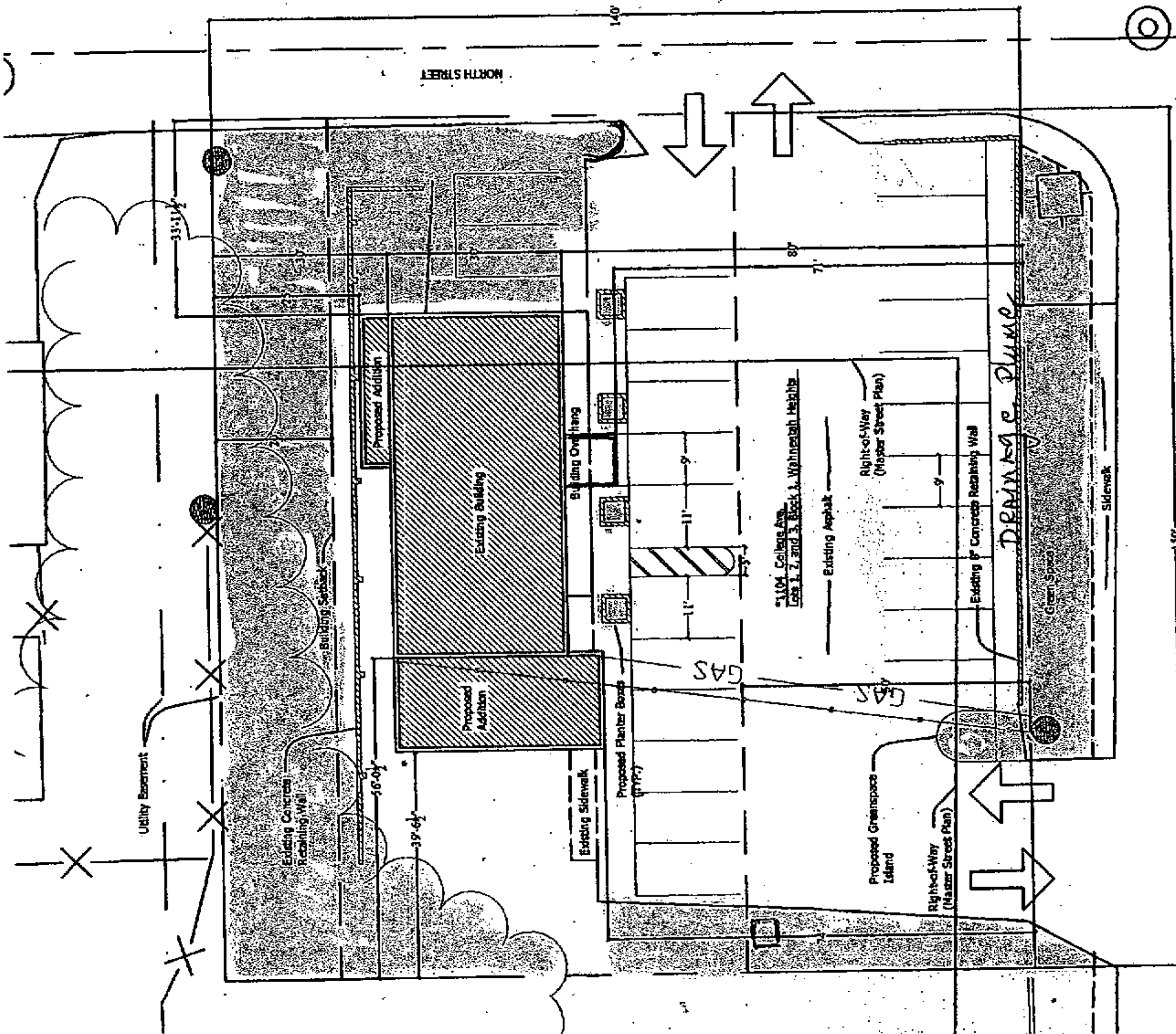
Contact Info: (978) 957-7703

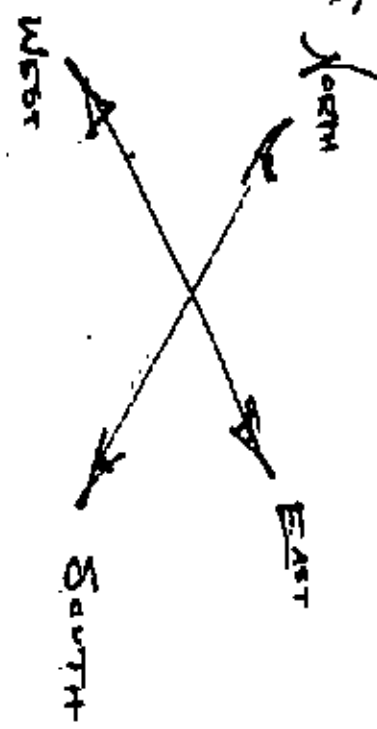
Date: August 10th, 2008

Scale: 1" = 30'-0"



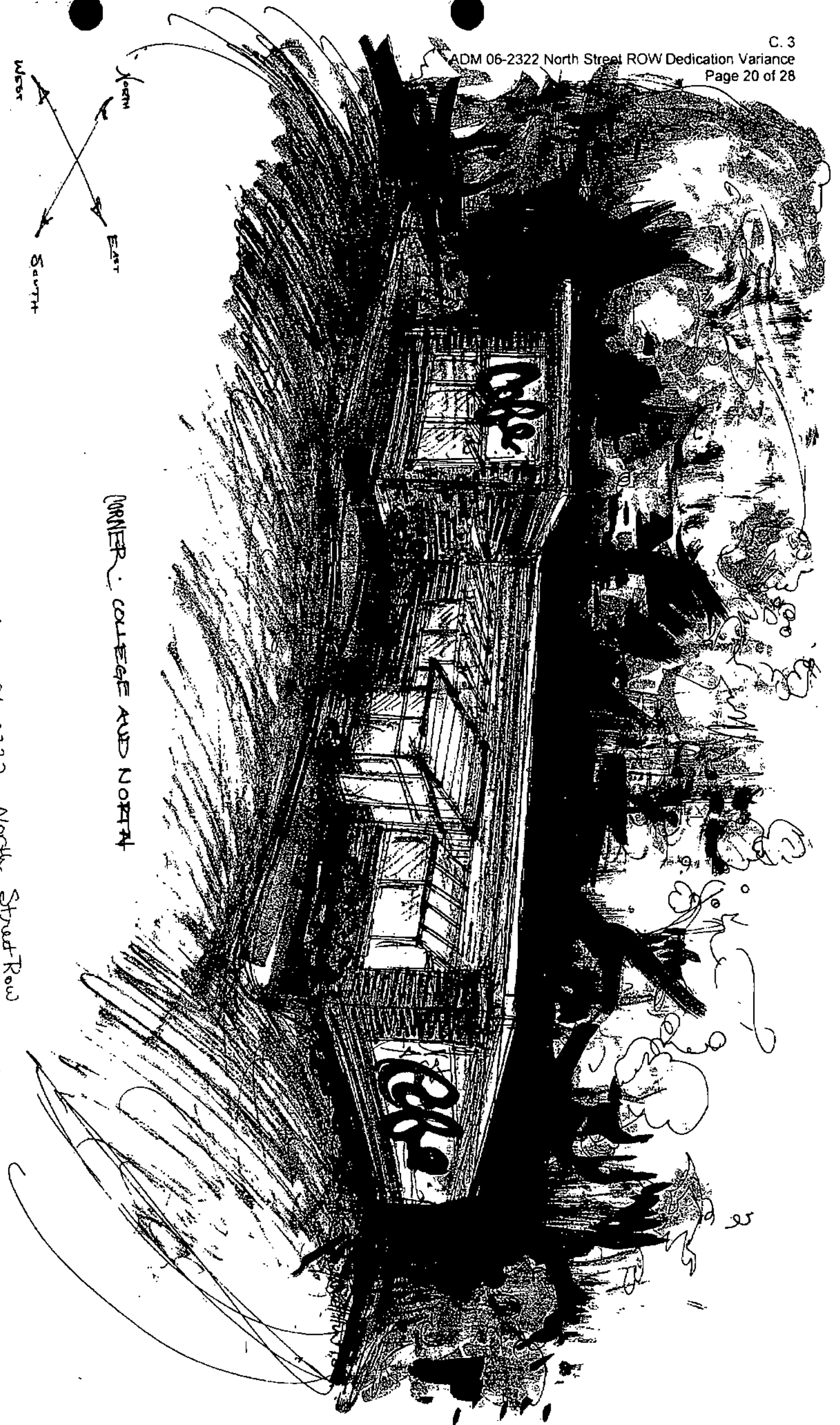
Built Up Curb Ramp
NOT TO SCALE

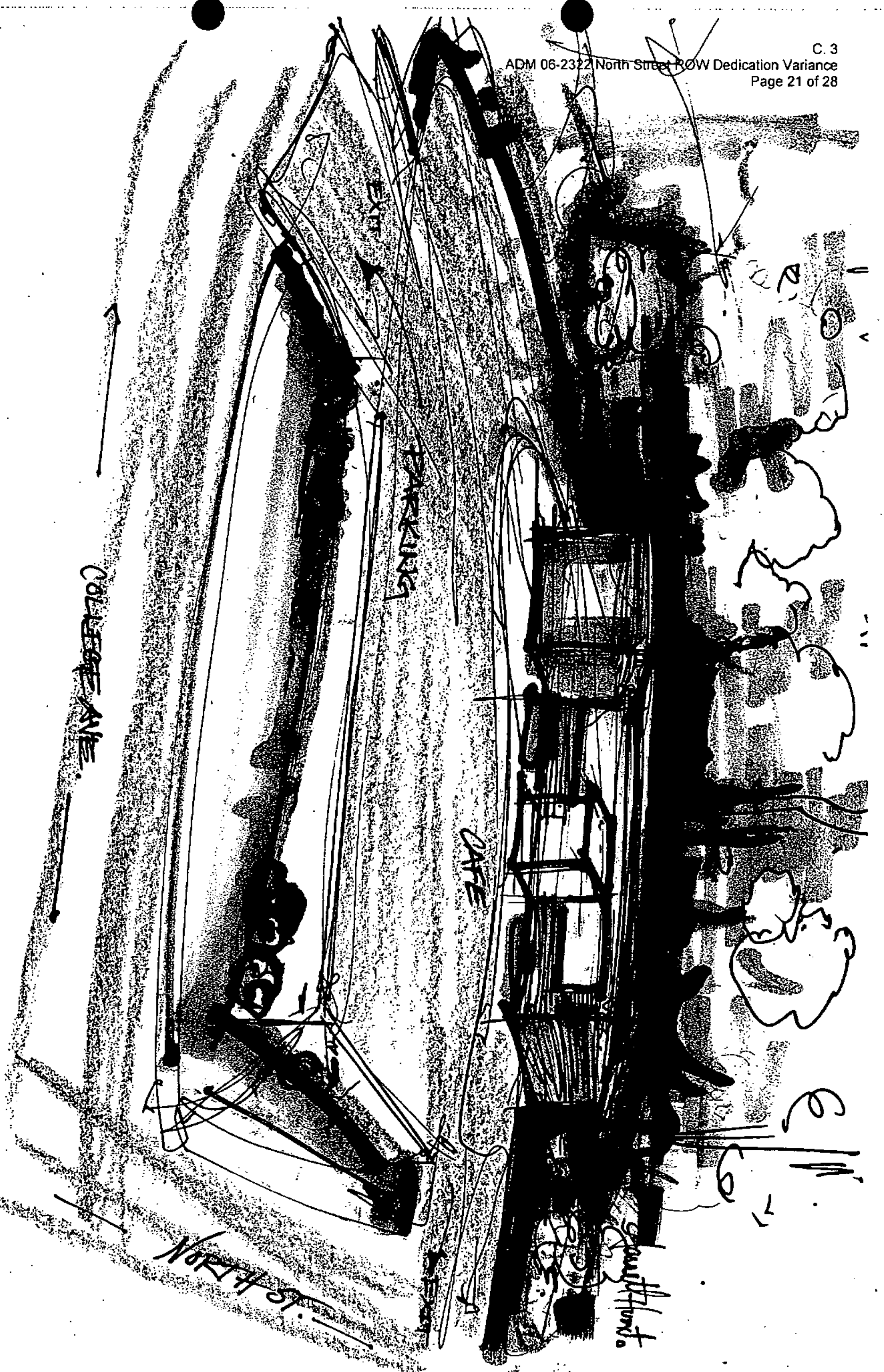




CORNER COLLEGE AND NORTH

ADM 06-2322 North Street Row
Dedication Variance





ADM 06-2322
North Street Row Dedication Variance

November 17, 2006
Variance Application
1104 North College Ave.
Fayetteville, AR 72701

Applicant: Pettit Living Trust/Josh & Eloise Pettit

City Council

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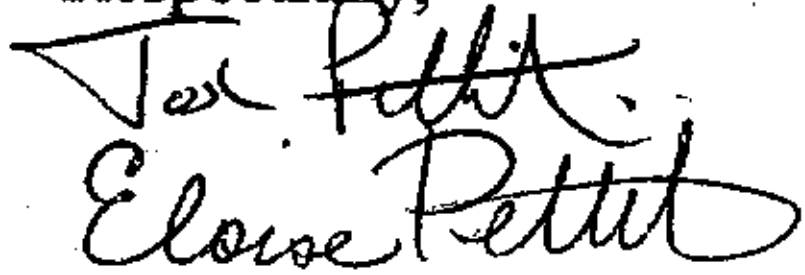
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The Planning Commission approved our proposal with three conditions, one of which was the dedication of 44 feet on the south side of the property. This staff recommended condition is not acceptable to us. However, we would be willing to dedicate 32 feet, which would allow 13 feet for a turning lane and 6 feet for a sidewalk. Another condition was that we would install landscaping to meet city codes "as determined appropriate." We find this language too vague. Attached is our site plan showing the only areas available for green space. This is the maximum green space available if we are to retain enough parking. Please note the drainage plume directly behind the concrete retaining wall which makes that space

unavailable for landscaping. We are speaking with the State Highway Department about the possibility of utilizing the existing green space between College Avenue and the retaining wall for landscaping.

We thank you for your time and consideration in this matter. If you have any questions, please contact us at (479)957-8343 or (479)957-7703.

Respectfully,

The block contains two handwritten signatures in black ink. The first signature is "Josh Pettit" and the second is "Eloise Pettit". Both are written in a cursive, flowing style.

Josh Pettit and Eloise Pettit



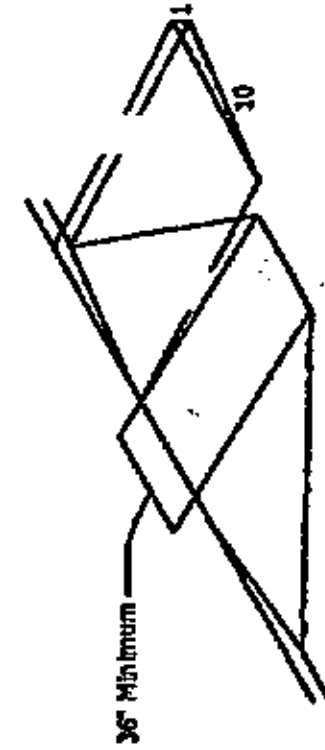
Legend

- Lot Boundary
- Building Setback (C-3 District)
- Retaining Wall
- Fence
- Utility Easement
- Centerline of Streets
- Right-of-Way (Master Street Plan 55' from CL)
- Sidewalks

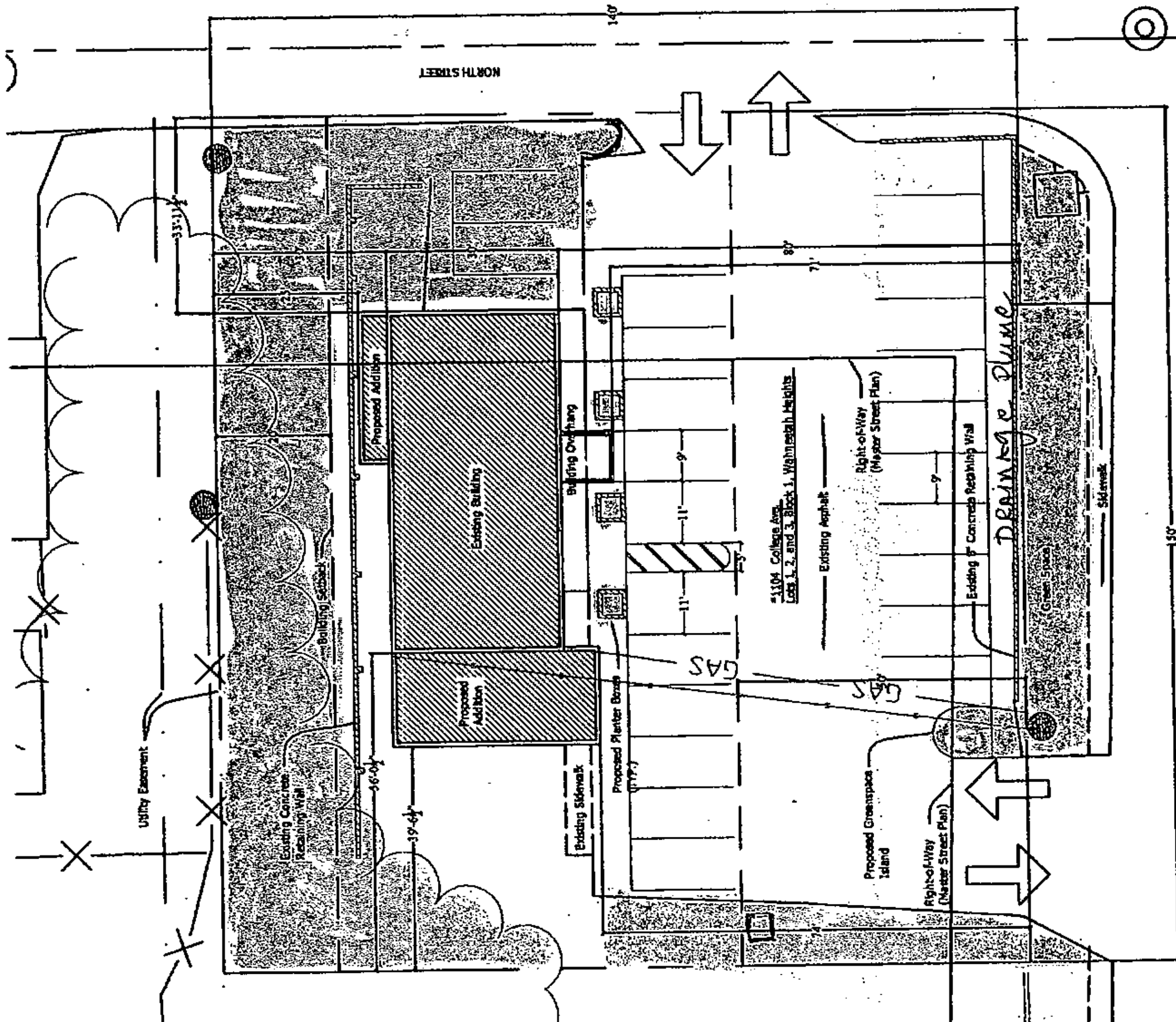
- Green Space
- Utility Pole
- Walk Signs
- Tree Canopy
- Access Drives
- Sewer - MH

1104 N. College - Site Plan

Owner: Josh Pettit
 Contact Info: (773) 957-7703
 Date: August 18th, 2006
 Scale: 1" = 30'-0"



Built Up Curb Ramp
 NOT TO SCALE



October 30, 2006
Variance Application
1104 N. College Ave.
Fayetteville, AR 72701

Applicant: Pettit Living Trust/Josh and Eloise Pettit

City Council

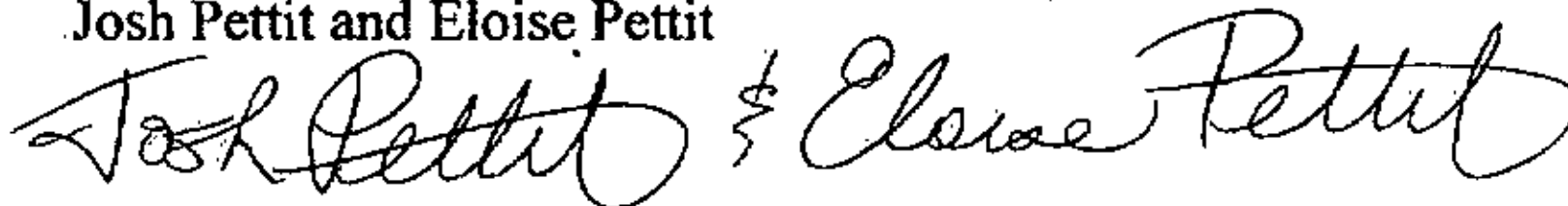
We are proposing improvements and building additions that require a variance for 1104 N. College Avenue. The existing building was constructed in 1966 as a pharmacy. The current square footage is 1800 sf. We are proposing a 540 sf addition the north side of the structure, a 172.25 sf addition on the east side of the structure, and a new roof for the existing building. This space is currently used as a car sales office, but it is our intention to convert it into a restaurant. The required number of parking spaces for a restaurant is 1 per 100 sf, with a 30% variance. We propose 21 standard spaces with 1 handicap accessible space, which would meet the requirements.

The existing building and proposed addition are in violation of the MSP ROW of North Street. We have been approved for a variance by the Board of Adjustments with certain conditions. One of these conditions is to have a variance for the Master Street Plan right-of-way setback. This variance is required before applying for a building permit and before any structural work or improvements exceeding 10% of the building's value could be done. The east addition would follow the line of the existing building. We would like to add one foot to the building footprint for roof eaves overhang. We are Adding this addition to the east side to create space for the restaurant kitchen. We are proposing adding an 8/12 hipped roof to improve the appearance of a rather unattractive block building and to take care of some leakage in the existing roof. We understand that if North Street were widened could lose 2 parking spaces and are looking into the possibility of shared parking.

We thank you for your time and consideration in this matter. If you have any questions, please contact us at (479) 957-8343 or (479) 957-7703.

Respectfully,

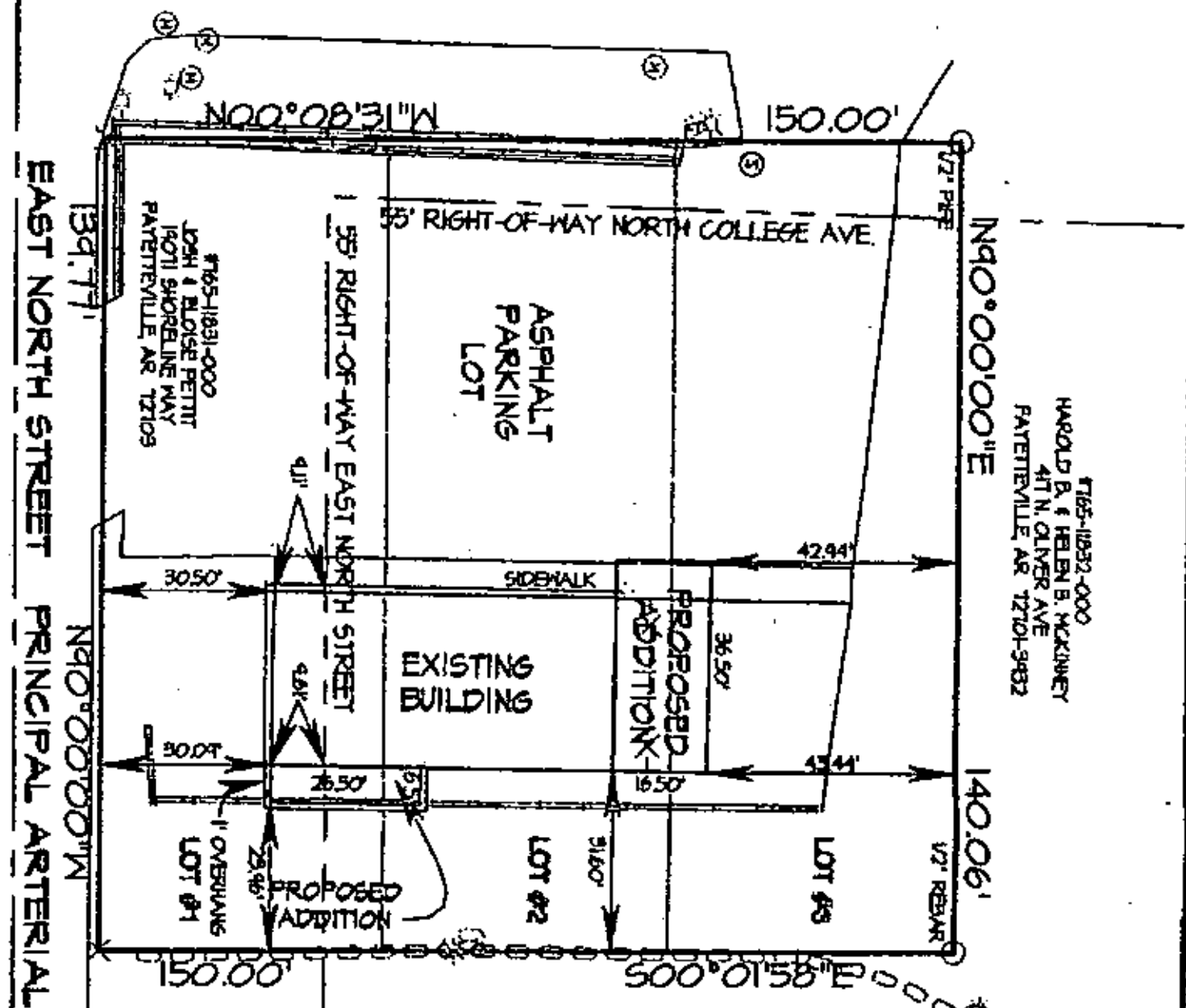
Josh Pettit and Eloise Pettit





#165-18405-001
WASHINGTON COUNTY, AR
P.O. BOX 1461
FAYETTEVILLE, AR 72702-1461

NORTH COLLEGE AVENUE PRINCIPAL ARTERIAL



#165-18321-000
HAROLD R. & HELEN B. MCKINNEY
411 N. OLIVER AVE
FAYETTEVILLE, AR 72701-3982

#165-11240-000
ANDREW MCCAN & LYNN MONTEZ
4353 RT. K
PREVILLE, MO 64856-6104

#165-04651-000
CITY OF FAYETTEVILLE
115 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

#165-04651-000
CITY OF FAYETTEVILLE
115 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

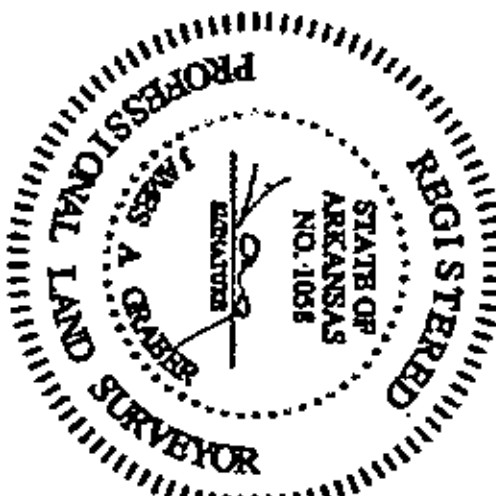
#165-04651-000
WASHINGTON COUNTY, ARKANSAS
220 NORTH COLLEGE ST. 100
FAYETTEVILLE, AR 72701

GRAPHIC SCALE:
BASIS OF BEARINGS: ASSIGNED



LEGEND

X	COMPUTED POINT
○	FOUND IRON PIN
△	UTILITY POLE
×	WATER METER
+	GAS METER
●	TELEPHONE BOX
○	SANITARY SEWER
○	MANHOLE
○	MANHOLE
○	FENCE
○	ROCK WALL
○	RETAINING WALL
○	TELEPHONE LINE
○	SEWER LINE



I HEREBY CERTIFY THAT I HAVE
SURVEYED THE PROPERTY SHOWN
AND THAT THIS PLAT IS AN ACCURATE
REPRESENTATION OF THE SAME

NOTE:
Tract is subject to easements as shown
on plat and restrictive covenants of
record. If any, and is subject to such
facts as an accurate and current title
search may disclose.

#165-08894-000
LAWRENCE PROPERTIES
1081 K. COLLEGE
FAYETTEVILLE, AR 72702

**Precision
Land
Surveying, Inc.**
JAMES A. GRABER, P.L.S.
P.O. Box 1700
Huntsville, AR 72740
Ph (479) 559-2217

JOSH PETTIT
Washington County, Arkansas
Scale: 1"=40'
Sep 11, 2006
BOUNDARY SURVEY
BLOCK 1, LOTS 1, 2, 3 MANHEETAH HEIGHTS AN ADDITION
TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER
PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CLERK
CLERK OF WASHINGTON COUNTY, ARKANSAS
Filename: C:\D-drawings\101630pettit.pro
Field Book:
101630pettit.rdw



November 16, 2006

City of Fayetteville
City Council
113 West Mountain Street
Fayetteville, AR 72701

**RE: APPEAL OF PLANNING COMMISSION DENIAL OF R-PZD 06-2212
STADIUM CENTRE COTTAGES**

Dear Aldermen,

On behalf of our client, Mathias Shopping Centers, Inc., please consider this correspondence as an official request to appeal the decision of the Fayetteville Planning Commission to deny approval of R-PZD 06-2212 Stadium Centre Cottages at the November 13, 2006 meeting.

This project was initially denied by the Planning Commission at the September 25, 2006 meeting. The commissioners cited several reasons for their denial of the initial submittal. Among those reasons were, density, the extensive use of multi-family units, lack of connectivity with the Stadium Centre commercial development to the south, units not fronting Old Farmington Road, and transition from the single family residential development to the east.

After discussions with Commissioner Ostner, we revised the layout to address all the previously mentioned reasons for denial. Connectivity was added to the commercial development to the south. We reduced the number of proposed units from 24 units to 17, taking the density to 6.9 units per acre. All but three units were made into single family units with front porches facing Old Farmington Road and rear entry garages, and no duplexes adjacent to the single family development to the east. Once those revisions were made, Commissioner Ostner, sponsored a reconsideration of the project, and it was put on the November 13th agenda. This resubmittal has full staff approval as well.

After discussions regarding a lack of greenspace, the commissioners voted 4-3 in favor of the project with Commissioner Trumbo abstaining, and Commissioner Graves absent. This was one vote shy of the necessary 5 votes for rezoning approval. We feel we have worked with the commission and staff to propose a good project, addressing all their concerns, and most of the neighbors concerns. We are requesting that the City Council approve this project subject to the conditions of approval as stated at the Planning Commission meeting on the 13th.

Thank you for your consideration in this matter.

Sincerely,

Thomas A. Hennelly, P.E.
President

RECEIVED

NOV 16 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

Date: November 16, 2006

Subject: Residential Planned Zoning District for Stadium Centre Cottages (R-PZD 06-2212)

RECOMMENDATION

The Planning Commission voted 4-3-1 in favor of a motion to forward the subject request to the City Council with a recommendation for approval. The motion to forward failed, however, because five affirmative votes are required for a zoning request.

Planning Staff recommends in favor of the request for an ordinance to create a Residential Planned Zoning District for Stadium Centre Cottages. This action would establish a unique zoning district for a residential development with a maximum of 17 dwelling units on a 2.45-acre tract located south of Old Farmington Road and west of One Mile Road.

BACKGROUND

The subject property consists of approximately 2.45 acres located south of Old Farmington Road and west of Sandra Street. The site is zoned RSF-4, Residential Single-family and R-A, Residential Agriculture. Property to the south was recently approved for a retail center and two out lots for future commercial development. Ten single family homes are proposed to front onto Old Farmington Road, with access via a one-way, private alley that will connect from Sandra Street west to a shared driveway that connects the commercial center to the south (access to Hwy 62) and Old Farmington Road to the north. A private street is proposed to provide access to lots 11-14, which consists of one single family home and three two-family homes. 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, staff recommended and the Planning Commission voted to deny an R-PZD on the subject property. The original proposal contained 24 dwelling units, 21 of which were multi-family townhouses. The Planning Commission (and staff) cited concerns with the compatibility and transition of use and density adjacent to the larger-lot single family subdivision to the east, lack of connectivity to the south, information not provided about off-site street improvements and the function of the interior street. At its next meeting, the Planning Commission voted to reconsider the project, on the grounds that these issues were to be addressed with a new plan.

On November 13, 2006, the Planning Commission voted 4-3-1 to forward this request to the City Council with commissioners Harris, Clark, and Anthes voting 'No' (one Commissioner abstained and one was absent). The motion failed and the applicant has appealed this request to City Council. The main issues of Planning Commission concern centered on a lack of open space for

the 17 dwelling units, density, compatibility, and increased traffic. Staff recommended approval of the revised plans, finding that all previously detailed issues had been fully addressed and finding the project compatible in density, land use and meeting many of the goals of the CityPlan 2025 and the Planned Zoning District ordinance.

During the item's consideration, the Planning Commission members voted 7-0-0 to amend staff's recommendation for improvements to Old Farmington Road. Staff recommended an 18' street section from centerline including curb and gutter, storm drains and a 6' sidewalk. As amended by the Planning Commissioners, the applicant was to construct a 14' street section from centerline including curb and gutter, storm drains and a 6' sidewalk with the remaining 4' of improvements to be paid by the developer for additional street improvements in the vicinity. Should the City Council wish to also change this recommendation, an amendment would need to be made to the PZD proposal.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2212, STADIUM CENTRE COTTAGES, LOCATED AT OLD FARMINGTON ROAD, WEST OF SANDRA STREET; CONTAINING APPROXIMATELY 2.45 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agriculture to R-PZD 06-2212 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. Said Exhibit "C" shall be filed in the office of the City Clerk of the City of Fayetteville.

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

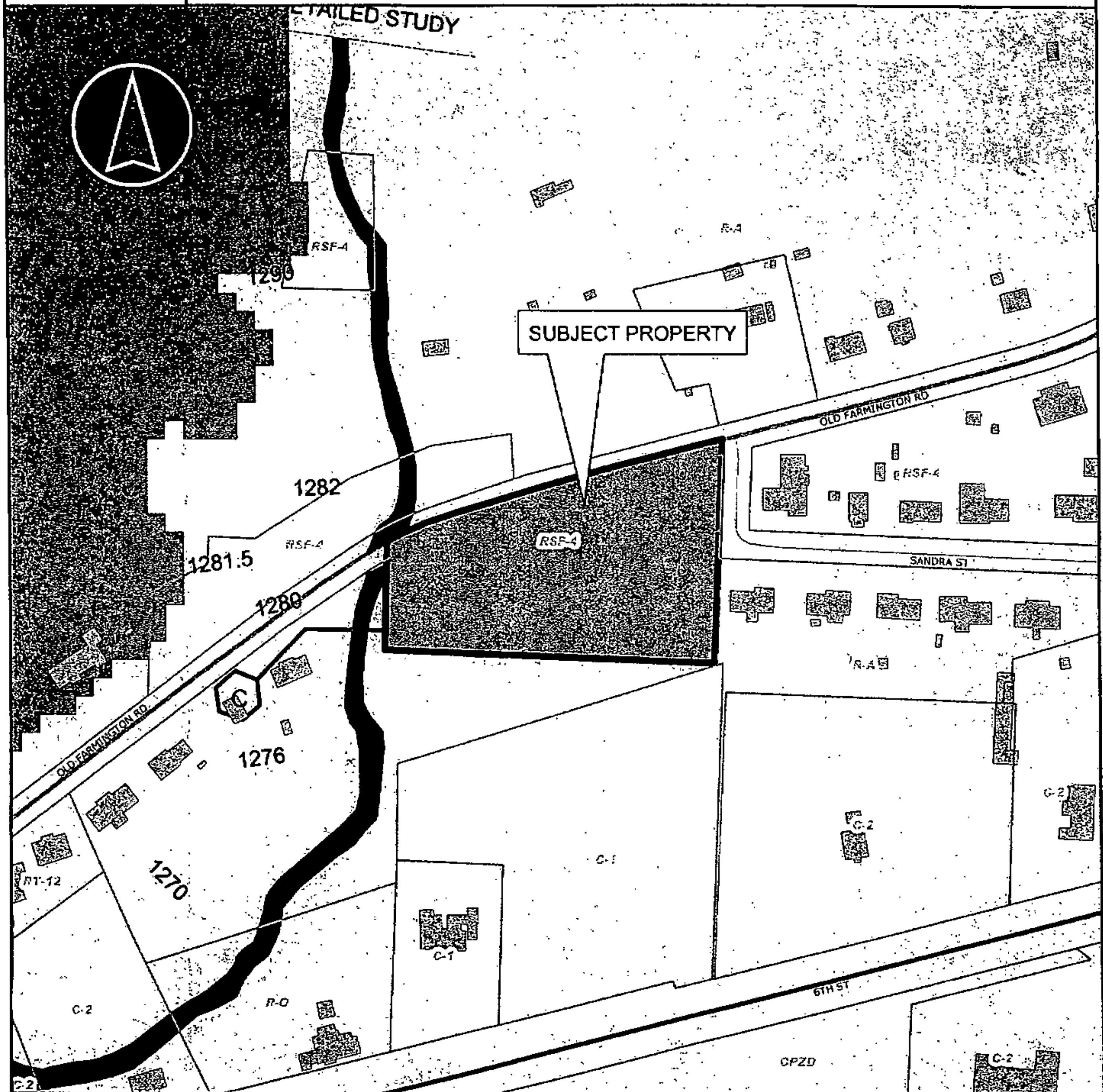
EXHIBIT "A"
R-PZD 06-2212

A PART OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) AND A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) ALL IN SECTION NINETEEN (19), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4), SAID POINT BEING AN EXISTING RAILROAD SPIKE; AND RUNNING THENCE N87°01'19"W 607.86 FEET TO A 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING; AND RUNNING THENCE S02°16'39"W 144.69 FEET; THENCE N87°43'21"W 454.57 FEET; THENCE N01°28'10"E 147.70 FEET; THENCE N62°17'29"E 25.63 FEET; THENCE N66°49'05"E 31.82 FEET; THENCE N71°20'37"E 46.00 FEET; THENCE N73°30'43"E 137.60 FEET; THENCE N74°44'10"E 75.61 FEET; THENCE N75°46'12"E 167.27 FEET; THENCE S02°16'32"W 160.50 FEET TO THE POINT OF BEGINNING. CONTAINING 2.45 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

RPZD06-2212

STADIUM CENTRE

Close Up View



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2212
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 75 150 300 450 600 Feet

EXHIBIT "C"
R-PZD 06-2212
PAGE 1 OF 4

CONDITIONS OF APPROVAL:

1. Planning Commission determination of street improvements. *Staff recommends the following: The developer shall improve Old Farmington Rd. to include an 18' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way and street lights every 300' along the property frontage. Improvements 14' from centerline for Sandra Street with curb, gutter, storm drains and a 4-foot sidewalk at the Master Street Plan right-of-way and street lights every 300' shall be installed by the developer. Additionally, to ensure safe traffic movements from Old Farmington Rd. onto One Mile Rd., staff recommends improvements to the southwest corner of said streets to improve the turning radius. These improvements shall be coordinated with the Engineering Division.*
2. Internal access drives shall be constructed as indicated in the provided site plans, with the alley to function as one-way from east to west, and the drive connecting the commercial services functioning as two-way. Adequate pavement markings and signage shall be provided prior to final plat indicating traffic movements.
3. Units 1-10 along Old Farmington Rd. shall be front facing with access to garages only permitted from Street "A". 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.
4. Private streets/alley/drives, sidewalks, greenspace 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)).
5. Staff is recommending approval of the submitted Tree Preservation Plan associated with RPZD 06-2196 with the following conditions of approval:
 - a. Please coordinate the installation of the sidewalk with the Urban Forester and the Sidewalk Administrator to save as many trees along Old Farmington Road as possible.
 - b. Between Stadium Centre Commercial and these cottages, 111 (2) inch caliper large

EXHIBIT "C"
R-PZD 06-2212
PAGE 2 OF 4

- c. species trees are required for mitigation. Both properties share the same owner so on-site mitigation is allowed.
 - d. By staff's calculations 61 (2) inch caliper large species trees are planned for the cottage development. This leaves a remainder of 50 trees or \$12,500 to be paid into the Tree Escrow Account. This payment will be due before the issuance of the first building permit.
 - e. Please include a revised mitigation chart that calculates all mitigation required and what is proposed for on-site planting. This should be separated by Stadium Center Commercial and Stadium Center Cottages. Canopy calculations have changed since the last submittal and now 4 (2) inch caliper large species tree are required for mitigation of the cottages.
 - f. All on-site mitigation trees shall be planted before the certificate of occupancy for the cottages they are associated with. These trees can not be located within any utility easements.
 - g. A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$19,750 shall be submitted to the City before the certificate of occupancy is granted on the last cottages.
- 6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
 - 7. Solid fences shall not be permitted along Old Farmington Road.
 - 8. A 6' wood board, privacy fence shall be required to be constructed along the east property line of Lots 11 and 15 (south of Sandra Street), in addition to the proposed large species trees as offered by the applicant.
 - 9. One (1) large species tree shall be planted in between each of the driveways and every 30 linear feet along Old Farmington Road where existing trees cannot be preserved, and shall be depicted on the landscape plan.
 - 10. The location and construction of the sidewalk along Old Farmington Road shall be coordinated with the Urban Forester and Sidewalk Administrator at the time of construction.
 - 11. Parks fees in the amount of \$9,435.00 are due, prior to signing 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

EXHIBIT "C"
R-PZD 06-2212
PAGE 3 OF 4

also be binding.

14. Prior to building permit, a cost estimate for all required landscaping and sidewalks is to be submitted for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
15. All permits to begin construction shall be obtained within one year from the date of approval; a one year extension may be obtained, pursuant to Chapter 166 of the Unified Development Code. A final plat shall be required in accordance with City of Fayetteville requirements.

Standard Conditions of Approval:

16. 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).
17. 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.
18. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
19. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
20. 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.
21. 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 06-2212
PAGE 4 OF 4

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
November 13, 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: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 8, 2006 Updated November 16, 2006

R-PZD 06-2212: Planned Zoning District (STADIUM CENTRE TOWNHOMES/COTTAGES, 557): Submitted by H2 ENGINEERING, INC. for property located at OLD FARMINGTON ROAD, W OF ONE MILE RD. The property is zoned RSF-4, Residential Single-family and R-A, Residential Agriculture and contains approximately 2.45 acres. The request is for Master Development Plan for a Residential Planned Zoning District with 17 attached and detached residential dwelling units.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property consists of approximately 2.45 acres located north of 6th Street and west of Sandra Street. The site is zoned both RSF-4, Residential Single-family and R-A, Residential Agriculture. Property to the south was recently approved for a retail center and two out lots for future commercial development. One interior street will connect to Sandra Street from the east to a proposed drive, which connects the approved commercial development to the south and Old Farmington Road to the north. A private street is proposed to provide access to lots 11-14.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single and Two-family	RSF-4, Residential Single Family and R-A, Residential Agriculture
South	Approved for commercial center	C-1, Neighborhood Commercial
East	Single-family neighborhood	RSF-4, Residential Single Family and R-A, Residential Agriculture
West	Single-family	R-A, Residential Agriculture

Proposal: The applicant requests rezoning and preliminary plat approval for a residential development in an R-PZD zoning district. The proposed use of the site is for 11 single-family units and 6 two-family units, for a maximum density of 6.94 units per acre. All of the residential

units will be located in Planning Area 1. This proposal will subdivide the property, allowing each lot to be sold individually, and require final plat approval.

The following bulk and area regulations are proposed by the applicant:

(A) Proposed Uses.

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 8	Single-family dwellings
Use Unit 9	Two-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and Recreational Facilities
Unit 24	Home Occupations

(B) Density.

Units per acre	6.94
----------------	------

(C) Bulk and area regulations.

Lot minimum width	40 ft.
Lot area minimum	1,900 sq. ft.
Land area per dwelling unit	1,900 sq. ft.

(D) Building Setbacks

Lot #	Front (Street A)	Front (Street B)	Front (Old Farmington Rd.)	Side w/o common Wall	Side w/ common wall	Rear
1-10	10'	NA	15'	5'	NA	NA
11	10'	13	NA	0'	NA'	8'
12	NA	10'	NA	5'	0'	4'
13	NA'	10'	NA	5'	0'	2'
14	10'	10'	NA	5'	0'	4'

(E) Height. Maximum 35 Feet

(F) Building area. 60% of the Lot Area

Access and Parking: Access to the site is provided from Sandra Street, Old Farmington Road and a drive aisle stub-out from the developing commercial center to the south, Stadium Centre Phase I. A one-way private street/alley is proposed with ingress from Sandra St. and egress onto Old Farmington Rd. and the commercial development. The private street now designated as one-way functions primarily as an alley, providing access to each of the 17 proposed structures.

Understanding the proposal to provide one-way west bound ingress/egress, which in effect limits the ability to cut-through Sandra St., but connects neighborhoods, is supported by staff as a waiver of design standards that require two public streets to be connected by a public street. Staff finds that this configuration, with traffic only permitted to exit north onto Old Farmington Rd., or south into the commercial development would provide a safe and convenient connection for residents. The one-way street would prohibit traffic from traversing the existing Sandra St. as a cut-through. The applicants are currently proposing 12' wide, individual driveways with garages for each lot, along with parallel parking along the proposed street.

Phasing: The applicant proposes to construct this development in one phase, under the typical ordinance requirements for a preliminary plat.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: Old Farmington Road (Collector Street)
Sandra Street (Local Street)

Street Improvements: Staff recommends the following improvements:

- Improve Old Farmington Rd. to include a 18' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way and street lights every 300'. Improve Sandra St. along the property boundary 14' from centerline with curb, gutter, storm drains and a 4-foot sidewalk at the Master Street Plan right-of-way and street lights every 300'. Additionally, to ensure safe traffic movements from Old Farmington Rd. onto One Mile Rd., staff recommends improvements to the southwest corner of said streets to make a more usable turning radius. These improvements shall be coordinated with the Engineering Division. (See conceptual improvements submitted by applicant)

Parks: On April 4, 2005 the Park and Recreation Advisory Board recommended accepting money in-lieu to satisfy the park land dedication requirements for this development. Parks fees are due in the amount of \$9,435.00, prior to signing the final plat.

Tree Preservation:	Existing Canopy:	2.75%
	Preserved Canopy:	1.57%
	Required Canopy:	2.75%
	Mitigation:	Required

Public Comment: Staff has received numerous comments from adjacent property owners objecting to the project, citing such issues as increased traffic on Sandra Street and Old Farmington Road, noise, safety and the addition of multi-family units.

PUBLIC COMMENT/CONCERNS AT 9/25/06 PC MEETING:

- Increased traffic
- Unimproved streets
- Vehicular speeds
- Density
- Decrease in property values

- Ability of City to enforce traffic on one-way private street

PLANNING COMMISSIONERS COMMENTS/CONCERNS AT 9/25/06 PC MEETING:

- Density
- Transition between land uses
- Buildings should be constructed with fronts facing Old Farmington, including visibility of doors, use of porches, an different architecture for each structure
- Units did not portray a single-family development, rather they looked "apartment like"
- Needed traffic calming measures to slow cut-through traffic
- Connection to commercial property would lessen traffic on Sandra Street

PUBLIC COMMENT/CONCERNS AT 11/13/06 PC MEETING:

- Compatibility
- Density
- Traffic
- Rental units
- Enforcement of one-way street

PLANNING COMMISSIONERS COMMENTS/CONCERNS AT 11/13/06 PC MEETING:

- Lack of greenspace
- Density
- Only one way into the development
- 36' street section for Old Farmington Road

Previous Recommendation - Staff was not supportive of the project as presented and recommended tabling **R-PZD 06-2212** at the Subdivision Committee to address several issues. The Subdivision Committee disagreed with Staff's recommendation and forwarded the PZD to the full Planning Commission for consideration.

- Staff recommended denial of **R-PZD 06-2212** as submitted for the 9/25/06 Planning Commission meeting.

Current Recommendation - Based on extensive changes in the land use (multi-family to single-family), provision of connectivity to the commercial development, etc., staff recommends forwarding **R-PZD 06-2212** with a recommendation for approval to the City Council with the following conditions:

Conditions of approval:

1. Planning Commission determination of street improvements. *Staff recommends the following: The developer shall improve Old Farmington Rd. to include an 18' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk at the Master Street Plan right-of-way and street lights every 300' along the property frontage. Improvements 14' from centerline for Sandra Street with curb, gutter, storm drains and a 4-foot sidewalk at the Master Street Plan right-of-way and street lights every 300' shall*

be installed by the developer. Additionally, to ensure safe traffic movements from Old Farmington Rd. onto One Mile Rd., staff recommends improvements to the southwest corner of said streets to improve the turning radius. These improvements shall be coordinated with the Engineering Division.

2. Internal access drives shall be constructed as indicated in the provided site plans, with the alley to function as one-way from east to west, and the drive connecting the commercial services functioning as two-way. Adequate pavement markings and signage shall be provided prior to final plat indicating traffic movements.
3. Units 1-10 along Old Farmington Rd. shall be front facing with access to garages only permitted from Street "A". 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.
4. Staff recommends that the following items be addressed/corrected:
 - a. Provide information regarding elevations for the two-family units.
5. Private streets/alley/drives, sidewalks, greenspace 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. Staff is recommending approval of the submitted Tree Preservation Plan associated with RPZD 06-2196 with the following conditions of approval:
 - a. Please coordinate the installation of the sidewalk with the Urban Forester and the Sidewalk Administrator to save as many trees along Old Farmington Road as possible.
 - b. Between Stadium Centre Commercial and these cottages, 111 (2) inch caliper large species trees are required for mitigation. Both properties share the same owner so on-site mitigation is allowed.
 - c. By staff's calculations 61 (2) inch caliper large species trees are planned for the cottage development. This leaves a remainder of 50 trees or \$12,500 to be paid into the Tree Escrow Account. This payment will be due before the issuance of the first building permit.
 - d. Please include a revised mitigation chart that calculates all mitigation required and what is proposed for on-site planting. This should be separated by Stadium

Center Commercial and Stadium Center Cottages. Canopy calculations have changed since the last submittal and now 4 (2) inch caliper large species tree are required for mitigation of the cottages.

- e. All on-site mitigation trees shall be planted before the certificate of occupancy for the cottages they are associated with. These trees can not be located within any utility easements.
 - f. A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$19,750 shall be submitted to the City before the certificate of occupancy is granted on the last cottages.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
 8. Solid fences shall not be permitted along Old Farmington Road.
 9. A 6' wood board, privacy fence shall be required to be constructed along the east property line of Lots 11 and 15 (south of Sandra Street), in addition to the proposed large species trees as offered by the applicant.
 10. One (1) large species tree shall be planted in between each of the driveways and every 30 linear feet along Old Farmington Road where existing trees cannot be preserved, and shall be depicted on the landscape plan.
 11. The location and construction of the sidewalk along Old Farmington Road shall be coordinated with the Urban Forester and Sidewalk Administrator at the time of construction.
 12. Parks fees in the amount of \$9,435.00 are due, prior to signing 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.
 11. 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.
 12. Prior to building permit, a cost estimate for all required landscaping and sidewalks is to be submitted for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
 13. All permits to begin construction shall be obtained within one year from the date of approval; a one year extension may be obtained, pursuant to Chapter 166 of the Unified

Development Code. A final plat shall be required in accordance with City of Fayetteville requirements.

Standard Conditions of Approval:

14. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
15. 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.
16. 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.
17. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
18. 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.
19. 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.

Subdivision Committee Action: ☐ Approved ☒ Denied ☐ Forwarded to C.C.
Motion: Ostner (Motion to approve)
Second: Lack
Vote: 4-3-0 Motion to approve failed

Meeting Date: November 13, 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 06-2212 (Stadium Centre Townhomes/Cottages)

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 does not designate this specific area as a growth area. Rezoning this property to R-PZD 06-2212 with single- and two- family dwelling units is consistent with the land use plan. Although the proposed lot sizes are not similar with surrounding properties, the use of predominantly single-family units is compatible with surrounding residential uses. Additionally, the density proposed provides for an appropriate transition between the commercial use to the south and the large-lot single-family neighborhood to the east.

- (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, or the applicant has submitted requests for waivers thereof.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure 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 single- and two- family residential uses. The proposed zoning criteria would provide for 11 single-family dwellings and 3 two -family dwellings resulting in a density of approximately 6.94 units/acre. Staff finds that the proposed use to be appropriate in this transitional area, finding that while the lot sizes are smaller than surrounding properties, the overall land use and density are compatible in an area of mixed land use and

development patterns.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The site is relatively flat with tree canopy concentrated on the edges and within the right-of-way. The natural environment is suitable for the type of development proposed.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: It is expected that the addition of 17 residential dwelling units will increase the amount of traffic on Old Farmington Road and Sandra Street. However, by utilizing a one-way street within the development, the majority of the traffic generated should utilize the northern portion of Sandra Street for access in conjunction with Old Farmington Rd. and a drive into the commercial development to the south. Old Farmington Rd. is designated as a Collector Street, however has not been improved to that status. The developer will be expected to make improvements to Old Farmington Rd., both along the property frontage and at the intersection of Old Farmington and One Mile Rd., to accommodate the increase in traffic utilizing this street.

- (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 project once constructed.

- (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 Stadium Centre Cottages provide for an appropriate transition between a commercial district and the mainly single-family residential areas to the east, west and north. Compatibility has been achieved by providing predominantly single-family homes adjacent to the public streets and existing residences. The 3 two-family units have been situated away from the single-family dwellings, providing for a transition in land use. The majority of the tree canopy to be removed is within the existing right-of-way, however coordination of the installation of street improvements with the Urban Forester and Sidewalk Administrator will allow for the preservation of addition tree canopy. Small pockets of usable open space are available for public use. Additionally, both mitigation trees and landscape trees will be planted for community aesthetics and screening purposes.

- (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 for the residential use; however the developers are proposing large species trees and a 6' tall privacy fence along the eastern property line of Lots 11 and 15. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are proposed. These have been included in the conditions of approval.

- (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 two private streets (Street A and B), with Street A connecting Sandra Street to Old Farmington Road and a drive to the commercial development. Street A will be a one way street, permitting traffic flow to Old Farmington Rd. and restricting eastward traffic onto Sandra Street. While traffic will still make use of Sandra Street, the use of a one-way street should decrease vehicle trips in front of the existing single-family homes and will not increase cut-through traffic into the existing neighborhood. Staff finds that the connection to the south to be desirable, as it allows for access to/from the commercial/retail and eating establishments being constructed. Connecting in a manner that would not allow for truck traffic (narrow streets, tight radii, etc.) would allow for residents to utilize the commercial establishments without traveling Old Farmington Road to 6th Street in order to do so.

- (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: Approximately 16 on-street parking spaces are proposed along the private street. All parking ratios are to be met with garages and driveways, with on-street parking provided for guests.

- (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, six-foot sidewalk is to be constructed adjacent to Old Farmington Rd. along the property frontage and continue south along Sandra St. as a four-foot sidewalk. Internal to the development, a four-foot sidewalk is to be provided along Street A, with pedestrian connections proposed to the commercial development to the south. A pedestrian sidewalk is also proposed to connect from Old Farmington Road to the commercial center to the south. Sidewalks located outside of a public right-of-way shall be located within access easements that permit public access, but are owned and maintained by the POA.

(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, as this development proposes private streets. Private streets are proposed to be 22 feet in width, with one travel lane and one parking lane.

(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 shall coordinate installation of improvements to Old Farmington Rd. with the Urban Forester and Sidewalk Administrator to increase the likelihood of tree preservation within the existing right-of-way. 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: The applicant has proposed design standards for residential structures.

- (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, are 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. A condition to this effect is included in the staff report.

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 City Plan 2025, as well as the above criteria, including flexibility in density, providing for a variety of housing types, common open spaces, and enhancement of existing natural features. A great deal of compatibility has been achieved by providing predominantly single-family units with a density that is appropriate in an area transitioning between commercial and residential land use.

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.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 that compatibility and transition have been achieved in relation to the surrounding large lot, single-family homes. The requested R-PZD provides an effective transition between two different land uses and activities on abutting parcels. Improvements to infrastructure will be required in order to provide adequate traffic safety.

- (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 predominantly large lot residential to the east, west and north, however properties to the south are exclusively commercial. Density under

the current zoning (R-A and RSF-4) is not appropriate for this area, as the city's future land use goals and infrastructure for this area supports a higher density.

- (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 varied on this project, as it provides for a small footprint type of unit. The property is being subdivided into individual lots. Smaller lot and decreased setback development has been approved to the northeast of the subject property in a primarily single-family proposal (Scottswood Place R-PZD).

- (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 two-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: Though the density is higher than currently permitted under the R-A and RSF-4 zoning districts, the lot coverage on this project is adequate.

***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 06-2212**, with the associated Master Development Plan, allows the principal use on the property to 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 City Plan 2025 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 the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Areas this proposal meets. Rezoning the property will accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens. Staff is supportive of the concept as proposed, finding that a high level of compatibility has been achieved by utilizing predominantly single-family housing types, versus multi-family buildings. Staff has supported a similar development pattern in a PZD on Old Farmington Road recently which utilized smaller, single-family lots with a few attached units.

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 R-A and RSF-4, which allows for residential uses. This site is not suited for continued agricultural use, nor has it been used for such for some time. Adjacent to commercial and public services and arterial streets, a rezoning of this property to a higher density is advisable.

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

Finding: The proposed zoning will certainly result in an increase in vehicle trips, due to the change in use from vacant property to 17 dwelling units. It is necessary that street improvements occur as a result, to be installed with development of the project. With the improvements proposed, other users of Old Farmington Rd. and Sandra St. will likely benefit as well, due to the fact that at this time there is no curb, gutter, storm drains, or sidewalks. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

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

Finding: 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 6" waterline along Old Farmington Rd. 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 6" sewer main along the west and north 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 the commercial development to the south, Old Farmington Rd. and Sandra St. The streets are two-lane paved roadways with no curb and gutter or storm drains. It is recommended that Old Farmington Rd. be improved along the property frontage to create a roadway width of 18' from centerline to the back of curb. Improvements to the intersection of Old Farmington Rd. and One Mile Rd. may be considered as well.

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 Fire Station No. 6. Response time to the property is 3.5 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) 444-3469

TO: Jesse Fulcher, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: August 10, 2006
SUBJECT: Parks & Recreation Technical Plat Review Comments

Meeting Date: August 16, 2006
Item: R-PZD 06-2212 Stadium Center, pp557
Park District: NW
Zoned: C-1
Billing Name & Address: Bleaux Barnes

	<u>Current Land Dedication Requirement</u>
Single Family	_____ @ .024 acre per unit = _____ acres
Multi Family	_____ @ .017 acre per unit = _____ acres
Mobile Home	_____ @ .024 acre per unit = _____ acres
Lot Split	

	<u>Money in Lieu</u>
¹⁷ 24 @ \$555 per unit = \$13,320	\$ 9,435.00
_____ @ \$393 per unit = \$ _____	
_____ @ \$555 per unit = \$ _____	
_____ @ \$555 per unit = \$ _____	

COMMENTS:

- The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for this development on April 4th, 2005.
- This decision was base on the small land requirement for 24 units and it's proximity to Finger Park.
- Parks fees are due before building permit will be issued.



PC Meeting of November 13, 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: November 8, 2006

ITEM #: R-PZD 06-2212: Planned Zoning District (Stadium Centre Cottages)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	2.45
square feet	106,722
Existing Tree Canopy	
acres	0.07
square feet	2,940.4
percent of site area	2.75%
Existing Tree Canopy Preserved	
acres	0.04
square feet	1,676.3
percent of total site area	1.57%
Percent Minimum Canopy Required	2.75%

FINDINGS:

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

- **This site was originally reviewed with the large scale development of the commercial space Stadium Centre. Trees along throughout the**

commercial and now town homes will be preserved. Mitigation for both projects will be required but most species on the site are volunteer with only 2 significant oaks found either off-site or within the master street plan right of way.

Whether the design incorporates the required tree preservation priorities

- **This design takes into consideration the tree preservation priorities.**

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

- **Environmental degradation should not occur on the site with this development.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Adjacent properties will be impacted. Canopy along the western property line will be preserved but that along the eastern will be removed. Additional canopy will be added in these areas once development is through.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of this lot reduces flexibility of design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of the trees was found to be fair to poor.**

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

- **Trees removed for this project are found within the right of way and easements.**

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

- **The majority of canopy removed is for required street improvements to Old Farmington Road. Trees should not be affected by the installation of utilities.**

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

- **N/A**

Construction requirements for On-Site and Off-Site Alternatives.

- N/A

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required for this project and will greatly benefit this area.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- NA

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- N/A

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions.**

Conditions of Approval:

1. **Please coordinate the installation of the sidewalk with the Urban Forester and the Sidewalk Administrator to save as many trees along Old Farmington Road as possible.**
2. **Between Stadium Centre Commercial and these cottages, 111 (2) inch caliper large species trees are required for mitigation. Both properties share the same owner so on-site mitigation is allowed.**
3. **By staff's calculations 61 (2) inch caliper large species trees are planned for the cottage development. This leaves a remainder of 50 trees or \$12,500 to be paid into the Tree Escrow Account. This payment will be due before the issuance of the first building permit.**
4. **Please include a revised mitigation chart that calculates all mitigation required and what is proposed for on-site planting. This should be separated by Stadium Center Commercial and Stadium Center Cottages. Canopy calculations have changes since the last submittal and now 4 (2) inch caliper large species tree are required for mitigation of the cottages.**
5. **All on-site mitigation trees shall be planted before the certificate of occupancy for the cottages they are associated with. These trees can not be located within any utility easements.**
6. **A 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$19,750 shall be submitted to the City before the certificate of occupancy is granted on the last cottages.**



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 4
Stadium Centre Cottages Appeal
Page 38 of 88

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 06-2140: (COMBS, 564)**: Submitted by M2 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.

It is the opinion of the Fayetteville Police Department that this request for a Residential Planned Zoning district will not create an undesirable load increase on police services. It will not create an appreciable increase in traffic danger and congestion.

In reference to R-PZD 06-2212: Planned Zoning District (STADIUM CENTRE TOWNHOMES, 557): Submitted by H2 ENGINEERING, INC. for property located at OLD FARMINGTON ROAD, W OF ONE MILE RD. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.00 acres.

It is the opinion of the Fayetteville Police Department that this Master Development Plan for a Residential Planned Zoning district will not create an undesirable load increase on police services. It will not create an appreciable increase in traffic danger and congestion.

Sincerely,



Captain William Brown
Fayetteville Police Department

RZN 06-2240: (Combs, 564)

Public water is located adjacent to the site. There is a 24" waterline along Morningside Drive. Water service will need to be extended within the property at the time of development.

Sanitary sewer is available through the site. There are large diameter sewer mains through the site. Sewer service will need to be extended within the property 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 Morningside Drive and 15th Street. Improvements to this intersection are currently planned for construction. These improvements include the installation of a traffic signal.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-yr flood plain.

RZN 06-2244: (Henningsen Cold Storage, 717)

Public water is located adjacent to the site. There is an 8" waterline along Sunrise Mtn. Road and a 12" main along School. 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 a 6" sewer main at the northeast corner of Sunrise Mtn. Road and School. 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 capacity of the existing main will need to be studied at the time of development.

The site has access to Sunrise Mountain Road and School Avenue. School Ave. is an improved four and five-lane highway way at this property. Improvements to Sunrise Mountain will be evaluated at the time of development.

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

R-PZD 06-1884: (Westside Village Condos, 439)

Public water is located adjacent to the site. There is a 12" waterline along Ruppel Road. Water service will need to be looped through the property at the time of development.

Sanitary sewer is not available on the site. There is an 8" sewer main located to the east in the Ruppel Row subdivision and to the south along Owl Creek. Sewer service will need to be extended to and through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. This property is within the Hamstring Creek lift station drainage area.

The site has access to Ruppel Road. This street is an improved two-lane paved roadway with curb and gutter and storm drains.

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

R-PZD 06-2212: (Stadium Center Townhomes, 557)

Public water is located adjacent to the site. There is a 6" waterline along Old Farmington Road. Water service will need to be looped through the property at the time of development.

Sanitary sewer is available on the site. There is a 6" sewer main along the west and north property line of this

site.. Sewer service will need to be extended through the property 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 Old Farmington Road and Sandra Street. These streets are two-lane paved roadways with no curb and gutter or storm drains. It is recommended that Old Farmington Road be improved along the project frontage to create a roadway width of 18' from centerline to the back of curb. Improvements to the intersection of Old Farmington Road and One Mile Road may be considered as well.

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



Fayetteville Fire Department

R-PZD06-1884 (Westside Village Condos)

These 21.94 acres are covered by Engine 7 at 835 Ruppel Road.

It is 0.1 mile from the station with an expected response time of 1 minute (Development is right across the street from the station).

The Fire Department anticipates 83 (50 EMS - 33 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 1590 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.

R-PZD06-2212 (Stadium Centre Townhouses)

These 2.0 acres are covered by Engine 6 located at 900 S Hollywood.

It is 1.1 miles from the station with an expected response time of 3.5 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.

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.

Please feel free to contact me if you have any questions concerning the comments



Captain Dale Riggins
Fayetteville Fire Department



September 19, 2006

Planning Commission
City of Fayetteville
113 West Mountain St.
Fayetteville, AR 72701

RE: STADIUM CENTRE TOWNHOMES - WAIVER REQUEST

Dear Commissioners:

Please accept this correspondence as our official request for waiver of standard street requirements which will enable our client to develop private streets within the above referenced project. This project consists of 24 residential units, of which 12 will front to Old Farmington Road.

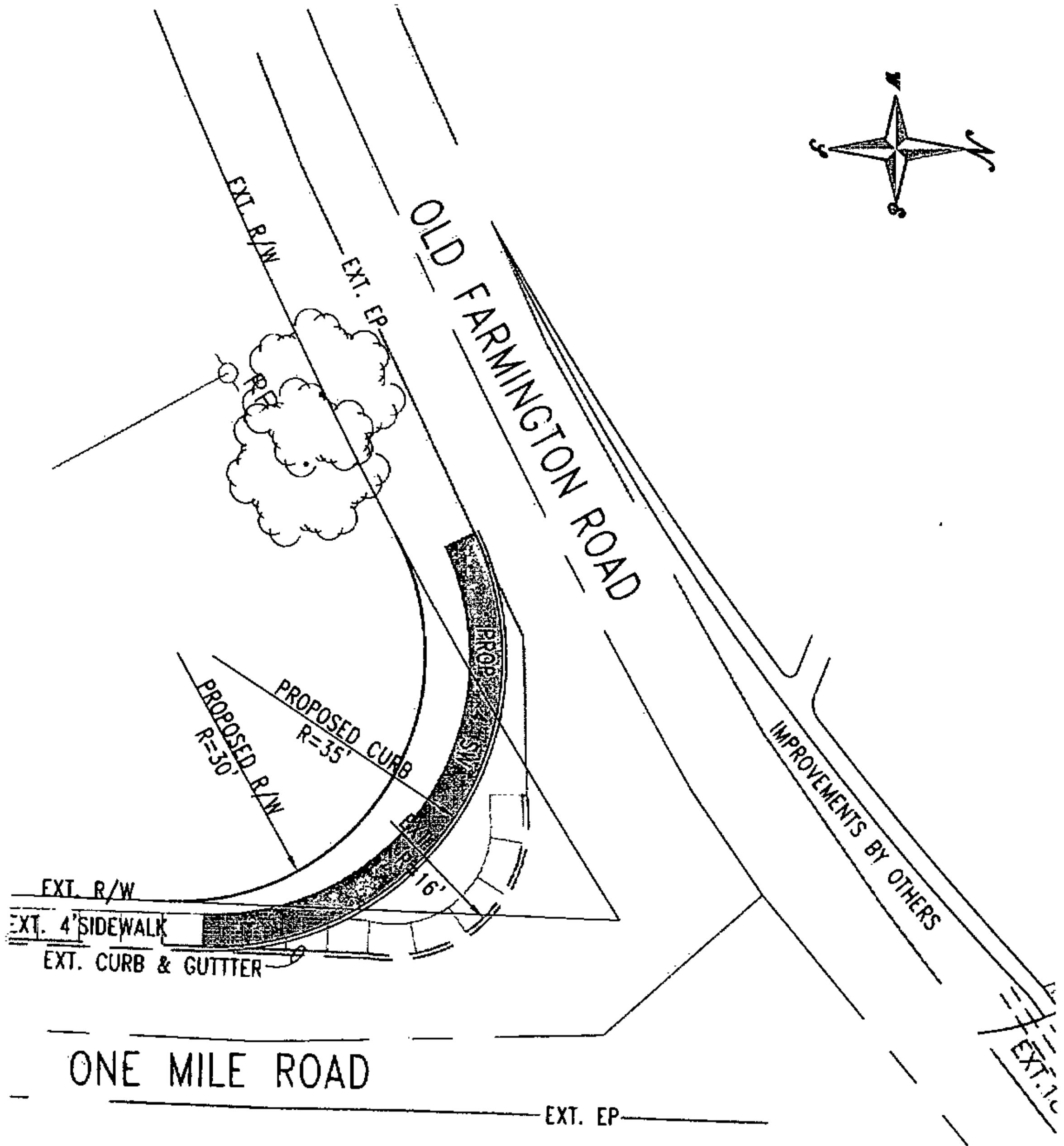
The proposed street is accessed from Sandra Street with connectivity proposed to Old Farmington Road. The street is proposed as one-way with the outlet onto Old Farmington Road, thereby reducing any additional congestion at the intersection of Old Farmington Road and Sandra Street.

Thank you for your consideration in this matter. Please feel free to call if you have any questions or comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

Thomas Hennelly, P.E.
President



THE STADIUM CENTRE TOWNHOMES INTERSECTION

PAGE 1 of 1 PAGES

H2 PROJECT NUMBER: 06-021



ENGINEERING, INC.

2758 MILLENNIUM DRIVE
Suite 1
FAYETTEVILLE, ARKANSAS 72703
PHONE: (479) 582-4284
FAX: (479) 582-9254



SC Meeting of November 17, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Subdivision Committee Members
FROM: Jesse Fulcher, Current Planner
Brent O'Neal, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 15, 2005

LSD 05-1801: Large Scale Development (THE STADIUM CENTRE, 557): Submitted by H2 ENGINEERING, INC. for property located at HWY 62, JUST NW OF LOWES. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 7.40 acres. The request is for a commercial large scale development with 3 buildings totaling 48,550 s.f. and 249 parking spaces in three phases.

Property Owner: MATHIAS SHOPPING CENTER

Planner: JESSE FULCHER

Findings:

Property: The subject property contains 7.40 acres, located north of Lowes Home Improvement and is zoned C-1, Neighborhood Commercial.

Surrounding Land Use/Zoning: Surrounding zoning and land use are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Vacant	R-A, Residential Agriculture
South	Lowes Home Improvement	C-PZD, Commercial Planned Zoning District
East	Vacant	C-2, Thoroughfare Commercial
West	Vacant	C-1, Neighborhood Commercial/R-O, Residential Office

Proposal: The applicant proposes to construct a 37,800 sq. ft. retail building with 196 parking spaces in Phase I. Phase II will consist of a 7,000 sq. ft. retail building with 30 parking spaces and Phase III will consist of a 3,750 sq. ft. retail building with 17 parking spaces.

Parking Ratios

Square footage	Commercial Use	Required Parking +30%/-30%=–
37,800 sq. ft.	Retail Use requires 1 space/250 GFA	106-196
7,000 sq. ft.	Retail Use requires 1 space/250 GFA	20-36
3,750 sq. ft.	Retail Use requires 1 space/250 GFA	10-20
		Total = 136-252

Request: The request is for Large Scale Development approval of the submitted site plans for Phase I of the proposed commercial development.

Right-of-way Dedication: Minimum 55 feet from centerline along 6th Street (State Highway 62), a Principal Arterial. Right-of-way will need to be dedicated by warranty deed for 6th Street, a state highway. DEDICATION OF 35' FROM CENTERLINE ALONG OLD FARMINGTON RD.

Adjacent Master Street Plan Streets: 6th Street (Principal Arterial).

Water/Sewer: Water and sewer are available to the site and will be extended to the facility.

Vehicular Access: The site will have access onto 6th St., which will align with the entrance into Lowes Home Center. The site will also have cross access to the east with a new development that is currently under review.

Non-Vehicular Access: Six-foot sidewalks would be constructed along the project's 6th Street frontage. Bicycle racks are to be provided for multi-modal access.

Tree Preservation: Existing Canopy: 20%
Preserved Canopy: 9%
Required Canopy: 20%
Mitigation: Required; 107 trees

Site Coverage: The plat indicates 51 % pervious surface in compliance with this requirement.

Buffer/Screening: The northeast property line of the site borders a single-family neighborhood. Currently, the residential neighborhood is zoned R-A, Residential Agriculture. Pursuant to Section 166.10 of the Fayetteville Unified Development Code, only RSF, RT, RMF and RO zoning districts require screening from commercial or industrial uses. However, it is staffs' opinion that at some point, the residential neighborhood would be rezoned to a RSF zoning district. Therefore, staff is requesting that a view-obscuring fence or view-obscuring vegetation, or a combination of the two, be installed at the northeast corner of this development to minimize the impact to the established residential neighborhood.

Recommendation: Staff recommends approval of LSD 05-1801 with the following conditions:

1. Staff requests additional information regarding access to the rear of the building for purposes of delivery and vehicular access. THE APPLICANT AGREED TO EVALUATE CROSS ACCESS TO THE NORTH WHEN THE VACANT PROPERTY TO THE NORTH DEVELOPED.
2. Subdivision Committee determination of Commercial Design Standards. *Staff finds that the front elevations largely meet Commercial Design Standards. The addition of architectural details such as those shown on the front of the building would further articulate the main façade. Staff recommends wrapping the rear corners of the east and west elevations with materials found on the front elevation. Additionally, staff recommends further articulation of*



SC Meeting of July 13, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Subdivision Committee Members
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: July 7, 2006

ADM 06-2163: Administrative Item (STADIUM CENTRE, 557): The request is for a major modification of the approved Large Scale Development on the subject property.

Planner: JESSE FULCHER

BACKGROUND

The subject request was heard at the June 29, 2006 Subdivision Committee meeting, at which time the item was tabled so that the applicant could revise the site plan, indicating the location for a new northern connection.

Project Description: The subject 2.19-acre site is located north of Lowes Home Improvement on W. 6th Street and is zoned C-1, Neighborhood Commercial. On November 17, 2005 the Subdivision Committee approved a large scale development for a 37,800 square foot retail building with a 196 parking spaces located within Phase I. Phase II and Phase III will require separate large scale development approval. At this time the applicant is requesting to add an additional retail space to the east side of the building, resulting in an overall building size of 40,000 square feet.

As a condition of approval of LSD 05-1801, the applicants are required to provided cross-access to the east and west. The proposed modification will not prohibit this requirement. Cross-access to the north is to be evaluated if the property to the north develops. The proposed modification will expand the building to the east, thus requiring the relocation of the proposed northern cross-access. As indicated on the revised site plan, the cross-access has been moved the west side of the building. The cross-access to the east has been relocated to line up with the main, east/west drive aisle, which is an overall better solution.

DISCUSSION

Staff finds that the modification to the building and the relocation of the cross-access is acceptable, as the potential for a connection to the undeveloped property to the north will still be feasible for evaluation of a connection, as required by the Planning Commission. Staff will

review the appropriateness of a connection to the north at the time of development, to ensure safe vehicular and pedestrian movements.

The proposed modifications to the approved large scale development plans have been determined a major modification. In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the Subdivision Committee or Planning Commission for approval or denial.

RECOMMENDATION

Recommendation: Staff recommends approval of the applicant's request for a Major Modification to the previously approved large scale development, with the following conditions:

1. Subdivision Committee determination of appropriate connectivity. *Staff finds that the relocation of the northern stub-out to the west of the building as indicated in the submitted drawings will provide opportunity for connection, if deemed necessary at the time of development. If, at the time of development of the property to the north, a connection is required by the Planning Commission, the owner of the subject property shall permit this connection in the manner required.*

06/29/06 SUBDIVISION COMMITTEE COMMENTS-THE SUBDIVISION COMMITTEE FOUND THAT THE POTENTIAL FOR CROSS-ACCESS TO THE NORTH SHOULD NOT BE REMOVED WITHOUT EVALUATING FUTURE DEVELOPMENT AND THE POTENTIAL FOR CROSS-ACCESS TO THE UNDEVELOPED LOT TO THE NORTH.

07/13/06 SUBDIVISION COMMITTEE COMMENTS- THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE REVISED SITE PLAN. ACCESS TO THE NORTH WILL BE EVALUATED WITH FUTURE DEVELOPMENT.

2. All other conditions of approval from the approved large scale development (LSD 05-1801) remain in force.
3. The building addition shall be articulated and match those elevations as previously approved with LSD 05-1801.
4. Truck/delivery vehicle access shall primarily utilize the access from HWY 62, as required by City Ordinance.

Subdivision Committee Action: ☒ Approved ☐ Tabled ☐ Denied

Motion: Trumbo

Second: Myers

Vote: 3-0-0

Meeting Date: July 13, 2006

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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



June 30, 2006

Planning Division
City of Fayetteville
113 W Mountain Street
Fayetteville, AR 72701

RE: STADIUM CENTER – REVISED LSD SUBMITTAL

To Whom It May Concern:

Please accept this letter as an official request for a significant modification to the existing site plan for Stadium Center. The areas of interest include the addition of approximately 2500 sf of retail space at the east end of the retail facility; the access road to the rear of the facility is proposed to be moved from the east end to the west end of the facility; and minor modifications to the parking lot layout and footprint associated with Building 3. Buildings 2 and 3 remain conceptual with both facilities requiring a complete LSD submittal in the future.

We are proposing to relocate the access along the east end of the facility to the west end of the facility, which will allow another 25-foot retail bay to be constructed. As required in the conditions of approval for Stadium Center, the future connection of this access to Old Farmington Road will be assessed when the residential property to the north is proposed for development. The relocation of this access will require the eastern access to be relocated as well as the dumpsters to be relocated.

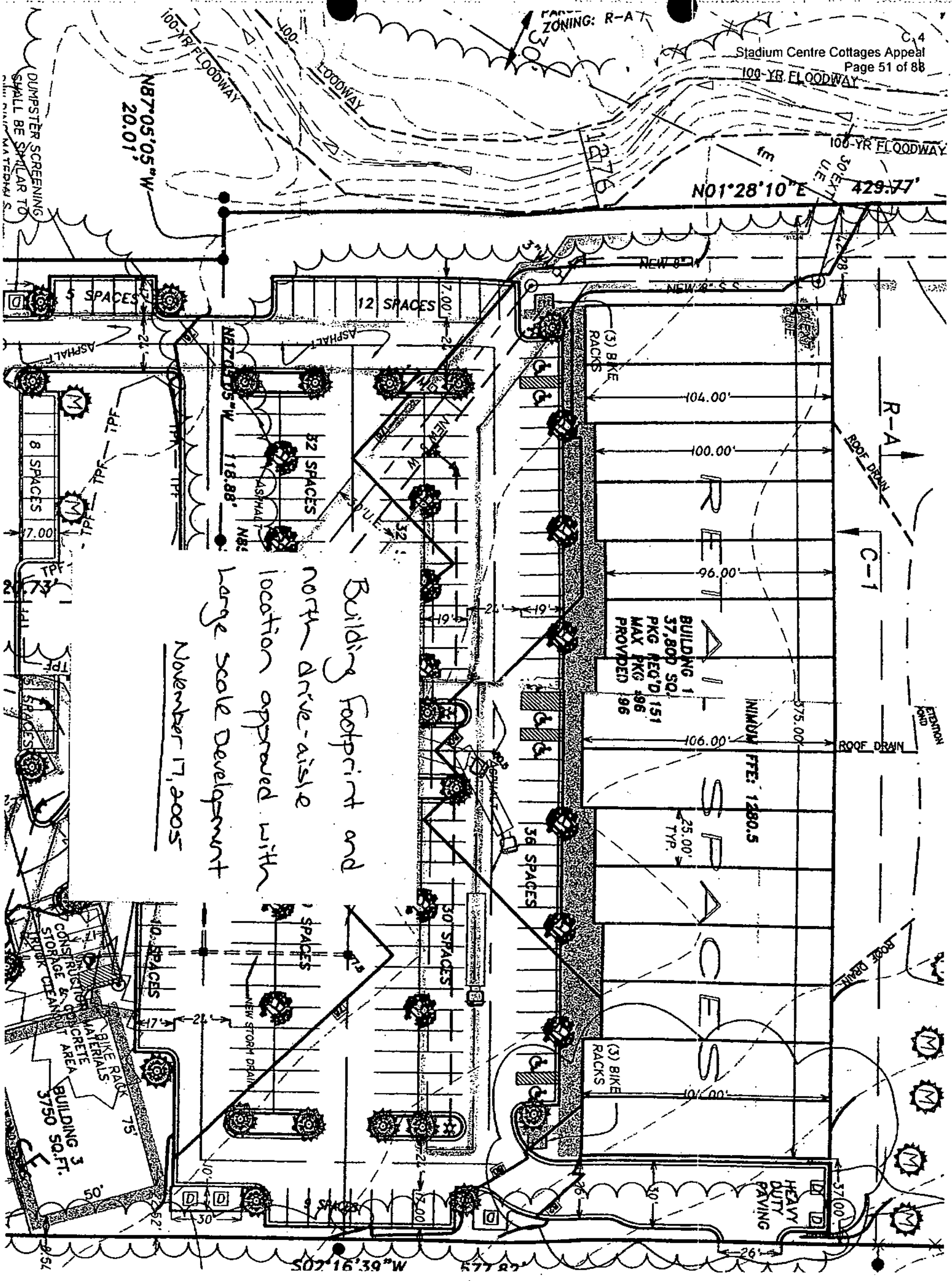
The parking lot and footprint for Building 3 has been modified to accommodate a fast food restaurant. The modifications are a result of traffic management concerns with the drive-thru window.

Thank you for your consideration.

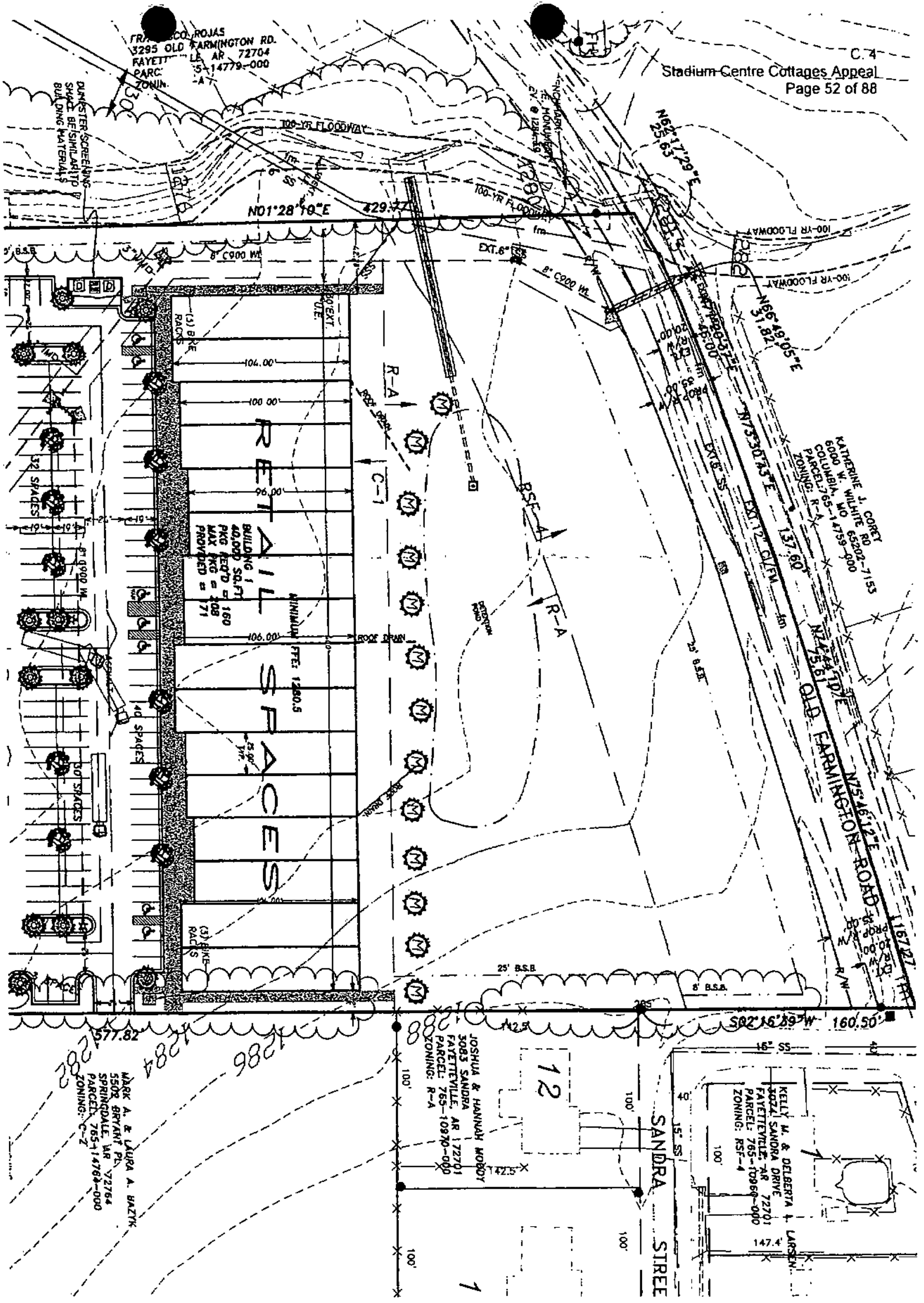
Respectfully,

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

Kipp Hearne, P.E.
Vice-President

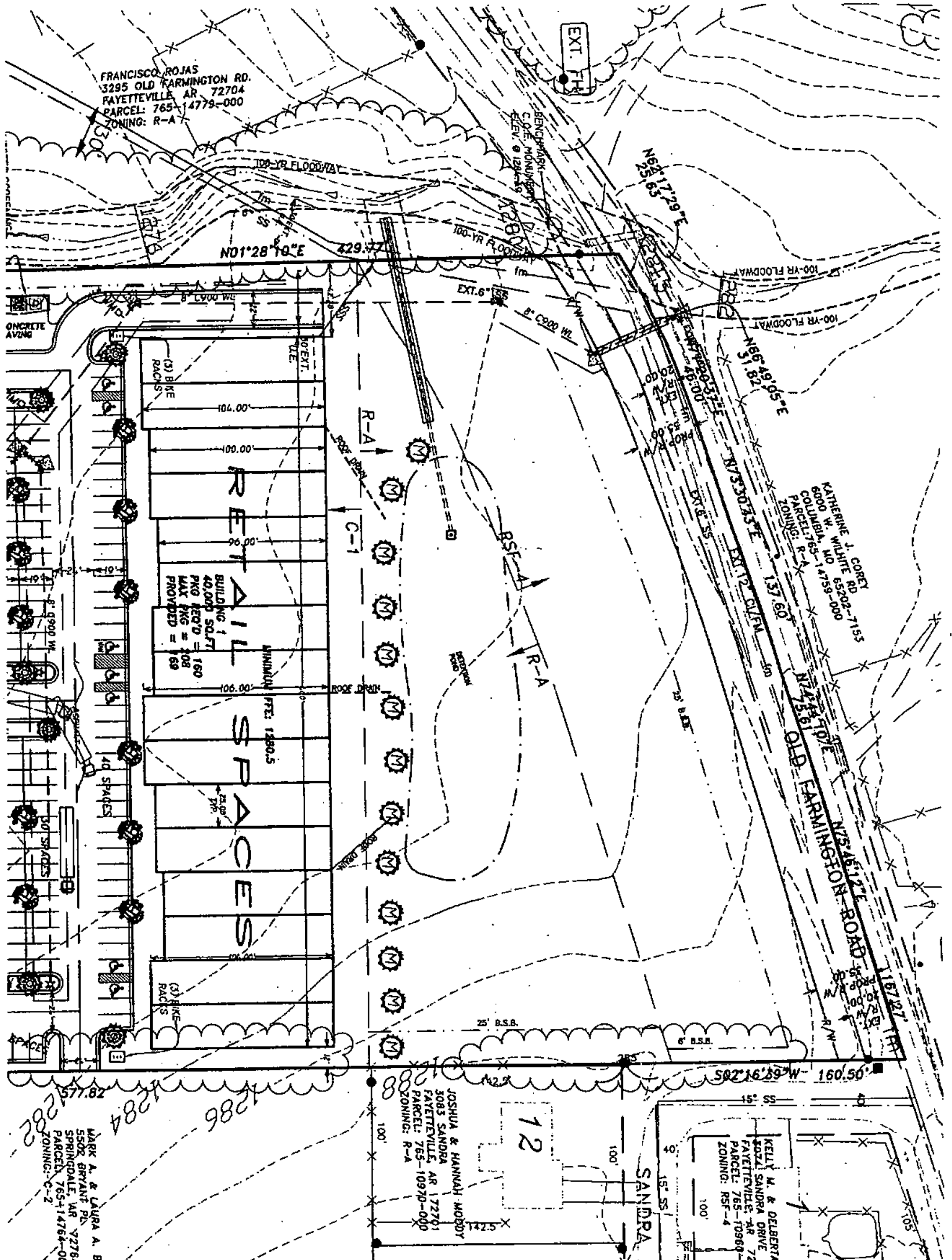


Building Footprint and
north drive-aisle
location approved with
large scale Development
November 17, 2005



Building footprint without
northern drive-aisle.
Tabled by subdivision
committee on June 29, 2006.

576°08'24\"/>



Building footprint with relocated
northern drive-aisle. Submitted and approved
drawing for July 13, 2006 subdivision committee.

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

**NOTE: **New Dates shown below for rescheduled
Subdivision Committee Meeting and Planning Commission Meeting.**

Today's Date: August 18, 2006 Project Name: Stadium Centre Townhomes

APPLICANT / REPRESENTATIVE CONTACT INFO:

H2 Engineering, Inc.
479-582-4234

Subdivision Committee Meeting*: Thursday, Sept. 14, 2006** 8:30am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting*: Monday, Sept. 25, 2006** 5:30pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

Adjoining Property Address and Parcel Number(s): 765-14769-000, and 765-14763-000
located at 3105 West 6th Street, Fayetteville, AR 72701

** Please call the City of Fayetteville- Planning Office at 575-8263 to verify this meeting's date and time.*

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

Project Name: Stadium Centre Townhomes

☒ 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:

Metropolitan National Bank
Name of Property Owner (printed)

[Signature] President - Washington County
Signature of Property Owner

Jesse Fulcher
Fayetteville Planning Dept.

Dear Sir;
my name is Reba Jannehill
I live at 3052 Farmington
Road. I am not in favor of this
Reopening Farmington Road is so
narrow, two cars can barely
meet. We do not have sidewalks,
only ditches on both sides. We have
increased traffic with vehicles using
Farmington Rd. as a cut through from
Shiloh to Hwy 62. At certain times
of the day it is dangerous for us
to back out of our driveway. I do
not feel our street can handle
more traffic.

Thank you

Reba Jannehill

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)

Project Name: Stadium Centre Townhomes

☐ 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:

Mark A. Bezyk
Name of Property Owner (printed)

Mark A. Bezyk
Signature of Property Owner

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: August 18, 2006 Project Name: Stadium Centre Townhomes

APPLICANT / REPRESENTATIVE CONTACT INFO:

H2 Engineering, Inc.
479-582-4234

Subdivision Committee Meeting*:

Thursday, August 31, 2006 8:30am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting*:

Monday, Sept. 11, 2006 5:30pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

Adjoining Property Address and Parcel Number(s): 765-14769-000, and 765-14763-000
located at 3105 West 6th Street, Fayetteville, AR 72701

** Please call the City of Fayetteville- Planning Office at 575-8263 to verify this meeting's date and time.*

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

Project Name: Stadium Centre Townhomes

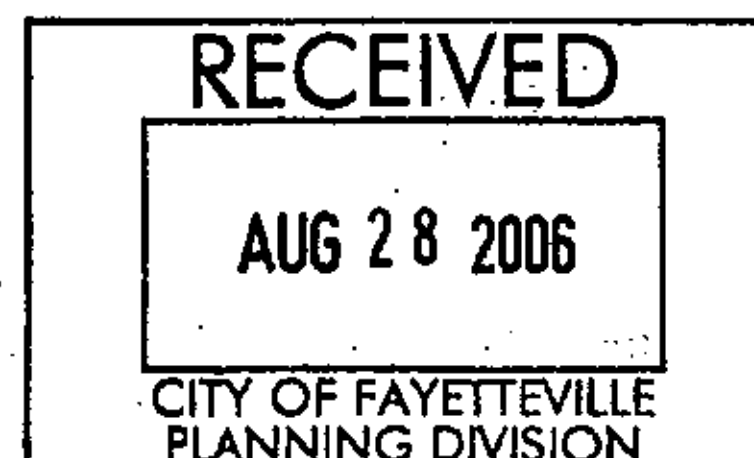
☒ I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

☐ I do object to the project described above because:

Mark A. Bazyk
Name of Property Owner (printed)

[Signature]
Signature of Property Owner



ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

Project Name: Stadium Centre Townhomes

☒ 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:

Hannah & Josh Moody
Name of Property Owner (printed)

[Signature]
Signature of Property Owner

The project
wasn't described.
What is this about?

act. Gene Fulcher

Rezoning of RPZD06-2212

From : Karen Daughtrey
3050 Sandra

I would like to express my opposition to the requested rezoning of the 2 acres on the southwest corner of Sandra and Old Farmington Road. My understanding is there is to be an entrance to this property off both Sandra and Old Farmington Road.

Sandra is one block long and some past residence on the west end of the street would squeal their tires then have to slam on their brakes at the corner of Sandra and One Mile. The thought of this increasing with high occupancy rental units will make this one block street once again and forever a screech and slam track.

Old Farmington Road is already high traffic with excessive speed, as a cut through off Exit 62 toward Farmington/Lincoln area. I have lived on Sandra for the past 12 years and have seen many cars run off Old Farmington. This high speed, narrow roadway with a hill and several curves has already caused the neighbors fence to be run through more than once, mail boxes down, cars in the ditch, and a car smashed in its own front yard. There have also been accidents at the narrow blind corner of Old Farmington and One Mile Road. Old Farmington will also experience increased traffic with the development of Mountain Ranch north of Old Farmington, and toward the Farmington and Lincoln area. This narrow high traffic cut through and access to the motels on Exit 62 and Shiloh has resulted from the one-way traffic on Exit 62 on Shiloh and the increased development to the west.

The rezoning of RPZD06-2212 with entrances on both streets will give all homes on Sandra high traffic and noise both in the front yard and back yard.

Karen Daughtrey
WK 684-3062
Am 521-0933

From: DONALD STONE <carolestone1@sbcglobal.net>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 9/12/06 5:41PM
Subject: RPZD 06-2212

Dear Mr. Fulcher,

As residents of this property on Sandra St for many years we have seen changes and proposals for changes. Some good some not so good.

The one to put townhouses at the end of Sandra St. does not seem a good one to us. You know the problem with traffic on Old Farmington Rd. How do you think traffic from 24 units would affect our neighborhood if they are able to access Sandra St. I don't even want to think about it. Townhouses usually mean more than one level I can't imagine having to look at the top floor of someones place. Please, keep it single family dwellings, not townhouses.

Thank you,

Don and Carole Stone

From: delberta Larsen <kelndel@sbcglobal.net>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 9/13/06 12:03AM
Subject: rezoning

i am not in favor of this rezoning request for the field by w sandra st the streets are extremely narrow, there are no side walks and we are already having increased traffic w/ vehicles using old farmington rd as a cut through from shiloh to hwy 62w. it needs to stay as 4 units pre acre. get ruple rd built to 6th st and i may change my mind but most likly not.

thank you for your time and please do the right thing, the kids can only ride thier bikes on sandra please remember the kids. sincerely, delberta larsen abd family

From: <KIKIDABA@aol.com>
To: <planning@ci.fayetteville.ar.us>
Date: 9/13/06 7:35AM
Subject: RPZD 06-2212 City of Fayetteville Planning Commission

From: David and Barbara Martin
3064 W. Old Farmington Rd.
Fayetteville, AR 72704
479-443-1610

RE: RPZD 06-2212

Dear Commissioners,

We are unable to attend the meetings regarding this proposed development. Thank you for accepting our comments in this form.

We are opposed to this proposed development. The area surrounding this development is a group of single family homes. The development proposed is not in the same character and is much denser than the current neighborhood. We feel that the timing is wrong for developments like this to occur in our neighborhood.

W. Old Farmington Rd. is narrow and lacks curbs, sidewalks, and an improved drainage system. It is used by many motorists as a cut through to avoid Sixth St. congestions. Although this occurs mostly at rush hours, this added traffic creates a hazard to our children and pedestrians. Many a time we have had to jump into the ditch to avoid being hit by these speeding motorists. Also, a development of this density will most likely cause additional problems at the intersection of Sixth St. with One Mile/Finger roads. Our neighborhood relies on this signal light to get onto Sixth St. This intersection has serious problems with congestion that originates to the east at the intersection of I-540 and Sixth St. The congestion on Sixth St. backs up quite often to the Farmington/Fayetteville city limit. Combine the autos exiting the Wal-Mart and Lowe's area and those leaving our neighborhood, and it essentially stops the intersection. Often, when the light turns green for us to turn on to Sixth St., you go nowhere because of the Sixth St. motorists "trapped" in this intersection. We worry that improvements to the intersections we have mentioned, as well as W. Old Farmington Rd, are way into the future.

We have had an occasion when the Fayetteville Police Department was unable to respond to a call we made in a timely fashion. The call was about a vandalism in progress in the neighborhood. Had the police been able to respond in 15 minutes, they may have been able to catch these people. The officer apologized and explained that their manpower was spread very thin and that he had to respond from across the city. We worry that in these denser developments and large apartment complexes, crime goes up. We see it in the newspaper daily.

We feel that the two acres at this development should only be developed to the standards of its current RSF-4 zoning. Eight single family homes would fit in with the existing conditions and not tremendously add to the problems on the west side of Fayetteville.

Sincerely,
David and Barbara Martin

From: "Lames, Larry E (FAV)" <Larry.Lames@va.gov>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 9/13/06 3:10PM
Subject: RPZD 06-2212

Dear Mr. Fulcher,

I am Larry E. Lames and I reside at 3047 W. Sandra St., Fayetteville, AR 72704 and I am sending this email so that my comments regarding subject rezoning request are available to the Subdivision Committee and the Planning Commission.

I am not in favor of this rezoning request because of its negative impact on the surrounding single family neighborhood.

Similar rezoning request for this same parcel of land have been submitted and turned down at least on two previous occasions. If you will look at the streets, sidewalks, etc surrounding this land, you will find that it cannot support the additional traffic that an additional 24 households would have. Old Farmington Road, One Mile Road and Sandra Street are narrow, without curbs, and in most instances without side walks. Most of these thoroughfares have ditches on both sides, blind corners and little or no traffic control. Old Farmington Road and One Mile Road are used as a cut through from Shiloh to Highway 62 West and traffic usually greatly exceeds the 25 MPH speed limit. Traffic is also directed to the motels/hotels on Shiloh, when entering from the West, East, and South through our neighborhood. All the amounts to a very unsafe situation. I know that the developer has a right to develop his land, but I feel that to put an additional 24 households on this small parcel of land will only increase our traffic problems.

I was informed by Planning Staff that the developer would be improving the streets/roads on their property lines, but the vehicles that would be using that property won't just materialize there, they would have to use the portions of Old Farmington Road, One Mile Road, and Sandra Street that have not been improved. That does not make much sense to me.

When the developer submitted his last rezoning request for this area to square up the commercial part of the property, they indicated to us (the neighbors) that the North part of this property would be used for a drainage pond/area for the commercial end. Apparently, the developer was less than honest about this and plans to have it rezoned and this rezoning will have a definite impact on the surrounding neighborhood. This area is surrounded by single family dwellings and I feel the additional 24 housing units, supposedly made up of 3 single family homes and the remainder townhouses, would be out of character and change the fabric of our neighborhood that has been there since the 1960's.

I live in a neighborhood, under attack, and you are our only line of defense. I am not asking that they not develop this property, but to keep it in line with the surrounding neighborhood and less the impact that it would have. The last two time that the property owners requested similar rezoning, you saw fit to say "No". I hope that you will remain consistent and say "No" again.

I will be unable to be at the Subdivision Committee meeting, but do plan on attending the Planning Commission meeting regarding this rezoning request. Please share my thoughts on this request with those decision makers that help shape our city. Thank you.

Sincerely,

LARRY E. LAMES

443-9011

From: Hannah Moody <hsander@uark.edu>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 9/13/06 3:22PM
Subject: Rezoning Request 06-2212

Dear Mr. Fulcher,

It has been brought to my attention that the land next to my home, at the intersection of Old Farmington Road and Sandra Street, is being brought before the city to be considered for a rezoning request. I live at 3083 W Sandra St and that property is my next door neighbor. Apparently, the owners of that piece of land want to rezone it so that they can put 24 multifamily units on it. Have you ever been out there? Does it look like A) our street will support that much traffic and B) 24 families can live on that land? Let's do some math here. Suppose 24 families (husband, wife and two kids) move in and they have two cars per family. That is 48 vehicles added to the traffic on our street. Now, assume 1/3rd of those families have a teenager with a car, that could easily shoot up the traffic to over 100 vehicles per day driving on a narrow street with no sidewalks. Why am I concerned? I have two very small children. I do not need that much traffic in and out posing danger to my children. Also, if you put 24 units in, that brings down the rent substantially and then, we have trashy neighbors. Isn't the city supposed to be concerned with making South Fayetteville beautiful again? In my opinion, that trashes it right back up. Please, do not burden our quiet little neighborhood with that many units. It is ridiculous that they are trying to do this. Every person on my street either has kids living with them, or has kids who visit frequently. I don't mind a couple of duplexes moving in, but not a whole apartment complex. Also, there is no way Old Farmington or Sandra can carry that much extra traffic. They are too narrow and neither has a sidewalk. Please take our neighborhood into consideration when your committee votes on this topic.

Thank you,

Hannah Moody

Secretary of Student Records

University of Arkansas

Department of Health Science, Kinesiology, Recreation, and Dance

Room 308-B

Fayetteville, AR 72701

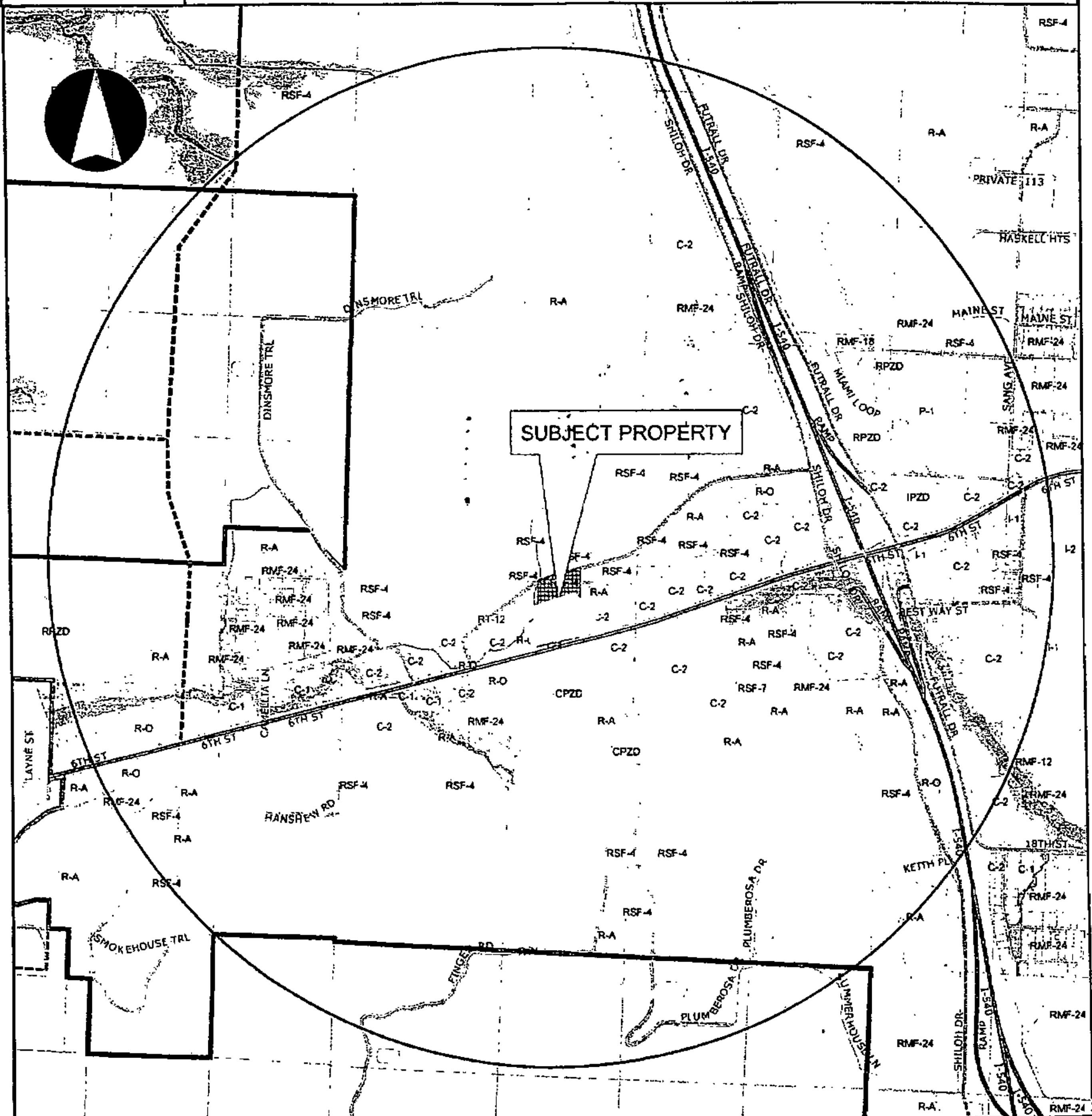
PH: 479-575-6625

Fax: 479-575-5778

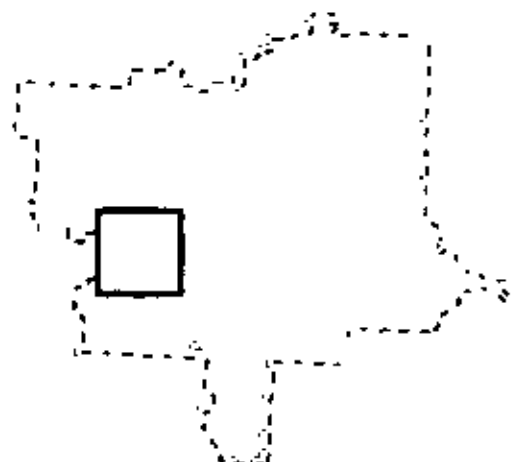
LSD05-1801

THE STADIUM CENTRE

One Mile View



Overview



Legend

Subject Property

LSD05-1801

Boundary

Planning Area

Overlay District

Outside City

Legend

0 0.125 0.25

0.5

0.75

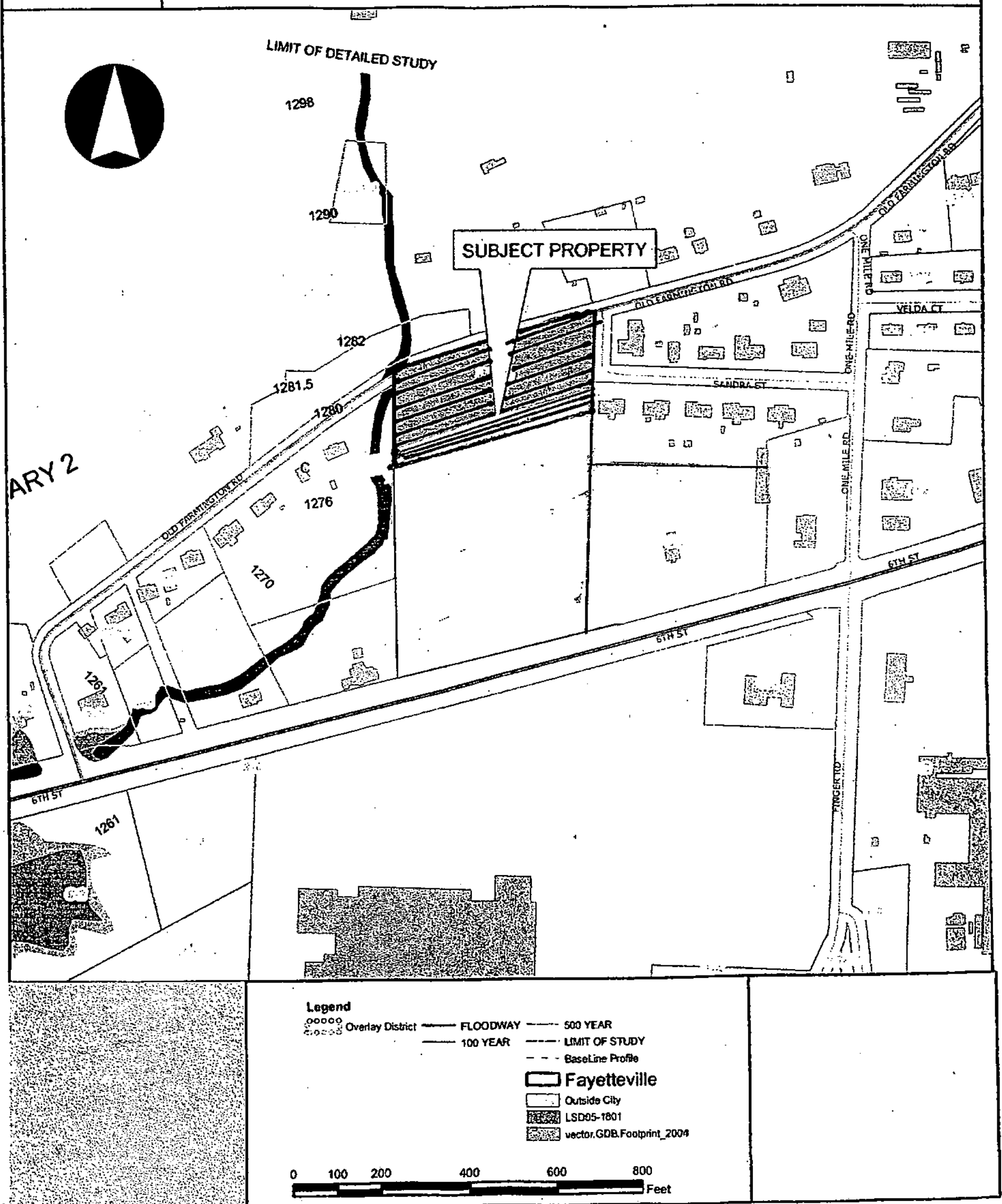
1

Miles

LSD05-1801

Close Up View

THE STADIUM CENTRE



R-PZD 06-2212: PLANNED ZONING DISTRICT (STADIUM CENTRE COTTAGES, 557): SUBMITTED BY H2 ENGINEERING, INC. FOR PROPERTY LOCATED AT OLD FARMINGTON ROAD, W OF ONE MILE RD. THE PROPERTY IS ZONED RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE AND R-A, RESIDENTIAL AGRICULTURAL AND CONTAINS APPROXIMATELY 2.45 ACRES. THE REQUEST IS FOR A RESIDENTIAL PLANNED ZONING DISTRICT (ZONING, LAND USE AND DEVELOPMENT APPROVAL) WITH 11 SINGLE FAMILY AND 3 TWO FAMILY DWELLINGS (17 DWELLINGS TOTAL.)

Anthes: Mr. Trumbo

Trumbo: Madam Chair, I am going to recuse from this item

Antes: Alright, we will see you next month. Do we have the staff report please?

Fulcher: Yes ma'am, this is a residential planned zoning district formerly submitted as Stadium Town Homes and known as Stadium Centre Cottages. This is located between Old Farmington Road and 6th street, just west of One Mile Road. It's located on a proximately 2 1/2 acres. This was heard at the previous Planning Commission meeting where it was denied. It was then brought forward for reconsideration based on the new site plan. That was approved and brought forth to this meeting tonight. The changes that have occurred have been fairly significant. The original proposal was for nearly 10 units an acre. Mostly attached units and classified under multi-family dwellings. The current proposal is for 11 single family units and 3 duplexes. Six units total for those. The eleven single family units will be along Old Farmington Road, fronting on Old Farmington Road, with rear access off of an alley type system which will link Sandra Street to Old Farmington to the North and also connect to a stub-out out from the commercial development to the South. As discussed with the previous development this is proposed as a one way street to try to cut down on the cut through traffic though the existing neighborhood that is on Sandra Street. This will allow one-way traffic to traverse east to west and allow them to exist north onto Old Farmington Rd., which is a collector street and disperse that traffic to the east or west. Also, that will allow traffic to go south into the commercial development for those services to continue on to Sixth Street from that point. As proposed, the overall density would be approximately seven units per acre for the seventeen units on the 2.5 acres. Some of the comments that were brought up with the previous items were the increased traffic. A lot of those comments had to do with the unapproved streets, the traffic, vehicle speed on Old Farmington/One Mile Road and the density proposed at that time. With this development, they

are proposing quite a few improvements to Old Farmington Road. Being a Collector street, it's 18 ft from center line, including curb, gutter, storm drains, and a 6 foot sidewalk along the property frontage, 14 feet from center line on Sandra Steet including curb, gutter, storm drains, & 4 foot sidewalk. Compatibility, both between the existing large lot single family neighborhood to the east and how this was original proposed with a higher density and multi-family land use. Going back, it was staff's original recommendation to have this item tabled. It proceeded on to the Planning Commission, where staff had recommended denial. Again, not finding in favor of compatibility or that an appropriate transition had been provided. With these changes to the site plan, being almost entirely single family with three duplex units, significantly reducing the density and providing a more compatible type development for the residential neighborhood to the east and appropriate transition from the commercial development to the south, staff is recommending forwarding this item to the City Council with a recommendation for approval. I have gone over the proposed street improvements. That is a determination for the Planning Commission to make under condition number one. Condition number three, that in combination with the elevations in your packet go to some of the comments made by the Planning Commissioner about how the original proposal really did not present a front facade to the street. I think the elevations show that it is the intent, along with the combination of the site plan showing that the alley truly serves as rear access to these properties and their front yard and their front facades are onto Old Farmington Road. Condition number three just goes along to that, I know with some the elevations as they were submitted that the garage is shown in the front of the house, I believe that we've seen that on some other projects in the past where it's a matter of just rotate the garage section to have it face to the rear of the house. But, the elevations shown would be indicative of the units for these lots. I believe all the other conditions are fairly straight forward. There are some minor revisions for the applicant to make under item number four, item number nine refers to a six foot wood board privacy fence along lots 11 and 15 along with some large species trees to serve as a screen between that existing lot on Sandra Street and this proposed development. If you have any specific questions, please ask.

Anthes: Thank you very much, would any member of the public would like to address this R-PZD 06-2212 for Stadium Center Townhomes/Cottages?
Good evening.

Llames: Good Evening. Larry Llames 3047 West Sandra. I'm still against this. I still don't believe this is compatible with the surrounding neighborhood. I talked to Planning Staff, they said ten foot setback between these single

family homes. Does that look compatible with the surrounding neighborhood? Not to me. I have a problem with the notification on this re-submission. The notification went out, it talked about the commercial development on Hwy 62, it did not talk about Stadium Center, single-family homes on Old Farmington Road. Now, you're either going to notify us or your not. Why didn't they just put a pizza coupon in the envelope? That would have been about the same notification.

Clark: Madam Chair, That is out of line, we don't send the notification.

Llames: I realize that, but you require a notification to go out.

Clark: Sir, there is a nice way to say it.

Llames: Well, I talked to planning staff about it, they originally told me that correct notification did not go and that it would not meet this meeting. Then, Jeremy Pate overruled that decision and said that he considered the notification of a commercial development on 62 as ample notification to the neighborhood that Stadium Center was going to go ahead and make the meeting tonight. I don't know how the two are the same. I don't believe the notification requirement was met. I don't believe that the area would be compatible with the surrounding neighborhood. I don't know how that they can enforce the one-way, whether you call it a street or alley, if it's not a City street, how can the City enforce the one-way on it? Does the City enforce traffic laws on private parking lots? I don't know, the last time I had an accident in a parking lot, the police said they could write it up, but they couldn't write a ticket, because it wasn't a City right-of-way. So, how can they enforce it, the developer may say it's going to be a one way street or a one way alley or whatever they decide to call it. But, who is gonna enforce it? I think that the traffic will increase on Sandra, because it's going to be one way from Sandra into the area. I don't see any improvements made on Sandra. Sandra is still a narrow City street, no sidewalks, and ditches on both sides of street. I'm sorry about the thing on the pizza thing, but it irritates me when you say we have to be notified and we get a notification that it was a commercial development on 6th street. How does that apply? We have talked about the past consistency; you've told us that one Commission may be different than the other. That's why the City has the problems it has now with zoning, because there has been.

Anthes: Mr. Llames, please address this particular development.

Llames: Well, this development is I think is inconsistent with the surrounding area and I believe it's going to be inconsistent with the City Plan 2025. It does

not help the neighborhood, it just detracts from the present neighborhood that's been there for forty years. Thank you.

Anthes: Thank you.

Searls: My name is Jerry Searls, I live on Sandra Street. I want to touch on, more or less, what Mr. Llamas spoke about. I can not see, how in the world, this one way street into this all theses 10, 11, 12 units is gonna help the neighborhood, what so ever. I don't see how these houses being 10 ft apart, or what ever the 10 ft setback means. When we built our homes out there we lived by the rules and regulations but apparently, now they just keep coming back, coming back, until they finally get what they want. If the project is approved, it's not going to improve the 19 foot Old Farmington Road. It's not going to improve the 16 foot One Mile Road. It's not going to improve the ditches. It's not going to help the traffic situation. It's not going to, sometimes the traffic is, well, in the afternoon, I counted 57 vehicles in less than 45 minutes going down Old Farmington Road. That's 57 vehicles. Now, we're talking about putting a possibility of 26 to 30 more vehicles in the area. This is what we call cut through. They are cutting through from the access road to down Old Farmington Road to get to Walmart, Lowes, what ever the business is and back. We also have got motels visitors that come up the One Mile Road. One morning, as I was doing my morning walk, I noticed my neighbor had to get plum up on the one sidewalk that we have in the area, so a school bus could get by on the One Mile Road. I just don't think that this RSF should be changed. Most neighbors down there don't think it should be. Then, one last question is, they got some three duplexes in this project. If they don't sell these cottages, as they call them, are they going to be allowed to rent them? Like they are the duplexes? I just hope and pray that you all can see some benefit on where we're coming from and leave it as RSF-4. Thank you.

Anthes: Thank you Mr. Searls. Would anyone else like to address this item?
Seeing none, I'll close the public comment section and as for the applicant to present their presentation.

Hennelly: Yes ma'am, I'm Tom Hennelly with H2 Engineering. I do appreciate you guys revisiting this project. I think we tried to incorporate as many as the neighbors concerns as we could from the previously September 25th meeting as well as, I believe, all or a majority of your concerns with this project at that same meeting. I think we've gone a long way towards accomplishing that with the connection to the commercial development to the south and the reduction in density. The presentation of these buildings along Old Farmington Road and the neighborhood feels quite a bit less of

the multi family look that was presented at the previous meetings. The improvements to One Mile Drive are certainly agreeable to that. There may be, for that size project that were talking about, I think the improvements on Old Farmington Road are significant. And will go a long way towards improving a fairly long stretch of this road, comparatively towards the size of the project. Do you have any other questions, I'll be happy to answer them.

Anthes: Mr. Hennelly, would you address the question about whether these are rental or for sale units. These are for sale?

Hennelly: Ok. Built as spec homes for sale.

Anthes: Ok, thank you. Commissioners?

Harris: Madam Chair. Did we address the issue of the notification?

Anthes: No.

Harris: Could we do that.

Pate: Sure, this item as you remember was denied, I believe at the 25th of September meeting. At the subsequent meeting, the Planning Commission voted to reconsider that. The applicants did not bring in their revisions for the next, but did bring in their revisions for the November 13th meeting, so they made that deadline to bring their item before you. When the motion to reconsider was voted on, it was also basically voted to table until the revisions came in. When an issue or item before you is on the table, it doesn't require re-notification, the applicants have met their notification requirements. They've notified for the Subdivision Committee meeting, actually it's ironic, because staff did not feel that they had notified properly for the Subdivision Committee and we were overruled at that point in time by the Planning Commission and forwarded onto this meeting and Planning Commission felt that it was appropriate notified, as well as the City Attorney. We, in terms of this meeting, there is not a required notification by an applicant. We always tell an applicant that if you are tabled, especially not date specific, kind of like I mentioned tonight, that notification is not required. We always require an applicant, just because our office goes above and beyond on application requirements to require someone to notify. So, that's what we, that's the discussion we had with Mr. Llamas, last week.

Hennelly: If I can add a little more to that, there was a clerical error in the notification that did list the description for the Stadium Center Commercial development and when that error was discovered, we did resend notification as well as hand deliver notifications to all the adjacent property owners, last Thursday as well. With correct packets and plats, I believe that was all that was in that notification.

Harris: Madam Chair. Mr. Hennelly.

Hennelly: Yes, ma'am.

Harris: Over here, are you saying then that the notification was sent out specific to this actually project along with the correct plats, full packet to all the adjacent property owners?

Hennelly: Yes ma'am, it was.

Harris: Ok, and that was again on Thursday.

Hennelly: Yes ma'am.

Harris: Thank you.

Williams: Madam Chair. On the issue on whether or not an alley can be enforced to be one-way, an alley is not a private drive. An alley is normally dedicated, just like a street to the City and is therefore, could be enforced. Obviously, the police can't be everywhere in town, but it is legal to enforce an alley if it's supposed to be one way. If it's a public alley, which I'll assume this will be, I better ask Mr. Hennelly to make sure that he is planning on dedicating that to the City and that's not a private drive. As long as it is a public alley, then the police could enforce this one way requirement on it.

Pate: I do want to confirm that, you're showing right-of-way on the plat, but everything we've seen so far discussed as a private alley.

Hennelly: I think at that September 25th meeting, that it was requested that it would be made a public street, which we don't have a problem with and fully expect that to be built public street standards. But will function as an alley with parallel parking. The right-of-way will be dedicated.

Pate: We can modify our conditions to reflect that.

- Clark: I was not at the meeting that was denied. So, I'm not sure how different this plat is then the one that was presented there. But, from what I'm understanding, you are going to have a one way entrance into street A, from Sandra or coming in this way. Is all of street "A" is going to be one way?
- Hennelly: Yes ma'am, from the east to the west.
- Clark: So, really there is only one way in and one way out.
- Anthes: Pretty much.
- Clark: You can only come in here.
- Pate: Someone can also go south through the commercial area to get to HWY 62. That's two way there.
- Clark: But you can't come into this from the west, can you?
- Hennelly: You can not access the homes from the west, that's correct.
- Pate: Correct.
- Anthes: And that Commissioner Clark is in response to the neighbors to the east not wanting people to be able to travel this way through their street.
- Hennelly: Straight down Sandra to One Mile Road was one of the concerns that I was under the impression they had.
- Clark: Yet, you're still going to make improvements on Sandra and on intersection at One Mile Road.
- Hennelly: The improvements as far as I understand from the conditions of approval are for the off site improvements are limited to One Mile Road intersection with Old Farmington Road and the improvement of the radius there on that south-west corner of that intersection.
- Clark: Ok, I wrote it down somewhere.
- Pate: The adjacent street improvements include Old Farmington and their property frontage onto Sandra, the front half.
- Hennelly: Yes.

Clark: Ok, condition number one, going to make Old Farmington 18' curb, gutter, sidewalk. Sandra 14' curb, gutter, storm drains, and sidewalk. Ok, even though you can't get out that way, you're going to be able to get in better that way.

Hennelly: Yes ma'am.

Clark: Ok. Are there any other significant changes that I need to be aware of?

Hennelly: Density went from...

Clark: Where did density go from to?

Hennelly: 24 units down to 17 units. I believe it was 9.8 units per acre down to 6.9 units per acre.

Clark: Ok, all right, thank you Mr. Hennelly.

Pate: For Commissioner Clark, the other three issues, I believe were the primary access and how this accesses one way, the density of the project, and then also the connection to the commercial center. That was a key component. The staff could not agree with the applicant on it at that point in time and recommended denial based on that. They have now configured this so that we feel commercial traffic that might be, or neighborhoods that are utilizing commercial centers, the restaurants, retails, there located just to the south would be able to access that and have connectivity while not providing a cut through to the existing single family residential neighborhood.

Clark: So, straight to the west is the connection, you're talking about?

Pate: Correct.

Clark: Thank you, Jeremy.

Anthes: Mr. Ostner.

Ostner: Madam Chair, I think this is a tough call because this is a difficult area in town. You all are putting up with some incredible traffic. Old Farmington Road is not safe. Something needs to happen on Old Farmington Road. I don't think this project is going to be the straw that broke the camels back to destroy Old Farmington Road. I don't think developing at R-4 would be

any better. The problems on Old Farmington need to be addressed on their own. I think part of the problem with Old Farmington it is a way to get around the log jam. Everyone headed west bound is backed up for 1/2 mile on 6th. Hopeful, the Arkansas Highway Department, when they improve the on ramp at 540, will alleviate a lot of that. All the traffic engineers agree, that light is a total failure. They are going to move that on-ramp to the north so a lot more traffic can get through there quicker. I think that has a lot to do with what happens on Old Farmington. I disagree with staff, that a 36' section on Old Farmington is part of the solution. A 36' section works on Township, with a heavy volume and lots of curb cuts, back to back, to back. A 36' section is inappropriate on Old Farmington Road. Number one, it will never be striped, it will just be 2-18' lanes. Because we don't stripe our roads after these developers build them. They're not required to stripe them, we're suppose to do it. We take 20 years to get over there, and in the mean time, people fly down 18' lanes. I don't see a continuous turning lane on this street being a benefit to anybody. I can see a turning lane at the major intersection. There are maybe four right now. I don't really see that. I think a proper 24'-28' road bed would be a lot safer then a 36' back to back road. I think this is a good project, I would like to vote for it. I would like to change Old Farmington to be a 28' section, however I believe its in our long term plans, and this is a question to you Mr. Pate, are we asking all the developer to go ahead and build this 36' section?

Pate: Yes, I guess that would be my response, that it's not necessarily me that you disagree with, our Master Street Plan calls for this road section as a 36' wide road section. It's a collector street and that's what that standard calls for. We're recommending that it follow the Master Street Plan cross section that's adopted by the City Council.

Ostner: I understand that, and that collector status, that definition has carried over with the new plan?

Pate: Yes.

Ostner: Ok

Pate: We have not changed our Master Street Plan yet.

Ostner: Well, I understand the Master Street Plan hasn't changed but the definitions of a lot of these roads have changed with the Dover Kohl. They pretty much did a way with the collector definitions, and replaced them with T-1 and T-2 and all these, that's not correct?

Pate: No, not that I'm aware of.

Ostner: Ok.

Pate: They've changed some designations in the Downtown Master Plan. We actually did a Master Street Plan amendment in the Downtown and there are numerous sections that are referenced by number. ST40, ST36, ST38, there are several different street and road sections in the Downtown Master Plan.

Ostner: Ok, that's apparently what I'm thinking of, cause I think you can call this a collector, I think it ought to be historic collector, there are a lot of historic collectors through downtown that are still two lane and function beautifully. When volume picks up on 6th, due east of Walgreens, just close to here, it slows down and it works and it's a heavy volume. People are driving thirty through a neighborhood and it's working. No one ever thought more volume would make that street slow down. Sorry, I'm going on about one issue, I would really like to see Old Farmington be safer. I'll probably vote for this project.

Hennelly: Can I ask one question? On other projects that we've that were at a high street classification, we're required to dedicate the right-of-way for that street classification and only build 14 feet from center line. If there was anyway we could incorporate that requirement into this, we would certainly appreciate that, because I do agree that going from that narrow section to a 18' wide section that's almost as wide as the total width of the road in that area could be a hazard.

Anthes: Mr. Pate, didn't we approve another development down the road here and how would that street section knit with this?

Pate: All the street section that we've approved including the hotel and other commercial development and another PZD on this project have been required to have 18' from centerline sections. The reason for that, Mr. Hennelly's right, is in standard residential subdivisions that have a collector going through it, we do typical keep the 2 lane road section, because it's primary a single use type of application and in a residential neighborhood that's not usually accessed by traffic other than the residents and small delivery vehicles. In this case, Old Farmington Road functions much more so; I do not anticipate the classification of Old Farmington being decreased. It provides a functioning collector street status by definition connecting Shiloh and 62 along with Old Mile Road. We're seeing numerous

commercial projects in commercial zoning districts along this street being processed through our building permit process and Planning Commission, so I would not anticipate that to be changed.

Anthes: Ok

Hennelly: Could we possibly consider constructing the 14' from center line to being assessed for the difference? That way you will still have the funds available to construct that extra four feet but it would not be necessary to have it constructed at this time?

Anthes: That is certainly something that we can discuss. I think what Mr. Pate is saying though, is that we have projects that are already permitted that are being required to build that section then if we deviate from that, we have a pinch in the road. Is that what you're saying?

Pate: Yes

Ostner: How many of those other projects, which I can only think of one, how many of those have actually built both sides?

Pate: None of them that I'm aware of.

Ostner: Ok, when you extend one side, like he's been asked to do, the road sort of shifts, which is a traffic calming device by the way for a road that gently goes back and forth. I don't see a problem with that. I'll be in favor of Mr. Hennelly's idea, in fact the difference in money, could be spent installing traffic calming, something. If City staff could approve it, find it somehow, to do some sort of traffic calming on a collector. I think it's a good faith offer.

Anthes: In addition to the PZD that we have seen, are there commercial projects or other projects that were less than an acre that have gone through administrative review that we should be aware of in the area?

Pate: I believe so, they are further east, but the one I remember specifically was a commercial development west of Shiloh. Of course, the banks on One Mile Road, but those more access 6th Street than Old Farmington, until 6th is congested and people utilize Old Farmington Road. That's the ones that I'm aware of.

Williams: It doesn't appear to be very cost effective though, to go back and have to knock out all the curb that is probably fairly new and then bring your

equipment in and just put in a fairly narrow patch of asphalt at a future time. There are some time constraints about how long we can hold money from a developer without using it for that development or giving it back to the developer. We have time constraints within our code, which are reasonable because if we hold money, we shouldn't hold it indefinitely. So, that's some problems with that particular idea. I think that staff's position here for the long term improvement of Farmington is probably is more feasible and more surer that we are going to have the proper road section there as called for by the Master Street Plan.

Anthes: That's a difficult one.

Ostner: We will most like come to 18' lanes. I don't see tearing out curb, I do see a guy building 18' from center line and there is probably 8 or 10 feet on the other side and the road is slightly shifting toward that curb, utilization it fully rather than a perfect street, having something a little bit different. Like this neighborhood, it's not by the book, it's unique. I'm uncomfortable with the role of following the rules when I believe they're making things worst. Not by this applicant's fault.

Anthes: Let's talk about the lot configuration and density and see if we can find common ground here there.

Clark: I have another question; it's along the lines of the configuration. What percentage of this is dedicated green space? Do we have green space? Ms. Anthes circled the detention pond.

Pate: There's not a public dedicated green space on this project for 17 units.

Clark: How about open space, as by our ordinance provision of more useable and suitable located open space recreational areas and other common facilities. That would not otherwise be required under conventional land development regulations. Where is that?

Hennelly: It's not on there. There is, as far as open space is concerned, we did try to utilize the detention pond for tree preservation as well. For both this and the commercial development and there will be some substantial planting of trees in that area. But, outside of that and the attempted preservation of the trees in the right-of-way out along Old Farmington Road that are going to be coordinated with the Tree and Landscape Administrator to try and get the sidewalk into.

Clark: Thank you, Mr. Hennelly and thank you for that very honest answer. When our PZD's first were proposed, I was very excited because they're little communities, or can be little communities within themselves that offer amenities that aren't found otherwise in other large scale developments. I'm seeing some very unique use of setbacks, density etc. in this proposal. So, it's taking advantage of one part of the R-PZD ordinances while overlooking another part that I think is as equally viable. I'm having real trouble with that, it's almost as if you're wrangling the best and leave out the part that is not suitable. R-PZD's usually have a little open space, parks, even trails, or trail attachments. Attachments to trails, we've let folks get by with that as well. Detention ponds are not necessarily some place you want to have community gatherings. So, the trees are a nice aesthetic but I don't think it captures the intent of the ordinance. I'm very concerned with that. It seems like we're trying to take what you want to and leave out what you don't want to do and I don't think that's the intent of the R-PZD. So, I'm having a little bit of a problem with that and a lot of problems with the traffic and density. The rework of the entrance and exit, just kind of tells me there's one way in and one way out. 2 ways in actually, but only one way out and that's kind of problematic to me. Because people don't always follow the rules and unless I'm involved there's never a policeman around when you need one. I'm always on the receiving end of that. I have some trouble with that and I would like to hear the rest of the discussion because I didn't hear the first time that it was debated. I'm not inclined to agree with this for the same reason as the West Fork development we did earlier. You can't. You've got to do infill, infill is good, it needs density but it also needs to have some of the compatibility issues that we have talked about inherent with in our ordinance. That was a big word.

Anthes: Commissioner Lack.

Lack: I wanted to ask, first of all, maybe something very simple, the square footages that are listed on the, below the lot number, the house number.

Hennelly: That is a little bit confusing, that is not the square footage of the home, that is the square footage of the lot.

Lack: Ok, I thought I had seen a lot square footage at a different figure, but I just wanted to verify that. I want to say thanks for coming back with something that was basically what I would hope to see. I think that while I agree with Commissioner Ostner in the idea of Old Farmington Road and what that street section should be. I don't know if I should go so far as to deviate from the Master Street Plan and or fill the authority to do that. But, in the

modifications you have made to the plat and the density reduction. The focusing of the fronts to the road, I think you've made great strides. I think that this piece of property is not exactly the same as some of the other pieces of property in the area that are zoned and developed to RSF-4. I think as the wedge of the diagonal running of Old Farmington Road narrows and you end up with less and less property, at the back of the commercial zone it becomes more difficult to do traditional four unit per acre development. More and more appropriate to do more dense more marketable properties. I think that this while is not exactly the same is compatible with those density and those patterns. So, I'll applaud you for that. The connection from the commercial district will function well. I think that having that at the edge of the sight will not create the cut through that was the original concern, I think that will work. I think that this development will not only, not damage the area but I think it will enhance the area with street improvements that will be made and that's beyond the discussion of the appropriates of widths of streets. But, just in the safety features of creating less dangerous streets with the drainage that is there now, in the street widths that are there now. So, I will plan to support this project in its current form.

Anthes: Thank you Commissioner Lack, is there further discussion? Commissioner Ostner?

Motion:

Ostner: Madam Chair, this is not the first time that this body has gotten cross ways with the Master Street Plan. The Master Street Plan along 71, just a stones throw from this building, was for a long time, and I believe is currently is, much larger than all of our plans and all of our planners recommend. Everyone knows, it's better for downtown for that street to stay a little bit narrower. Downtown Fayetteville is famous; it's near and dear to our hearts. This is not the first time we questioned the Master Street Plan and have attempted to fix it. We can't do that here. But I believe a narrower section historical collector status, it might be a 28 foot back to back curb improved, or just thinking outside the box here, 36' foot back to back with sections having a small medium, an island. Those are very effective traffic calming methods. I would like to make a motion to change condition number one to read in the second sentence, Staff recommends the following: "developers shall improve Old Farmington Road to include 14' wide street section from centerline with curb, gutter, and etc."

Anthes: Motion to amend, is there a second? I'll second it. Is there a discussion?

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Newman: Madam Chair, may I speak?

Anthes: Yes.

Newman: Would you give staff the opportunity to review this area overall for the Master Plan for the engineering and to look at the total concept? Not to consider a ruling on a 500' strip, looking at this one residential development here. Give us time to review that and discuss that before we put a condition on this developer to reduce what the overall collector concept was and discussed previously.

Anthes: How will that information get back to us, Mr. Newman?

Newman: In a form of a report, I assume. What would you like, do you have any preference?

Anthes: No, I'm just wondering because sometimes we send these things out and really don't know what happens.

Clark: Are you asking us to table this?

Anthes: No, what you are saying is that you would rather have us construct a condition of approval that doesn't have a specific width, but ask for staff to review the possibility of reducing the street section for Old Farmington Road. Is that what you are asking?

Newman: Yes, ma'am. I'm asking, not recommending tabling by any means, I just would like the opportunity to ask the engineering and planning staff to get together and reevaluate this area before that change is made at this location.

Anthes: That sounds reasonable.

Ostner: I understand your request. However, it's been my experience that the rule book and mathematics always win over policy. We don't create policy here, however here at an R-PZD we are allowed a recommendation to the Council.

Anthes: Would that also include in the assessment for the additional pavement?

Ostner: Thank you, I believe my motion was incomplete. The difference in money between a 14 and an 18 foot wide street section. Help me out here for a second. What's the fairest thing to do with it? I'm not trying to let the

developer out of anything. I just want something better for the neighborhood.

Clark: Shall improve Farmington Road to include 14' wide street section from ect to ect. With the difference between the 18' and the cost of the 14' being paid in money in-lieu by the developer. The part that it asked for future improvements on Farmington Road. Isn't that what you wanted?

Ostner: Well, that helps, I didn't think we could leave it so open ended. I thought it had to go to something.

Pate: It would go to improvements along Old Farmington Road.

Ostner: Well, that sounds great.

Clark: Thank you.

Anthes: I would accept that as a second on the motion.

Ostner: So, basically the developer will have to spend the same amount of money, however he will only build a 14' section. The difference in money will go to other improvements along Old Farmington Road.

Pate: Does that include curb and gutter on that 14' section?

Ostner: Yes, of course, everything except the street section.

Anthes: As the second-er of the motion, I would like to address Mr. Newman by saying, this is a R-PZD it will go forward to City Council, this would be the recommendation if this motion even passes. To amend our recommendation to City Council you would have a time between now and then to review the entire road and make your recommendation to Council whether that works for you or not.

Newman: Thank you.

Ostner: Thank you Madam Chair and in that evaluation I would hope that engineering would consider that this is at a base of a mountain and commercial development require square footage and it is very difficult to develop a mountain side to high density either residential or commercial to fill a street. 100 yards to the south is lots of flat land with a big street in front of it, however there is a hill just climbing straight up and that's part of

my reasoning that I just don't see this being pack with cars and curb cuts in volume.

Anthes: We have a motion to amend condition of approval number one to read the developer should improve Old Farmington Road to include a 14' street section from centerline with curb, gutter, storm drain and a 6' sidewalk. At the Master Street Plan right-of-way, etc. holding the difference between the construction of the 14' and 18' section in escrow. Is there further discussion? Will you call roll.

Roll Call: **The motion to change the condition of approval listed above was approved 7-0-0.**

Anthes: Is there further discussion on motions on the R-PZD?

Ostner: Has there been a motion?

Anthes: No.

Motion:

Ostner: Madam Chair, I like to move to forward this to City Council with recommendation of approval R-PZD 06-2212.

Lack: Second.

Anthes: Motion to forward by Commissioner Ostner, second by Commissioner Lack. Is there further discussion? My big hang up with this is that this is so far and above a better development than what we saw the first time. Thank you so much for that. I appreciate the two way connection to the commercial property and the way you have been able to kind of segregate it from the neighborhood use. I appreciate that you responded to the neighbors by Sandra by providing the one way connection with parallel parking. I do have some questions about the very thing Commissioner Clark has been talking about. That is the uniqueness of a PZD, that we ask for a green space and some sort of community space. I find these lots to be very tight without hardly a yard for each individual tenant much less community space and I believe that it would be a better knit with the adjacent neighborhood if we actually lost unit number 11, and that was changed into an open space. When I look at units one through ten, I don't know about the total density there but I look at the configuration on the lot and I almost like to see the units moved to a zero lot line condition on the side lot so that the green space for the unit is actually all aggregated on the

one side of the building so there would be useable green space for each unit. Which I think is more in keeping with in the area as well. Right now, if you fence these yards, you would have these narrow strips on either side. I grew up in southern California in a subdivision that had one of those narrow strips next to a house with a fence and there was really nothing to do in that spot. By sliding each of those units left or right and allowing that green space be a side yard, I think it would be much nicer development. I not sure if losing one of those ten units to allow a more generous green space there might be in more keeping with and provide a better transition to the adjoining neighborhood as well. So, those are my comments.
Commissioner Clark.

Clark: Because of what Mr. Williams has told us that we are voting against something we need to say why. I will not be supporting this R-PZD. I don't think meets, it says you gotta meet one or more of the following goals and although I commend you for changing it because everyone seems to think you done a good deal in terms of modifying it, I still don't think it's there. I don't think its harmonious with the area that's being fit into and I think with just a little bit more tinkering and think Ms. Anthes talked about a couple of them. You could certainly achieve a finer development that would work as an R-PZD and work in this particular area so I will not be supporting this in this configuration.

Anthes: Is there further discussion? Commissioner Harris.

Harris: I appreciate Commissioner Clark bring up the spirit of PZD. Because I don't feel as though this completely answers the call of PZD in same areas, especially in terms of open space, green space, and so on. So, I will too, be voting against it in its current configuration.

Anthes: I have a motion to forward by Commissioner Ostner and second by Commissioner Lack, is there further discussion? Commissioner Ostner.

Ostner: I can see those comments. For the reason I think it's worth supporting is that list is not a must, it's a should. How on earth can you have both density and open space, period. It's always a conflict. It's a juggling act. It's a dance. I believe how you finesse it is the answer, not going down the list, did he do this, this, and this. That's why it's phrased in an open way in our ordinance. Try to do at least one of these things. There's not a park here. But, this is a size of a three regular house spots. It's tiny, there're packing in, they're being efficient. They're raising the density because that's what Fayetteville has to have and they got to make their business

plan work. They almost cut it in half, so it's a difficult call. I respect your no votes.

Anthes: Any further discussion? Will you call the roll.

Roll Call: The motion to approve failed 4-3-0.

Pate: Motion failed

Anthes: They do have an appeal right, to City Council in so many days?

Pate: Right.

Anthes: And if that happens, will the neighbors be notified?

Pate: No.

Anthes: Watch your newspapers. I do have some announcements, Planning Commission will be forming four committees. And they will be as follows: Committee Number 1 is the downtown architectural code, this committee will review Dover Kohl recommendation to the downtown master plan and provide commentary and recommendations to bring a draft code forward to Planning Commission and City Council for Downtown Architectural Standards. This Committee will be staffed by Leif Olson, it will be chaired by Commissioner Audy Lack. It will be comprised by the following committee members: Commissioner Allan Ostner, Robert Sharp of Robert Sharp Architects, Sharon Hoover of Allison Architects, Todd Ferguson of the University of Arkansas and I'm waiting to hear back from a potential additional member, but should know tomorrow. The Second Committee is the Cultural Arts District Committee, this committee will review and recommend a boundary for Fayetteville's first Cultural Arts District. They will be working with Daniel Hintz of Fayetteville Downtown Partners under contract with the City of Fayetteville as staffed. This committee will be chaired by Commissioner Candy Clark, and will also consist of Commissioner Lois Bryant, De De Peters of De De Pete Gallery, Jodie Bennosca of The Walton Art Center and Julie Gabel with Ceramic Cow Productions. The third Committee is a Landmark Significant Places Committee, this committee will research ordinances that recognize and protect landmark structures in places in other cities. This committee will make recommendations to city staff for frame work of ordinances appropriate to Fayetteville, particularly Downtown. This committee will be staff with by Karen Minkel, will be shared by Commissioner Christine Myres and also consist of Commissioner Hillary Harris, Commissioner

Sean Trumbo, and we will be looking for a representative from the Historical District Commission to serve on the Committee as well. I believe that Ms. Myres has indicated that this is mainly a research committee and may meet via email and phone. The fourth committee is really short. It's a Digital Presentation Committee and they will be asked to develop brief guide lines for applicants wishing to make digital presentations at Planning Commissioning meetings; it probably is a two paragraph recommendation and that will be developed. Staffed by Jeremy Pate and Commissioner James Graves. Are there further announcements?

Pate: We do have Subdivision Committee meeting this Thursday and agenda packets were passed out.

Anthes: Ok, if that is it, we're adjourned.

DRAFT

November 14, 2006

To the City Clerk
City of Fayetteville

This is an appeal of the decision of the Planning Commission on November 13, 2006, denying our request to modify our Large Scale Development (LSD 06-2195) through a Vacation petition (VAC 06-2289). We are the owners of record and according to the Unified Development Code section 155.05 (2) we are allowed to appeal this decision to the City Council. This appeal is being made after a telephone consultation with Kit Williams today in which he explained the provision under which to make this appeal.

The decision of the Planning Commission is in error for the following reasons:

1. Because approval was recommended twice by the Planning Department staff.
2. Because the request was tabled at the October 23 Planning Commission meeting in order to give the applicants the opportunity to respond to specific concerns of the commissioners, which the applicants did in writing and with thorough documentation. One of the commissioners' (i.e. Candy Clark and Alan Ostner) stated concerns was that we were bringing up the subject of a one-way circuit from Markham Road to the Inn and exiting via Evangeline Lane for the first time at the October 23 meeting, and there was the unmistakable implication that we were trying to effect this modification underhandedly. We presented evidence that we had informed them of this on August 24 in writing.*
3. Because the Commission at its November 13 meeting did not bring up or discuss any of the concerns they had expressed at the October 23 meeting and then requested that we address at the next meeting (the very reason, in fact, that they tabled our vacation request), but rather dismissed our request out of hand saying, "we have spent enough time discussing this question," and quickly voted against the vacation request. This meant that we were unable to present our response to their concerns and the accompanying documentation that we had spent hours gathering. The tabling of our request was in bad faith, meant nothing, and resulted only in a tremendous waste of our time and a delay of two weeks in our pursuit of the vacation request with the City Council.
4. Because this was an arbitrary, capricious, perverse, and inexplicable decision on the part of the Planning Commission.

RECEIVED

NOV 16 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Left on the second reading 12/5/06

Kindly confirm receipt of this request and let us know at which City Council meeting it will be discussed.

Sincerely,


Jane and Julian Archer

*For the record, it should be noted that the Planning Commission members were notified by an email from the applicants on August 24 that they were going to make this vacation request; that is, BEFORE the first hearing of our LSD application by the Planning Commission on August 28. At that meeting our engineer, Matt Crafton, announced directly to the Commission that a vacation request was going to be submitted. The right-of-way vacation form was signed by us, the applicants, on August 31 and filed by our engineer on September 14. The purpose of mentioning this is to point out that the vacation request was in the pipeline BEFORE the applicants knew what action the Planning Commission was going to take on the Pratt Place Inn LSD.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: November 16, 2006

Subject: Easement Vacation for Archer (VAC 06-2289)

RECOMMENDATION

The Planning Commission denied the applicants' request to vacate a portion of the Markham Street right-of-way, west of Sang Avenue. The applicant has appealed the Planning Commission's decision to the City Council.

Planning Staff recommends approval of an ordinance vacating a portion of the Markham Street right-of-way, west of Sang Avenue.

BACKGROUND

The subject property is located at the west end of Markham Road, west of Sang Avenue on Markham Hill in central Fayetteville. A Large Scale Development was approved on the property by the Planning Commission on September 11, 2005 for the Pratt Place Inn, a 7-guestroom inn and 60-seat restaurant, and utilizing the barn for public and private gatherings. Access to the property is directly off of Markham Road/Sang Avenue. Markham Road dead-ends into the subject property west of Sang Avenue. At the time of the Large Scale Development approval, it was discussed that the applicant had a desire to vacate the portion of Markham Road west of Sang Avenue. The applicant owns all of the property adjoining this section of Markham Road right-of-way, and Markham Road is not planned to extend further west.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners; there were no objections to this request. The Planning Commission voted 7-1-0 to deny this vacation request, with Commissioner Trumbo voting not to deny. The main reasons given by the Planning Commissioners to deny this request were traffic and pedestrian safety issues related to the private drive (the subject vacation area) becoming a one-way driveway into the property, requiring Evangeline Lane to become the primary exit. To address pedestrian safety the applicant and Planning Staff discussed that the 20' paved private driveway could be striped for a 12' drive lane and an 8' pedestrian/bike lane. Staff does not find that a dangerous traffic or pedestrian safety condition would occur with the right-of-way vacation as proposed. Public sidewalks and all other public street improvements would still occur on Markham west through the Sang Avenue intersection.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 06-2289 SUBMITTED BY CRAFTON TULL & ASSOCIATES FOR PROPERTY LOCATED AT THE WEST END OF MARKHAM, WEST OF SANG AVENUE, VACATING 0.35 ACRE OF A RIGHT-OF-WAY ON THE SUBJECT PROPERTY

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted street right-of-way is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "B" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the conditions of approval as follows, and shall not be in effect until all conditions are met herein.

1. The street improvements for the Pratt Place Inn (Condition of approval No. 1 for LSD 06-2195) shall be modified to require the private street portion of Markham to be improved to 20' of pavement with ditches on both sides sized for the appropriate design storm, lined with native stone.
2. The private portion of Markham Road shall not be gated.
3. Relocation of existing utilities within the Markham Road right-of-way to be vacated shall be at the owner/developer's expense, should this become necessary.
4. Access to continue existing solid waste service along Markham Road, and future solid waste service to the Pratt Place Inn shall be provided.

5. The Solid Waste Division must have access to the exit (Evangeline Lane) and is not responsible for any damage done to the road, either paved or unpaved. A release has been signed by the applicant indicating release of responsibility. All trees and brush must be cut back off of Evangeline Lane and maintained on a permanent basis to assure total access and no damage to vehicles due to branches and trees.

PASSED and APPROVED this 5th day of December, 2006..

APPROVED:

By: _____
DAN COODY, Mayor

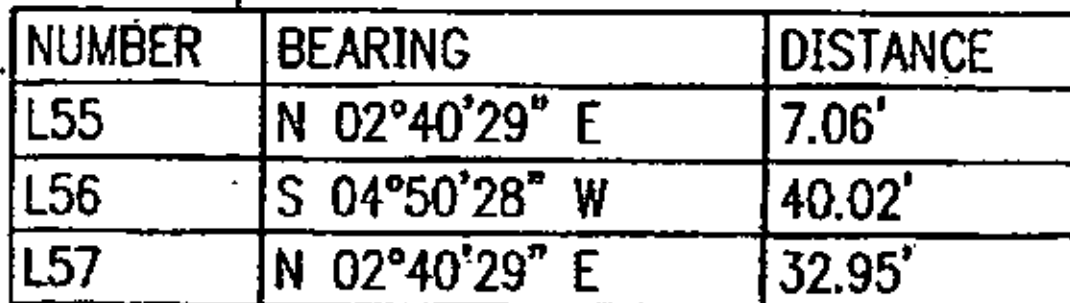
ATTEST:

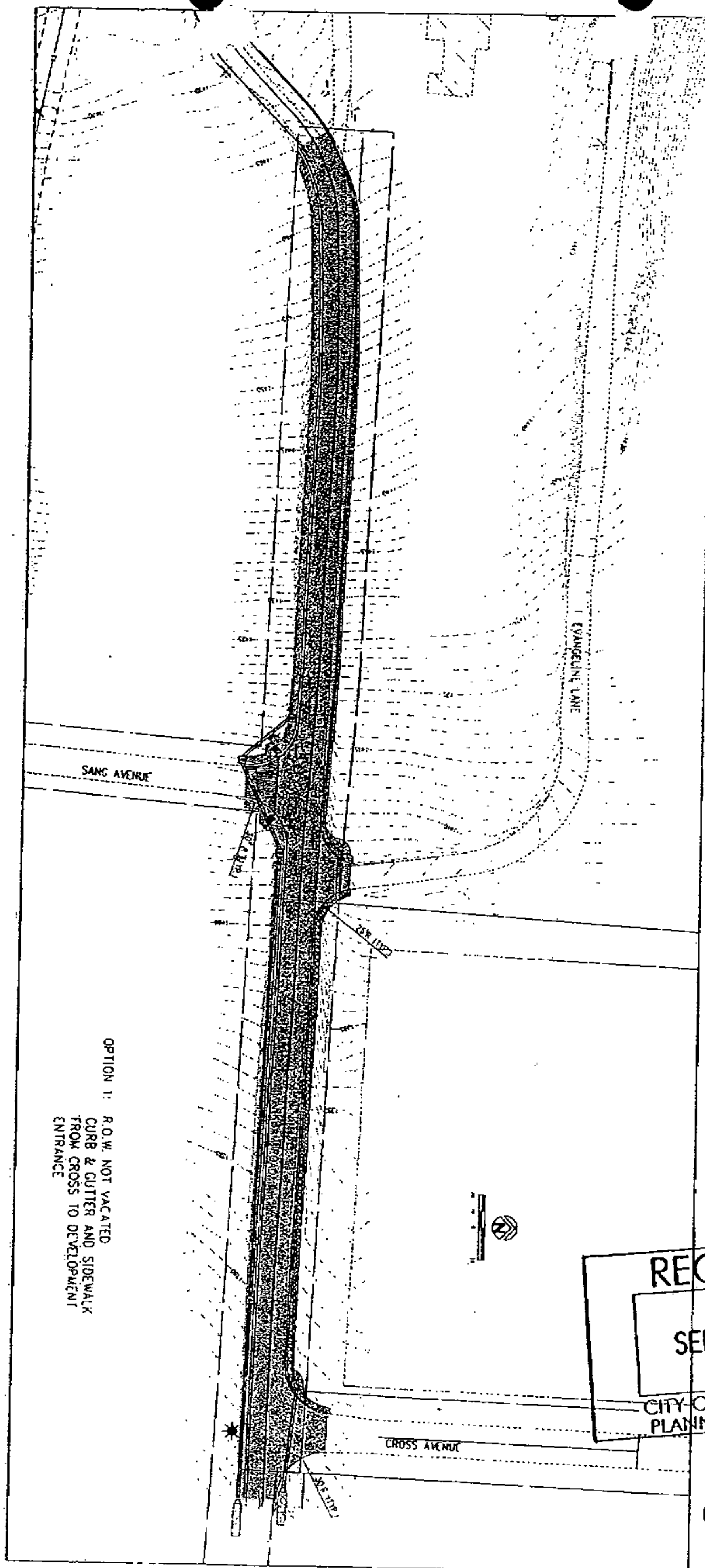
By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
VAC 06-2289

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE 1/4 OF THE NE 1/4) AND A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE 1/4 OF THE NW 1/4) OF SECTION SEVENTEEN (17), TOWNSHIP SIXTEEN NORTH (TWP. 16 N.), RANGE THIRTY WEST (RNG. 30 W.), CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SE 1/4 OF THE NW 1/4 OF SECTION 17, TWP. 16 N., RNG. 30 W. AND RUN THENCE N02°40'29"E 7.06 FEET ALONG THE WEST LINE OF THE NE 1/4 OF THE NW 1/4 OF SAID SECTION 17; THENCE S86°59'31"E 379.79 FEET ALONG A LINE 10 FEET NORTHERLY FROM AND PARALLEL WITH THE CENTERLINE OF PAVEMENT OF MARKHAM STREET; THENCE S04°50'28"W 40.02 FEET ALONG A LINE 20 FEET WESTERLY FROM AND PARALLEL WITH THE CENTERLINE OF PAVEMENT OF SANG STREET PROJECTED; THENCE N86°59'31"W 378.28 FEET TO THE WEST LINE OF SAID SE 1/4 OF THE NW 1/4 OF SECTION 17; THENCE N02°40'29"E 32.95 FEET ALONG SAID WEST LINE OF THE SE 1/4 OF THE NW 1/4 TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 15161.33 SQ. FT. OR 0.35 ACRES, MORE OR LESS.



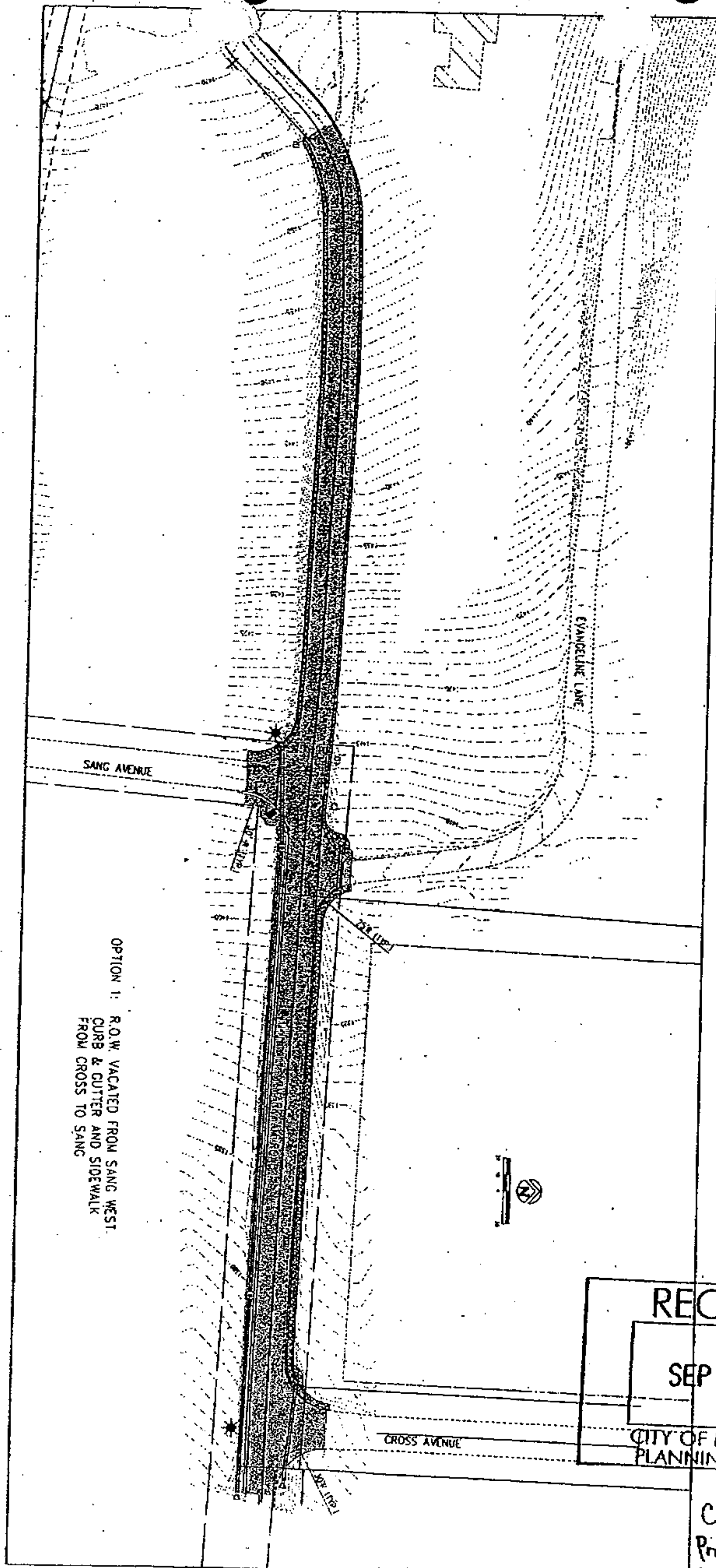


RECEIVED

SEP 21 2006

CITY OF FAYETTEVILLE
PLANNING DIVISION

Conceptual Drawing
As approved by PC



RECEIVED

SEP 21 2006

CITY OF FAYETTEVILLE
PLANNING DIVISION

Conceptual Drawing
Proposed with Vacation
(west of Sma)



PC Meeting of November 13, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 2, 2006~~ Updated November 14, 2006

VAC 06-2289: (ARCHER, 442): Submitted by CRAFTON TULL & ASSOCIATES for property located at THE WEST END OF MARKHAM, WEST OF SANG AVENUE. The property is zoned C-PZD, COMMERCIAL PLANNED ZONING DISTRICT. The request is to vacate a portion of a right-of-way (0.35 acres) on the subject property.

Property Owner: Julian Archer
Planner: Andrew Garner

FINDINGS:

October 23, 2006 Planning Commission: This item was heard at the October 23, 2006 Planning Commission meeting. This item was tabled at that meeting to address traffic and pedestrian safety issues related to the private drive (the subject vacation area) becoming a one-way driveway into the property, requiring Evangeline Lane to become the primary exit. To address pedestrian safety the applicant and Planning Staff discussed that the 20' paved private driveway could be striped for a 12' drive lane and an 8' pedestrian/bike lane. The Planning Commission discussed that Evangeline Lane is a narrow gravel road (approximately 20' wide) and would not be functional for large vehicles. Some commissioners felt that this would require large vehicles such as fire engines and trash trucks to travel against the flow of traffic on the one-way drive to avoid using Evangeline Lane. Other commissioners discussed that Evangeline Lane does not line up directly with Sang Avenue creating a potentially dangerous traffic condition with a large number of vehicles exiting the property at this point.

The Solid Waste Division has discussed with Planning Staff that they could use Evangeline Lane to exit the property after collecting trash. A condition has been added per the Solid Waste Division regarding using Evangeline Lane. The Fire Department has discussed with staff that in the event of an emergency, they would likely use the turnaround at the inn and exit the property through the private, paved drive, rather than using Evangeline Lane. Staff's initial recommendation regarding traffic safety and street improvements for this development has not changed from the recommendation provided at the time of Large Scale Development as it was anticipated that Evangeline Lane would be used as an exit. Staff does not find that a dangerous traffic or pedestrian safety condition would occur with the right-of-way vacation as proposed.

Background: The subject property is located at the west end of Markham Road, west of Sang Avenue on Markham Hill in central Fayetteville. A Large Scale Development was approved on the property by the Planning Commission on September 11, 2005 for the Pratt Place Inn, a 7-guestroom inn and 60-seat restaurant, and utilizing the barn for public and private gatherings.

Access to the property is directly off of Markham Road/Sang Avenue. Markham Road dead-ends into the subject property west of Sang Avenue. At the time of the Large Scale Development approval, it was discussed that the applicant had a desire to vacate the portion of Markham Road west of Sang Avenue. The applicant owns all of the property adjoining this section of Markham Road right-of-way.

Request: The request is to vacate the right-of-way for Markham Road on the subject property, west of Sang Avenue (0.35 acres).

The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

AEP/SWEPCO

No Objections

Arkansas Western Gas

No Objections.

SW Bell

No Objections. Provided that any relocation of utilities, if necessary, is at the owner/developer's expense.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections

Transportation

No Objections

Solid Waste

No Objections. Provided that access for trash service will remain.

Engineering

No Objections

Public Comment: There have been several concerns from the public regarding development on this property. These concerns include substandard roads, drainage, noise potential and tree buffers, and were discussed and addressed as part of the Commercial Planned Zoning District and Large Scale Development approval. Staff has received one or two phone calls from the

public inquiring about the subject right-of-way vacation. These calls were mainly concerned with future roadway improvements in the area, emergency access, trash service, and how the subject right-of-way vacation would affect those issues.

Recommendation: Vacating the rights-of-way in question would not adversely affect access to the property or any other adjacent property. The subject section of Markham Road dead-ends into the property and has not been identified by the City for future street connection. The right-of-way vacation would not affect emergency access or trash service provision to this or any other property; provided that the road would remain available for access.

The section of right-of-way being vacated would become a private street/driveway providing access into the Pratt Place Inn property. The Markham Road improvements required as part of the Pratt Place Inn Large Scale Development would not be required to be constructed to City standards for this private street. The applicant has submitted a drawing that depicts how the private street section is proposed to be improved (attached). The change on the private street portion being that required sidewalk would not be provided, and that required curb/gutter on the south side would be replaced with a ditch lined with native stones, sized for the appropriate design storm.

Staff recommends approval of the proposed right-of-way vacation VAC 06-2289, with the following conditions:

1. The street improvements for the Pratt Place Inn (Condition of approval No. 1 for LSD 06-2195) shall be modified to require the private street portion of Markham to be improved to 20' of pavement with ditches on both sides sized for the appropriate design storm, lined with native stone.
2. The private portion of Markham Road shall not be gated.
3. Relocation of existing utilities within the Markham Road right-of-way to be vacated shall be at the owner/developer's expense, should this become necessary.
4. Access to continue existing solid waste service along Markham Road, and future solid waste service to the Pratt Place Inn shall be provided.
5. The Solid Waste Division must have access to the exit (Evangeline Lane) and is not responsible for any damage done to the road, either paved or unpaved. A release has been signed by the applicant indicating release of responsibility. All trees and brush must be cut back off of Evangeline Lane and maintained on a permanent basis to assure total access and no damage to vehicles due to branches and trees.

(SOLID WASTE DIVISION ADDED THIS CONDITION AFTER THE 10/23/06 PLANNING COMMISSION MEETING.)

PLANNING COMMISSION ACTION: yes Required
 Approved X Denied

Motion: Anthes
Section: Ostner
Vote: 7-1-0
Date: November 13, 2006

Comments: _____

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____

CITY COUNCIL ACTION: yes Required
 Approved Denied

Date: _____

From: Brian Pugh
To: Garner, Andrew
Date: 10/30/06 1:10PM
Subject: Pratt Place

City Solid Waste Division

Andrew,

Ronnie drove Carol and myself out to the development to look at the road and planned exit. We have the following comments about the situation:

Solid Waste can use the exit and avoid going the wrong way on a one way street if the following conditions are met:

Solid Waste must have access to the exit at all times and is not responsible for any damage done to the road either paved or unpaved. A signature should be required to make sure this will not become a problem when the roads need improvement in the future due to the weight of the Solid Waste Vehicles on the road. All trees and brush must be cut back and maintained on a permanent basis to assure total access and no damage to vehicles due to branches and trees. Solid Waste highly recommends paving the entire road for traction control in inclement weather conditions but must not be held accountable for damage to the road surface.

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax

CC: Hill, Carol

RELEASE TO ENTER UPON PREMISES

KNOW ALL MEN BY THESE PRESENTS:

The undersigned property owner hereby grants permission to the City of Fayetteville's Solid Waste Disposal Service to enter upon his/her premises and/or property for the purpose of collecting household trash, recyclable materials and yard waste.

This permission having been granted solely for the convenience of the property owner, the undersigned hereby releases and forever discharges the City of Fayetteville and any and all of its divisions, officers and employees from any and all manner of claims, causes of action, or liability, which he/she may have now or at any time in the future arising out of or pertaining to any injury, loss, damage, or harm of any kind which may happen to his/her person, property or possessions arising from the fulfillment of the duties, obligations or job requirements of the City's solid waste service.

The undersigned hereby assumes all risk of any damage, injury, or loss which may occur to his/her person, property or possessions which may result from the City's solid waste service entering upon, working while on or exiting from said property.

This release shall remain in full force and effect until or unless it is revoked in writing by either the undersigned or his/her authorized representative. Moreover, this release shall remain in full force and effect so long as the undersigned shall or may request the services of the City's solid waste services upon said property or premises for any purpose whatsoever, at any time after the date hereof.

THE UNDERSIGNED HAS READ THE FORGOING RELEASE AND FULLY UNDERSTANDS IT.

Jeffrey Archer 2231 W. Thurston Rd. 10/31/06
(Name) (Address) (Date)
North Place Inn

IN WITNESS WHEREOF, I hereunto set my hand, and understand the terms of this instrument and the effects thereof after having carefully read it in full, this 31 day of Oct, 2006

WITNESSES to Signature:

David Hill City of Fayetteville 10/31/06
(Name) (Address) (Date)
P. Hill " " 10-31-06
(Name) (Address) (Date)

Julian Archer



Crafton, Tull & Associates, Inc.
architects, engineers & surveyors

September 14, 2006

Jeremy Pate
City of Fayetteville, Planning Department
113 W. Mountain
Fayetteville, AR 72701

RE: Pratt Place Inn

CTA Job No. 051094-00

Dear Jeremy:

We are requesting, on behalf of Julian and Jane Archer, that the City of Fayetteville vacate the street right-of-way of Markham Street west of Sang Avenue. The Archers own the property on both sides of the street in this area, and serves their property alone. This request would relieve the city of the burden of maintaining this section of the street and would place this responsibility with the owners. Also, any utilities that exist within this right-of-way will be provided with easements of adequate width, so they may continue to maintain their services.

Utility companies have been contacted, and their comments have been provided. Also, Fayetteville Utilities, Street, and Sanitation departments have been contacted for their comments. A copy of the right of way vacation sketch accompanied this correspondence.

All of our research for the boundary survey has shown that the Archers own all of the property adjoining the right-of-way in question, and an abstractor has provided a Certificate of Ownership.

We appreciate your review of this project and look forward to your feedback. If you have any questions or need any additional information please don't hesitate to call me at (479) 878-2455.

Sincerely,

Crafton, Tull & Associates, Inc.

Kale Farmer, E.I.
Project Engineer

cc: file

historical preservation ☐
government ☐
public works ☐
healthcare ☐
residential ☐
education ☐
parks, sports & recreation ☐
transportation ☐
industrial ☐
commercial ☐

901 North 47th Street • Rogers, Arkansas 72756 • phone: 479.636.4838 • fax: 479.631.6224

RECEIVED

NOV 13 2006

PLANNING DIV.

C. 5
Easement Vacation for Archer
(VAC 06-2289) Appeal
Page 17 of 98

November 9, 2006

To the Members of the Fayetteville Planning Commission:

We earnestly ask that you grant our request for the city to vacate Markham from Sang Avenue west to the top of the hill. If you do so, we hope that you will accord us the normal owners' privilege of choosing the look and design of the infrastructure according to our well thought-out vision. If we had despoiled the property we own and/or created eyesore subdivisions, your concern would be warranted, but our proven track record supports the opposite (i.e. the Bois d'Arc and Pratt Woods subdivisions and all of Pratt Place, notably our self-imposed and financed beautification of Markham Road and Sang Avenue which is as much a benefit to the neighbors and the public as it is to us personally.

We have always envisioned a one-way circuit through Pratt Place, though it was only recently that we learned that the city could not make upper Markham one-way as a city street, a modification it never occurred to us would be a problem. The implication that we were trying to do something covert is wholly untrue and quite disturbing. We believe that anyone on the city's staff will tell you that we have always been forthcoming and cooperative in all of the numerous projects we have undertaken. They will also tell you that no one has struggled harder to preserve trees and natural beauty than we. Please note what we said in point 5 in our email to the Planning Commission dated August 24; that is, prior to the first hearing of our LSD request held on August 28. There were several statements made at the meeting of October 23 that we were bringing the one-way issue up for the first time at that meeting.

The proposal we have made for handling vehicular and foot traffic within the property meets a consensus of approval with everyone we have spoken to who actually uses the road. That is, a striped one-way segment of Markham from Sang west to the top of the hill, comfortably accommodating both runners and vehicles, the former with an 8' lane and the latter a 12' wide lane which is the same width as interstate highway lanes. This seems to be the safest, least invasive, and most aesthetic way to handle upper Markham. A shallow native rock-lined ditch would accomplish the same drainage function as curb, gutter, and storm sewer without altering the natural appearance of the site and without destroying a single tree. One of the most beautiful and majestic trees on the entire property—a venerable oak, as well as several other splendid big trees would be sacrificed in order to make way for curb, gutter, storm sewer, and sidewalk.

To introduce curb, gutter, storm sewer, and a 5' sidewalk on the south side (or the north side either, for that matter) would present not only a construction challenge at huge cost, but would be an intrusion into the natural beauty that has survived there as long as anyone can remember and is greatly cherished by everyone directly affected by it. To keep it two-way is in no one's interest, above all the track teams' and joggers', since they would not use a sidewalk anyway.

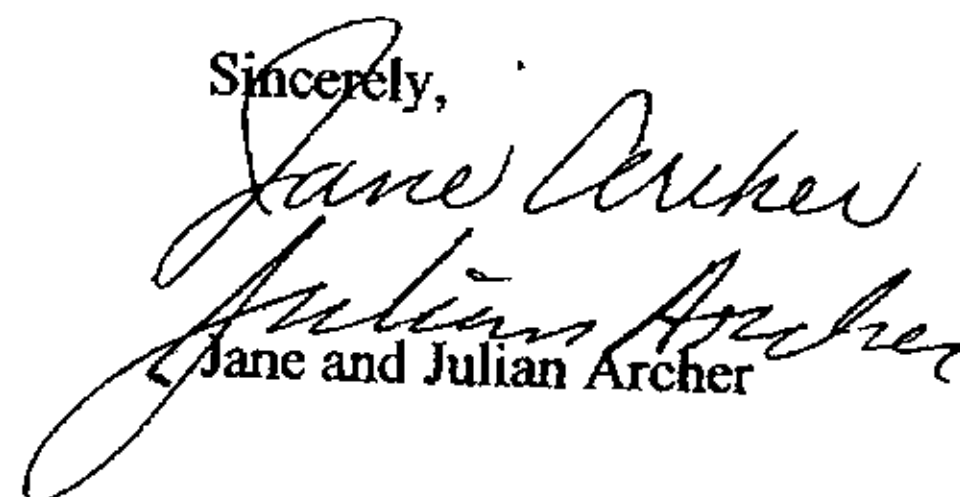
The University and City of Fayetteville track teams have trained on the Pratt Place trails by our invitation for many years. It would be harsh treatment to penalize us after having shared our property with these institutions, as well as having contributed enormously to the beautification of the neighborhood, by forcing us to introduce urbanizing and deruralizing elements unnecessarily and against our desires and those of any other affected persons.

In response to the concerns expressed at the Commission meeting on October 23, we have spoken with managers from the Solid Waste Division and met with them on site and they have no problem exiting from the top of the hill via Evangeline Lane. We understand this has been communicated to the Planning Division staff in writing. Furthermore, the Fire Department is in accord with exiting the same way Solid Waste does. It should be noted that the Solid Waste Department does not even allow its trucks on any given road that is deemed unsafe due to weather conditions. Attached for your information is a map drawn up by our engineer at Crafton Tull indicating the grade of the roads in question. The grade of Evangeline Lane at the steepest point is 10% as compared with the much steeper 17% grade of upper Markham at the steepest point. Attached is a copy of our agreement with Solid Waste holding the city harmless should one of the trash trucks damage our private road. Finally, you will find included notes from rental equipment suppliers indicating that they have no trouble exiting via Evangeline Lane. Over the years Evangeline Lane has been the preferred way down the hill when road conditions are snowy and icy because of the less steep grade and better traction.

We beg you to let us go forward with a vision that will make Pratt Place Inn an extraordinary asset to Fayetteville, one which all of you will enjoy visiting, if no more than to absorb the pleasure of feeling that you are way out in the country, even though you are right in the city—a very rare phenomenon for any city.

Should the Planning Commission not be inclined, however, to grant a vacation of Markham west of Sang with an 8' running lane, we would ask that the vacation request be approved, nonetheless, with Markham remaining two way.

Sincerely,


Jane and Julian Archer

RELEASE TO ENTER UPON PREMISES

KNOW ALL MEN BY THESE PRESENTS:

The undersigned property owner hereby grants permission to the City of Fayetteville's Solid Waste Disposal Service to enter upon his/her premises and/or property for the purpose of collecting household trash, recyclable materials and yard waste.

This permission having been granted solely for the convenience of the property owner, the undersigned hereby releases and forever discharges the City of Fayetteville and any and all of its divisions, officers and employees from any and all manner of claims, causes of action, or liability, which he/she may have now or at any time in the future arising out of or pertaining to any injury, loss, damage, or harm of any kind which may happen to his/her person, property or possessions arising from the fulfillment of the duties, obligations or job requirements of the City's solid waste service.

The undersigned hereby assumes all risk of any damage, injury, or loss which may occur to his/her person, property or possessions which may result from the City's solid waste service entering upon, working while on or exiting from said property.

This release shall remain in full force and effect until or unless it is revoked in writing by either the undersigned or his/her authorized representative. Moreover, this release shall remain in full force and effect so long as the undersigned shall or may request the services of the City's solid waste services upon said property or premises for any purpose whatsoever, at any time after the date hereof.

THE UNDERSIGNED HAS READ THE FORGOING RELEASE AND FULLY UNDERSTANDS IT.

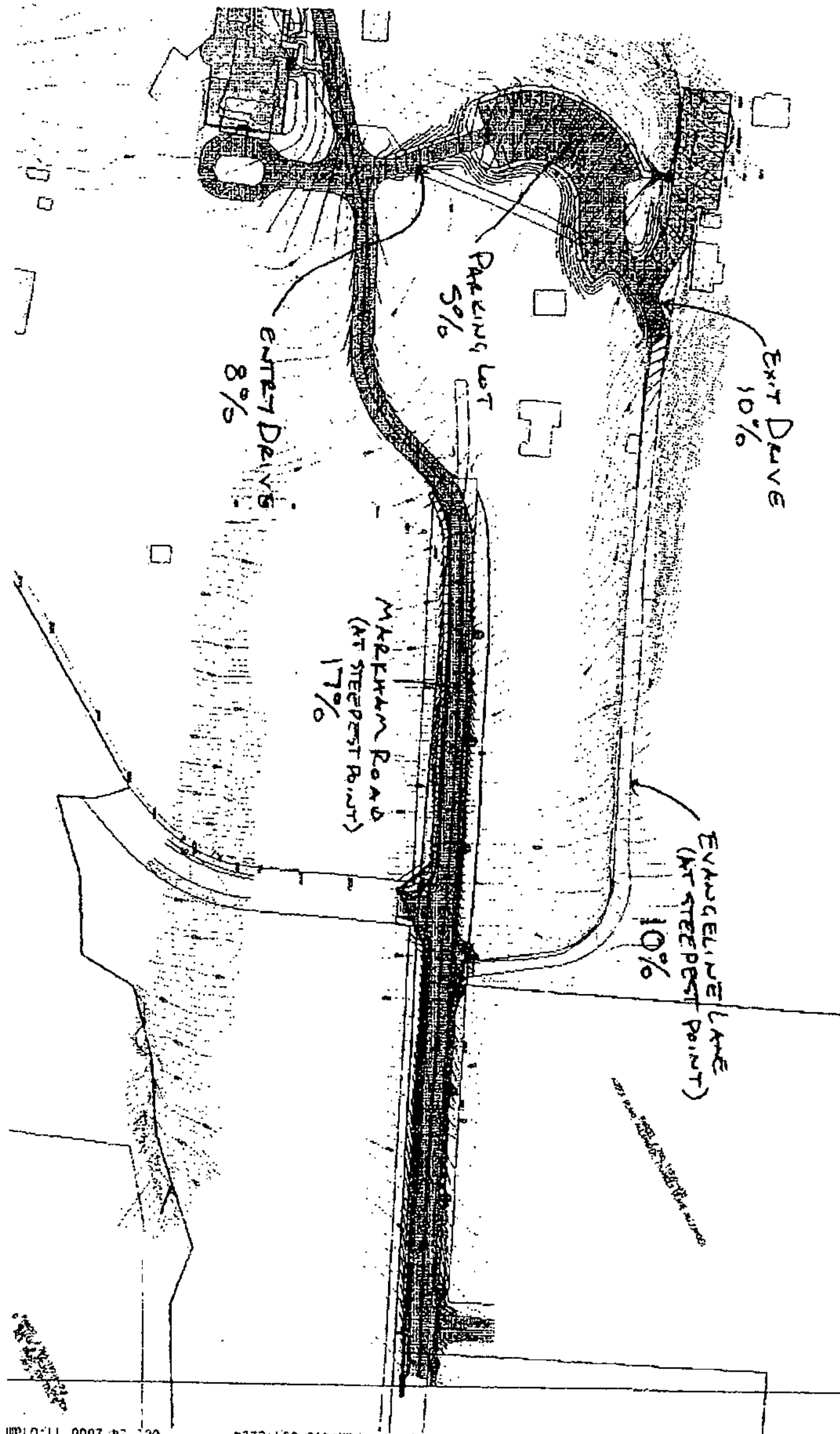
Justin Archer 2231 W. Thurston Rd. 10/31/06
(Name) (Address) (Date)
Shatt Place Inn

IN WITNESS WHEREOF, I hereunto set my hand, and understand the terms of this instrument and the effects thereof after having carefully read it in full, this 31 day of Oct., 2006.

WITNESSES to Signature:

David Hill City of Fayetteville 10/31/06
(Name) (Address) (Date)
P. Hill " " 10-31-06
(Name) (Address) (Date)

Julian Archer





party rentals & decorating

Memo

To: Jane Archer (Pratt Place Barn)

From: Randal Wright (Eventures Party Rentals)

RE: Proposed street changes

Jane,

Thank you for including us prior to making changes to your drive at Pratt Place Barn. I see no problem with our delivery trucks negotiating the one way drive that you are planning. Your venue is a great addition to Northwest Arkansas. We look forward to continuing working with you in the future.

Sincerely,


Randal Wright, President
Eventures Party Rentals L.L.C.

rw/sw

1186 Stearns St. Fayetteville, AR 72703 **479-444-PLAN** or **479-587-0933**
www.EventuresPartyRentals.com



THE EVENT GROUP
CORPORATE & SOCIAL CATERING

P.O. Box 1384
Fayetteville, AR 72702

November 2, 2006

To Whom It May Concern:

My name is Shellie Morrison, owner of The Event Group Catering, in Fayetteville, Arkansas. I am writing in support of the Archer's and their proposed road adjustment.

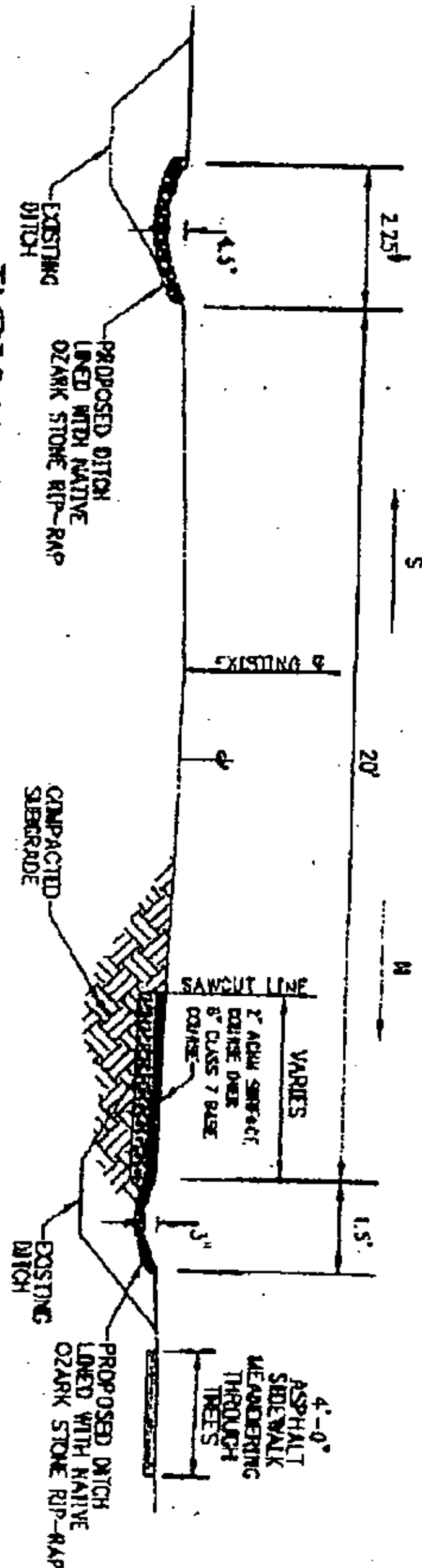
We have catered many events at the Pratt Barn and find it to be very accessible and accommodating. I feel this proposed change will offer little inconvenience—and will actually benefit the affected area.

Thank you for your consideration.

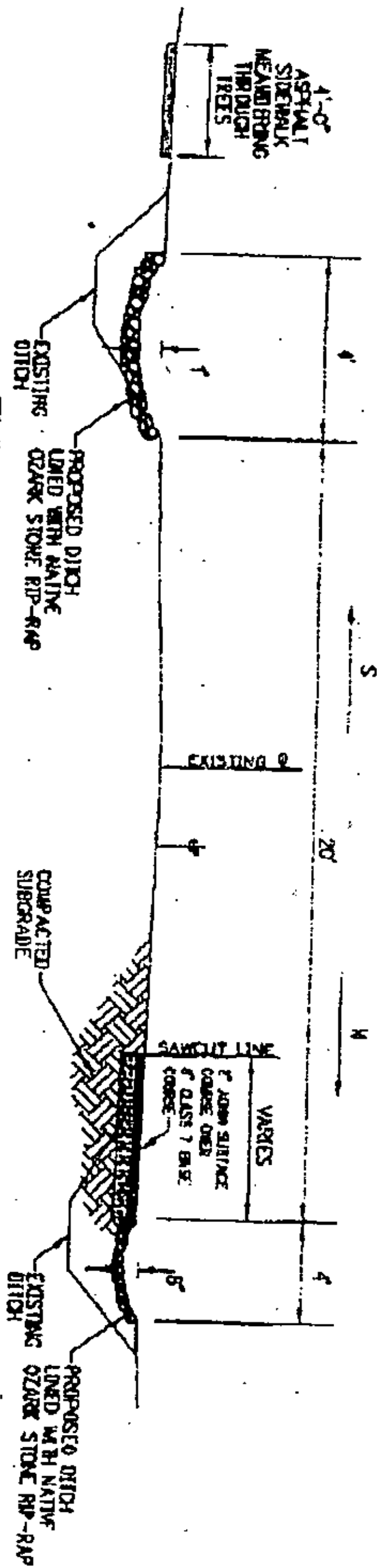
Sincerely,

Shellie Morrison, President
The Event Group Catering, Inc.

TYPICAL SECTION FOR MARKHAM ROAD
WEST OF EVANGELINE AND SANG
NTS



TYPICAL SECTION FOR MARKHAM ROAD
WEST OF CROSS AND EAST OF
EVANGELINE AND SANG
NTS



PRATT PLACE INN
MIXED USE DEVELOPMENT
FAYETTEVILLE, ARKANSAS

LARGE SCALE DEVELOPMENT



Creston, Tull & Associates, Inc.
801 N. 47th Street, Suite 200, Fayetteville, AR 72704
370-438-1234 FAX 370-438-1235 www.crestontull.com

Architects, Engineers & Surveyors



To the members of the Fayetteville Planning Commission;

Easement Vacation for Archer

(VAC 06-2289) Appeal

We, as both the developers and owners of the Pratt Place Inn PZD project, would like the Commission to consider the following points in making a decision on our application. Page 24 of 98

1. We understand the reason why it is necessary to add to Markham Road on the north side so the street will be 20' wide from Cross Street westward, and we support this widening.
2. We understand the need in Fayetteville for sidewalks and, while we would rather not put one on the north side of Markham from Cross Street westward, would endorse doing so AS LONG as it can be a mulch (or woodchip) walkway such as exists along Cross Street between Markham and Halsell. (This same type of mulch pathway is found in Wilson Park.) Furthermore, this walkway should not be at the edge of the road, but rather set back from it, curving around trees, rather than cutting a straight gasn through the woods. A concrete sidewalk would undermine the natural look of the western portion of Markham and would not be used by the people who come up the hill on foot--runners from the university and Fayetteville track teams and joggers. They train on the paths on our property for the very reason that it relieves them from having to run on pavement or concrete.
3. A concrete sidewalk, even next to the curb, would entail the loss of dozens of large trees and create an unbroken, unsightly 26' wide swathe of paving. A mulch path would blend into the woods as it threaded its way through the trees without destroying any trees at all. Moreover, no one would use the concrete sidewalk (dozens of trees would have been sacrificed for nothing, and an unsightly strip of concrete would have been introduced into a wilderness with no result other than to mar its beauty), whereas, at least some runners probably would use the mulch path and no harm would have been done to the site.
4. We oppose the idea of curb, gutter, and storm drainage along Markham. Our efforts of the past 27 years have been to preserve a natural and rural look on Markham Road. Though the application before you is labeled a Large Scale Development, I do not think the Planning Commission ever has seen a development with so little development. Ours is a plan to preserve things as they are and have been for the last 100 plus years, not to load this property up with a huge subdivision. To call for curb, gutter, and storm drainage in this situation because they are required in other developments is to overlook the purpose of the Pratt Place Inn PZD. Instead, we propose a smoothed out ditch such as we have created on the north side of Markham from the bridge to Cross, the new one lined with fieldstone. This ditch has handled the water runoff successfully and without overflow for over a century, including the huge rains of last

Tuesday and Wednesday.

5. It should be remembered that the traffic pattern for the inn driveway will be a one-way clockwise loop.

Patrons will enter from Markham, stop at the parking lot to the north of the inn, and exit along Evangeline Lane, a private road that enters Markham just below Sang. This will, in effect, create a one-way traffic pattern on Markham from Sang westward even though we cannot ask the city to designate it as such.

As a point of information, we will be applying shortly for a vacation by the city of the part of Markham westward from where Sang Street branches off to the south. The street dead-ends in our driveway, serves only our driveway, and we own the property on both sides of the road and cannot build there because of the restrictions that we placed on ourselves in our PZD application. If this is granted, the road still will be widened to 20' just as the present driveway to the inn will have to be 20' wide. Please proceed, however, with your consideration of the LSD application you have before you as we need to get a building permit to begin construction of the inn. I, Julian, have taken an unpaid year's leave of absence from my teaching post at Drake University and have only until this time next year to complete the project under my own supervision.

Sincerely,

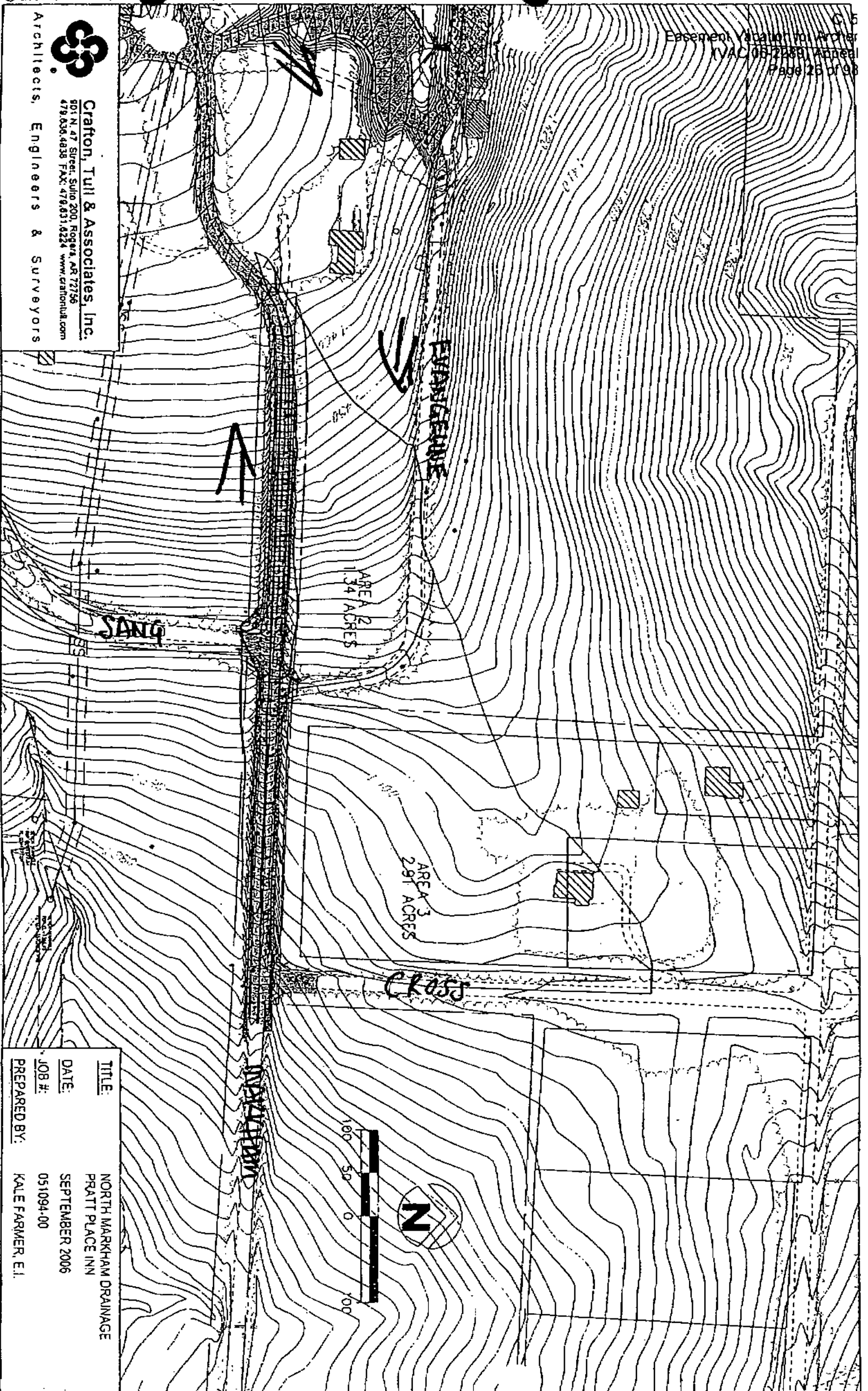
Jane and Julian Archer

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around <http://mail.yahoo.com>

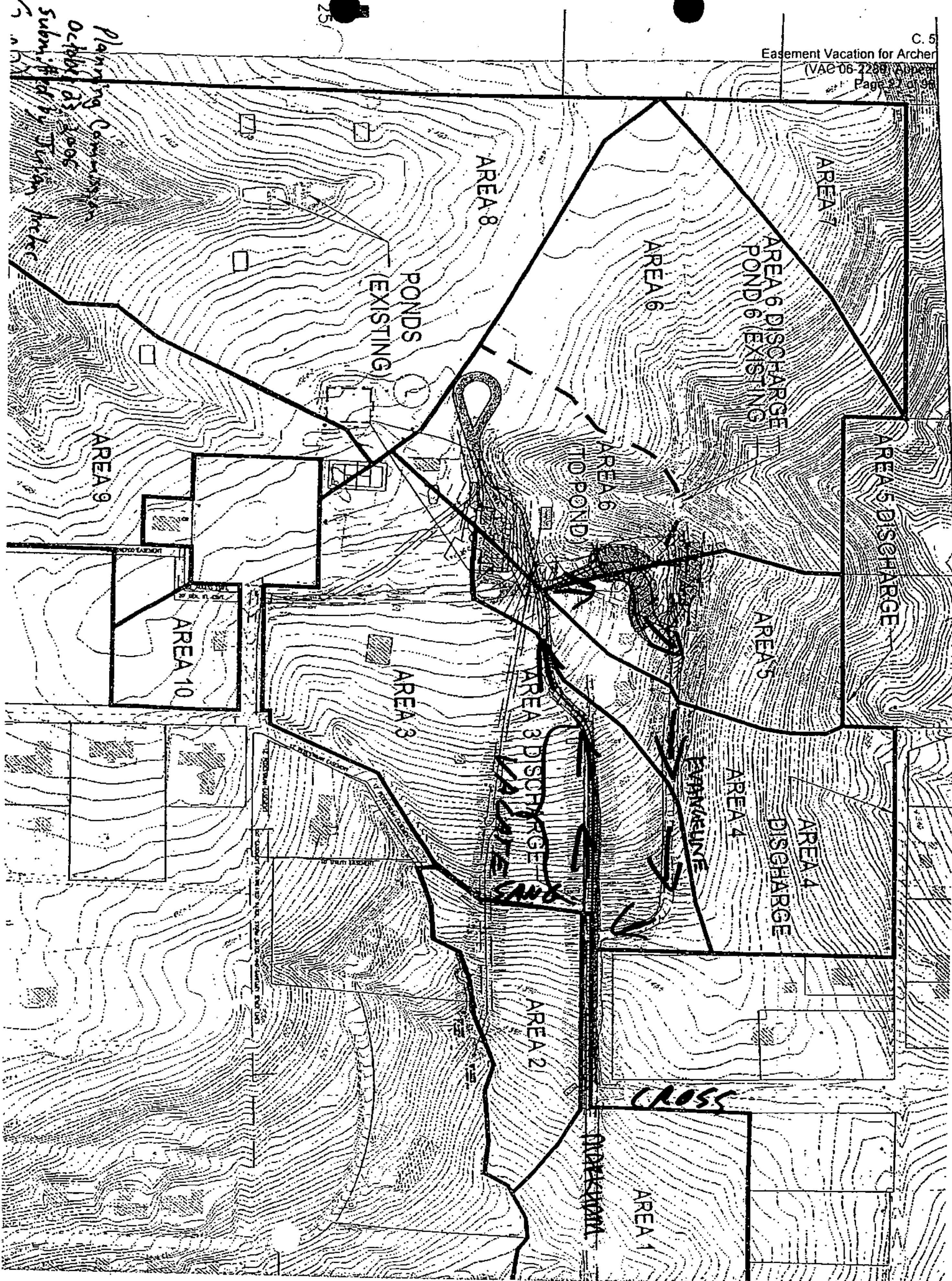


Crafton, Tull & Associates, Inc.
501 N. 47 Street, Suite 200, Rogers, AR 72756
479.636.4838 FAX: 479.631.8224 www.craftontull.com
Architects, Engineers & Surveyors



TITLE:	NORTH MARKHAM DRAINAGE
DATE:	SEPTEMBER 2006
JOB #:	051094-00
PREPARED BY:	KALE FARMER, E.I.

Planning Commission
October 23, 2006



Planning Commission
October 23, 2006
Submitted by: Julian J. J. J.

From: "Kale Farmer" <Kale.Farmer@craftontull.com>
To: "Jeremy Pate" <jpate@ci.fayetteville.ar.us>
Date: 9/21/2006 4:37 PM
Subject: Markham Road Improvements for Pratt Place
Attachments: Markham Improvements (Ex Cond).pdf; Markham Improvements (ROW Vacated).pdf

Jeremy,

Attached are PDFs of the Markham Road Improvements. There are two drawings; one with the improvements as recommended by the Planning Commission, and one with the improvements that will be constructed if the ROW vacation goes through. The shading on the road indicates the total road surface, including existing pavement and widening. If you have any questions, please give me a call.

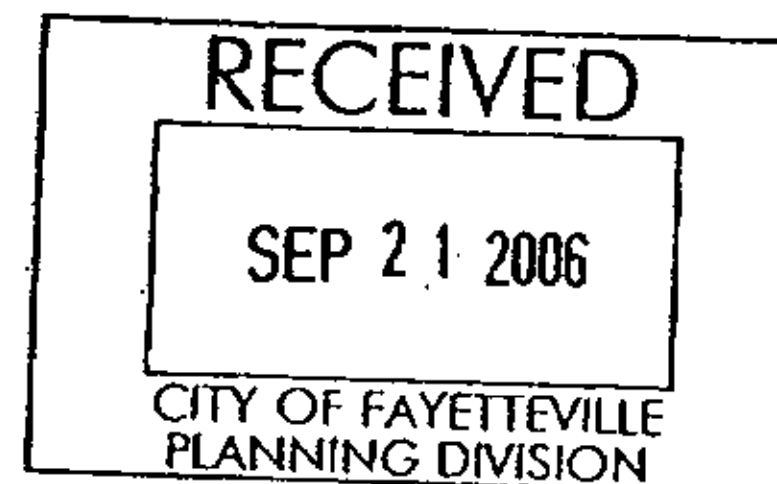
Kale

Kale Farmer, E.I.
Civil Engineer
Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200
Rogers, AR 72756
Office: 479-878-2455

Fax: 479-631-6224
Kale.Farmer@craftontull.com
www.craftontull.com

Crafton, Tull & Associates, Inc. exists to anticipate and understand the needs of our clients and provide them with successful solutions.

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JOHN G. WILLIAMS, FAIA, Emeritus Professor of Architecture, University of Arkansas
Doctor of Arts and Humane Letters, University of Arkansas

C. 5
Easement Vacation for Archer
2289) Appeal
Page 29 of 98

October 24, 2006

To: Jeremy Pate, Director of Current Planning, Fayetteville, Ar.
Jill Anthes, Chairperson, and members of the Planning Commission

This Letter is regarding a Condition of Approval for the Pratt Place PZD, October 23, 2006. This condition would require the location of Evangeline Lane be moved so that the intersection of Evangeline Lane and Markham Road be directly across from the intersection of Sang Avenue and Markham Road.

While this seems to be a good idea in studying the street map, when taken to the actual site, the proposed move would create some serious problems.

One: It would require extensive earth work and the removal of several large and beautiful trees including white and red oaks, hickory and dogwood trees. This would damage the special natural quality of the area that now exists with the present location of Evangeline Lane.

Two: By city permission there are fiber optic lines in this proposed location.

John

John G. Williams

RECEIVED

OCT 24 2006

PLANNING DIV.

KALE Farmer
Crawton Tule
(Pop Julian Archer)

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

479 878 2455

DATE: 9/12/06

UTILITY COMPANY: Transportation Division

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

Transportation Supt

Title

Transportation Division
Operations Dept
City of Fayetteville

575 8227

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: _____

UTILITY COMPANY: SOLID WASTE - CITY OF FAYETTEVILLE

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

Solid waste services accounts and will need to retain
access to all existing and future dumpsters and recycling
containers on Markham

Brian Papp

Signature of Utility Company Representative

Waste Reduction Coordinator

Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 9-14-06UTILITY COMPANY: Fayetteville Water + Sewer

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

Signature of Utility Company Representative

Title

Water + Sewer Ops Mgr

9-2006 FRI 01:06 AM

P. 02

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 9-15-06UTILITY COMPANY: OZARKS ELECTRIC

REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)


Signature of Utility Company Representative

Title

Lead Staking Tech

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 9/12/06

UTILITY COMPANY: AEP- SWEPCO

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

Jim Sargent
Signature of Utility Company Representative
ENGINEER I
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 9-8-06UTILITY COMPANY: Cox COMMUNICATIONSREQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Marham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

[Signature]
Signature of Utility Company RepresentativePROJECT COORDINATOR
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 9-12-06

UTILITY COMPANY: AT&T

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained. (*State the location, dimensions, and purpose below.*)

ACCEPTABLE EASEMENTS ARE GRANTED AND DEVELOPER IS
TO PAY FOR ANY RELOCATION OF EXISTING FACILITIES
WITHIN THE RIGHT OF WAY TO BE VACATED SHOULD
THIS BECOME NECESSARY

Susan K. Clouse
Signature of Utility Company Representative

ENGINEER - OSP DESIGN
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 9-12-06

UTILITY COMPANY: ARKANSAS WESTERN GAS

REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following right-of-way, described as follows:

General location / Address: West end of Markham Road, west of Sang Avenue
(Legal description and sketch attached)

UTILITY COMPANY COMMENTS:

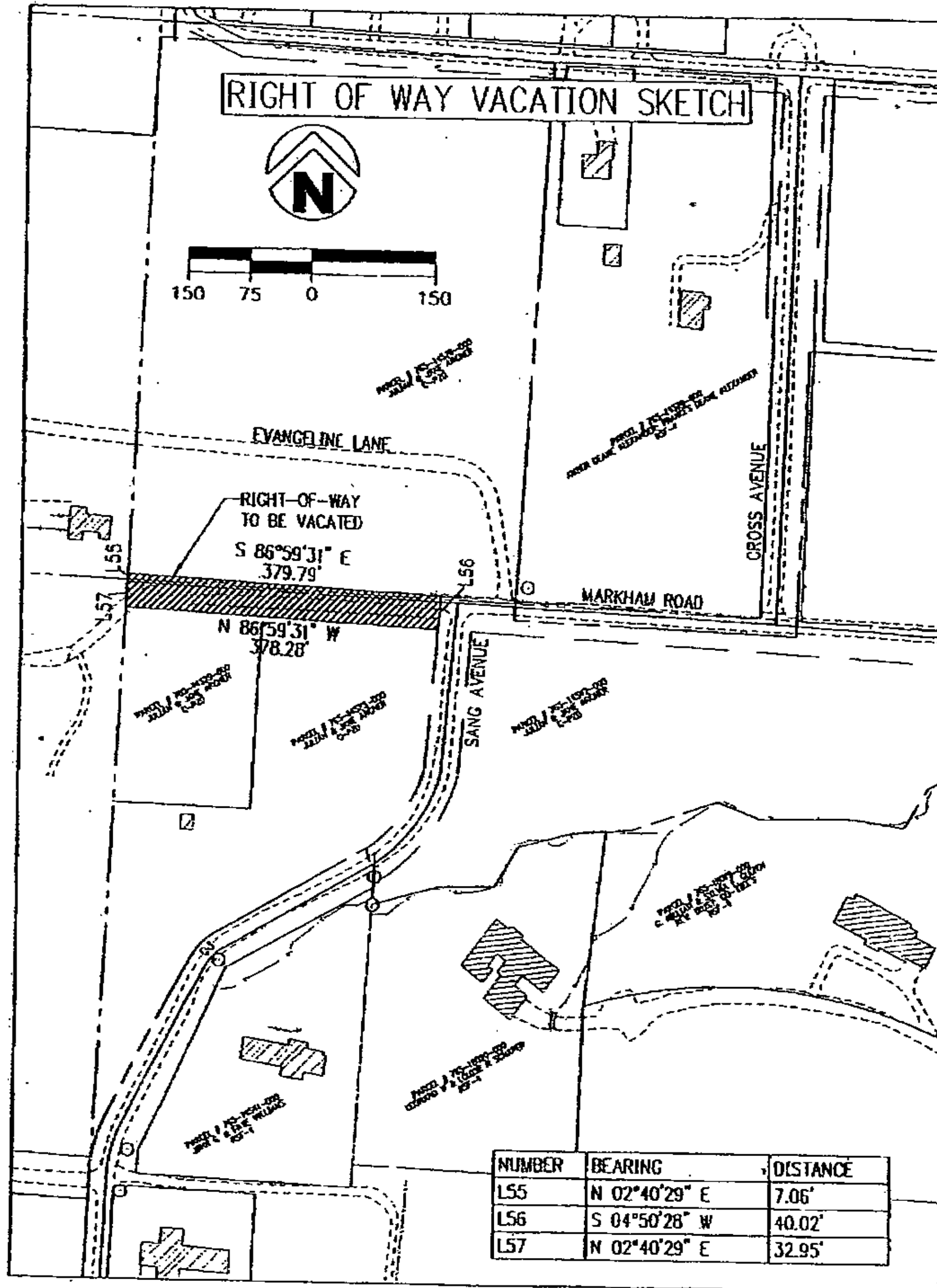
- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

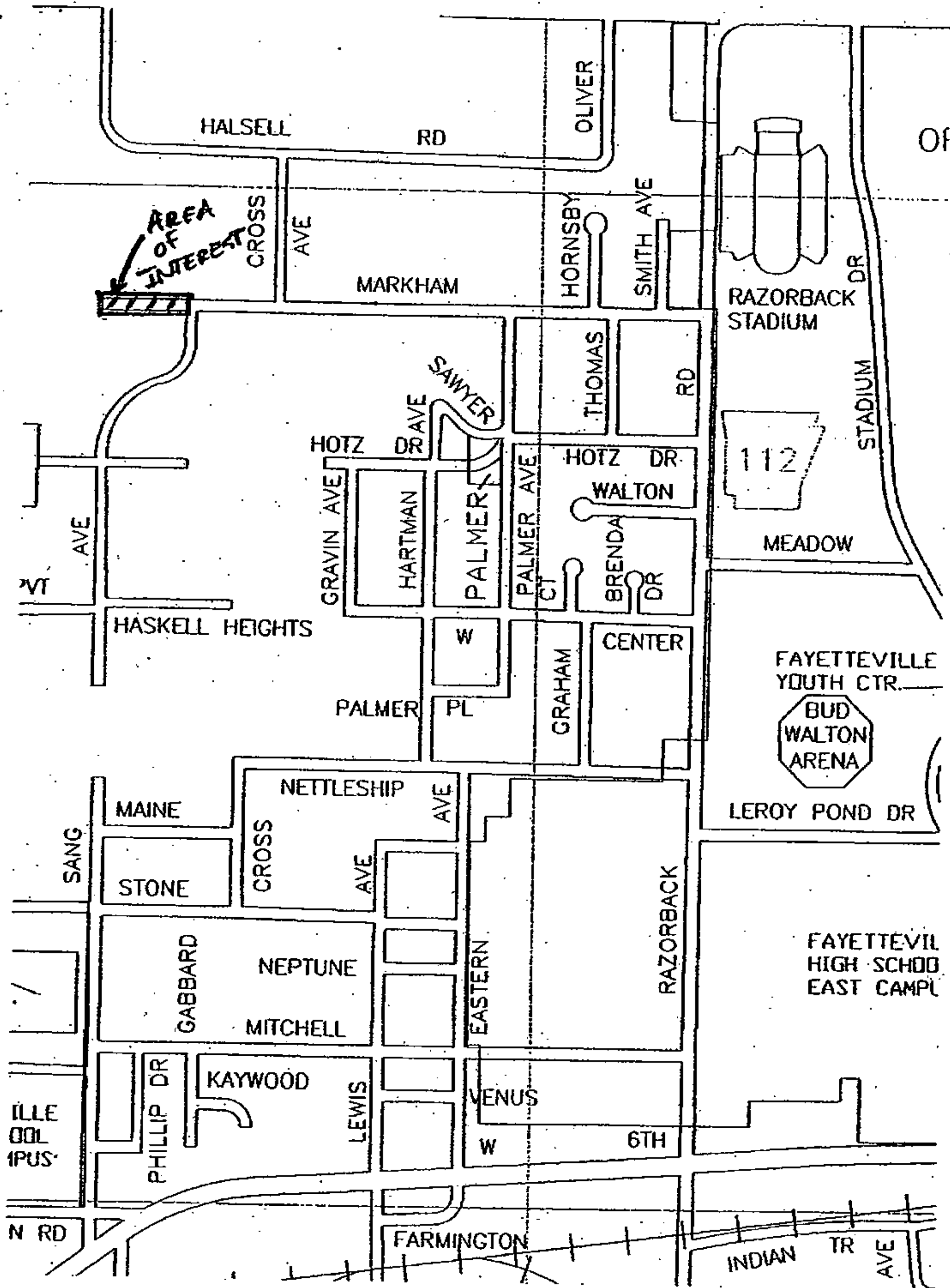


Signature of Utility Company Representative

NW REGIONAL MANAGER

Title





BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Julian & Jane Archer hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to Use Unit 1: City Wide Uses by Right, Use Unit 3: Public Protection & Utility Facilities, Use Unit 8: Limited to only single homes, no manufactured homes or trailers shall be allowed to be established on the property.
2. Other restrictions including number and type of structures upon the property are limited to Use Unit 7: Limited to only animal farms for show, breeding, training & farms with livestock + recreational use as a riding stable. No commercial concentrated animal feeding operations shall be established on the property.
3. Specific activities will not be allowed upon petitioner's property include Use Unit 6: Agriculture would not be allowed as part of this request.
4. (Any other terms or conditions) _____

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I _____, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

Julian Archer

Jane Archer
Printed Name

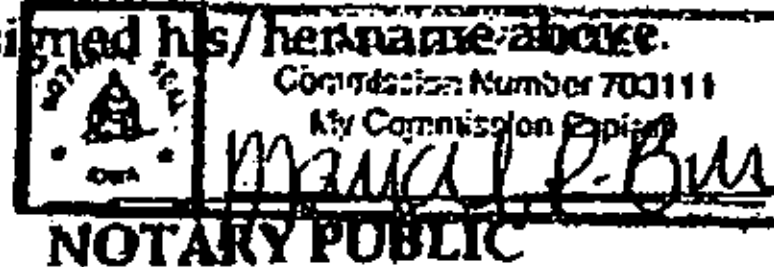
① April 29, '02
Date 2115 Warham
Fayetteville, AR 72701.
② 402-29th Street
Address Los Moches, La. 50312

Julian Archer
Jane Archer
Signature

NOTARY OATH

STATE OF ARKANSAS |
COUNTY OF WASHINGTON |

And now on this the 29th day of April, 2002, appeared before me, Julian and Jane Archer and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.



My Commission Expires:
MAY 01, 2003

Building Safety - Structure at 2255 Markham, Fayetteville

Page 1

From: "James L. Burke" <jlb@jlb.net>
To: building_safety@ci.fayetteville.ar.us>
Date: Tue, Sep 30, 2003 4:10 PM
Subject: Structure at 2255 Markham, Fayetteville

Dear Sirs:

I was employed to check this structure for a future wedding reception party of 300 people. I noticed a Permit Box at the site.

I quickly checked some aspects of the mezzanine floor capacity. The single 1/2" diameter bolt connecting the floor girder beams to the timber columns has a capacity of less than a residential (sleeping area) floor load. The bracing in this structure consists of open-link chain (I've never seen this before). The structure is very tall. I have concerns with the adequacy of the wind bracing system.

I have informed my Client to not have their party in this structure.

I highly recommend that the City thoroughly check this structure based on the intended use of the building.

Based on what I observed during my 45 minutes at the site, and based on the responsibilities of my engineering license, I feel I must inform you of this situation.

Sincerely,

James L. Burke, PE
STRUCTURAL ENGINEERING
479-582-4388

10/22/03 Called Mr Archer this morning to ask about
(CFO has Final inspection). He said still working on Plans & he will call for final when finished.

I read this mail to Mr Archer. He says he didn't know
it would be 300 people and it wasn't until now. I reviewed
the application with him and it's use. Also that it would be
a ~~HAZARD~~ (HAZARD) and a violation to use this as any other than a
Horse barn - SFR and if he wanted other use he should make
application.

He thanked me for the call

SJB

FAYETTEVILLE

The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

C. 5
Easement Vacation for Archer
(VAC 06-2289) Appeal
Page 43 of 98

VIOLATION NOTICE

RE: OFFICIAL NOTICE OF A CITY ORDINANCE

TO: Julian Archer
2115 W Markham Rd.
Fayetteville, AR 72701

The undersigned, being an employee of the City of Fayetteville, Washington County, Arkansas, upon his oath disposes and says that on [REDACTED] at 2255 W Markham Rd. conditions, as set out below, exist which are contrary to the current City regulations such as:

Code Violation:	Description:
§ 110 of the Building Code	Occupancy without a Certificate of Occupancy. Current approval is for a residential barn. Structure is being used as Assembly Occupancy.

The Above Violations may be corrected in the following manner:

Obtain permits to alter the space to meet the code requirements for use as an Assembly Occupancy.

NOTE: Penalties may be up to \$250 per day (\$153.10) and other penalties may apply. An appeal may be requested. (\$153.09)

You are hereby notified, as provided in §153.04 of the City of Fayetteville Code of Ordinances, that the above described violation(s) exist(s) and must be corrected. Should said violation continue to exist on or after October 15th, 2005 the City of Fayetteville will proceed with further lawful action.

Verification of timely correction may be made contacting the Building Safety Office, 113 W. Mountain, Fayetteville, AR, 72701 or by calling 479-575-8233,


Steve Cattaneo, Building Safety Director

[REDACTED]



The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

September 9, 2005

Steve Cattaneo, MCP
Building Safety Director
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Julian Archer
2115 Markham Rd.
Fayetteville, AR 72701

Mr. Archer:

Our office has been notified that the Chancellors Reception will be held tonight in your barn. As you may recall, this structure was constructed and approved for use as a private agricultural building (barn) and was not intended to be used for assembly purposes.

Our primary concern is for the safety of those attending this function. For their safety, please do not allow the use of the balcony areas since they were not designed for this use and may collapse under load.

We will be in contact with you concerning this matter.

Thank you,

A handwritten signature in black ink, appearing to read "Steve Cattaneo".

Steve Cattaneo

City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-6318

C. 5
Easement Vacation for Archer
Service Request Detail
Page 45 of 98

Report Date 09/14/2005 05:23 PM

Submitted By

Page 1

Service # 28172
Problem BD006 NO CERTIFICATE OF OCCUPANCY
Address 2255 W MARKHAM RD
O
FAYETTEVILLE AR 72701-

Call Date 09/09/2005 17:17

Taken By 816 CATTANEO, STEVEN M.

Source CALLIN

☐ Customer Contact Requested

Service Request Progress

Priority

Responsibility BD BUILDING SAFETY

Project

Budget #

Duration of Call 00:00

of Calls 1

Schedule (inspected)

Inspect Inspected from 09/09/2005 05:23 PM to 09/09/2005 05:23 PM by 816 STEVEN CATTANEO

Resolve Unresolved with no due date.

Location

Area

District

Parcel

Template Type

Asset

Sub-Area

Map #

A/P #

Caller Information

Name

First, MI

Address

Title

City

State/Province

Country

E-Mail

Day Phone

Call Date 09/09/2005 17:17

Comments

ZIP/PC

☐ Foreign

Reference #

Evening Phone

Taken By 816

Reports that the U OF A is hosting Chanceflors Reception in barn.

There are no additional callers for this service number

Comments

Verified with U of A that they were having reception at Mr. Archers Barn. Faxed a copy of a fax I had recieved from a concerned engineer about the structural integrity of the building to Marsha Overby at U of A. Also tried to call (no success) Mr. Archer. I faxed a letter to Ms. Overby and to Mr. Archer requesting that, for the safety of the attendees, that persons not be allowed on the balconies. 9/9/05

9/13/5 Spoke with Mr. Archer, he says that they didn't allow persons on the balconies.

9/14/5 Mailed Violation notice to Mr. Archer at both his Fayetteville and Des Moines addresses..SMC

Employee ID Scheduled Start Scheduled End Work Description
resources scheduled.

Equipment ID Scheduled Start Scheduled End Work Description
resources scheduled.

WEDDINGS



Lowell-Favorite

Taylor L. Favorite and Benjamin J. Lowell, both of Oklahoma City, Okla., were married at 6 p.m. May 7, 2005, at the ~~Pratt Place Barn~~ in Fayetteville. Lance Humphreys officiated.

The bride is the daughter of Julie and Randy Favorite of Rogers.

The groom is the son of Becky and Steve Lowell of Oklahoma City.

The bride wore a strapless sheath gown of imported ivory mikado, with a banded high waist and fitted bodice. Covered buttons accented the back and ended at a bow that topped the trumpet skirt that flowed to a chapel-length train.

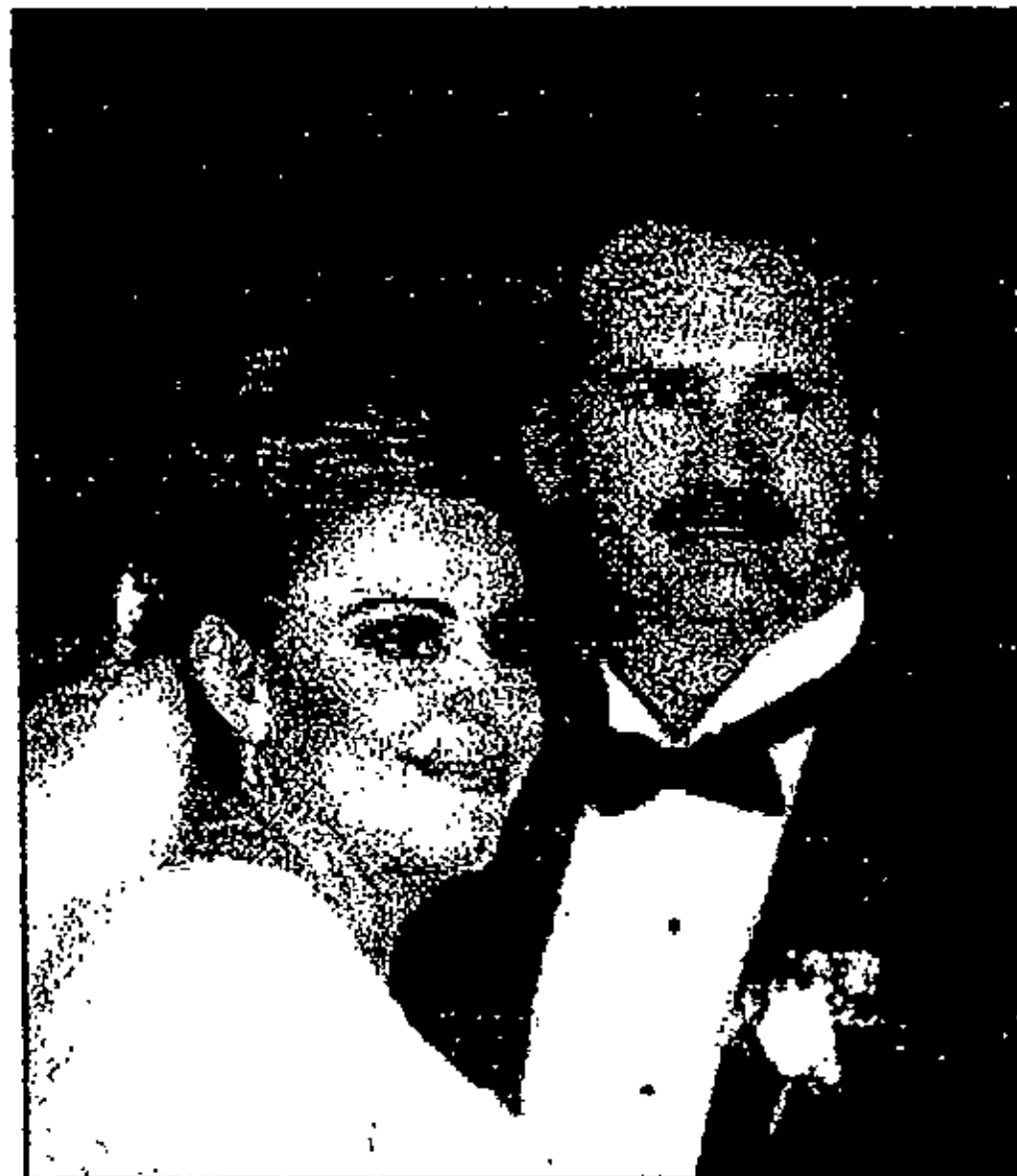
Sydney Favorite of Lowell served her sister as maid of honor. Bridesmaids were Olivia Bunch of Waburn, Mass., and Whitney Fox, Andi Garrison and Mindy Shaw, all of Fayetteville.

Brian Smith of Dallas, Texas, the groom's brother-in-law, and Kirt Garnett of Oklahoma City served as best men. Groomsmen were Sheriff Shalaby of New York, NY., Ryan McMasters and Ryan Coe, both of Oklahoma City.

Ethan Favorite served as ring bearer.

A reception followed the ceremony.

After a wedding trip to Cabo San Lucas, Mexico, the couple lives in Oklahoma City.



Lindstrom-Morales

Irma Dolores Morales and Michael E. Lindstrom, both of Fayetteville, were married at 7:30 p.m. June 11, 2005, at Durango, Mexico. The Rev. Salvador Medina officiated.

The bride is the daughter of Basilisa Favela and Jose Antonio Morales, both of Durango.

The groom is the son of Murray Lindstrom and Irma Buckbee, both of Sidney, NY. He is the grandson of the late Raymond Page and the late Marjorie Page.

A reception was held at the Hotel Gobernador in Durango.

The couple lives in Fayetteville. The bride is employed by Tyson Foods in Fayetteville, and the groom is a production supervisor for Tyson Foods in Fayetteville.

SEE
Arkansas
FIRST!

See for yourself...
A world of fun
is waiting for
you!

For a free Vacation
Planning Kit,
visit arkansas.com
or call 1-800-NATURAL.

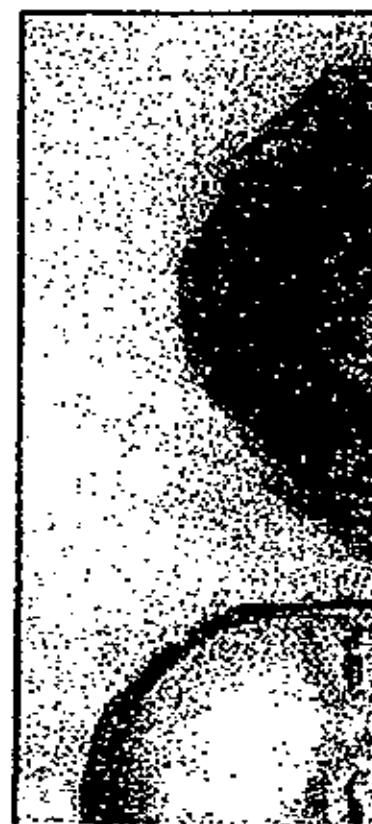
ENGAGEMENTS



Luttrell 50th

Mr. and Mrs. Harvey D. Luttrell of Fayetteville are celebrating their 50th wedding anniversary with a reception from 2 to 4 p.m. July 10, 2005, at Wiggins Memorial United Methodist Church in Fayetteville. Luttrell and Mildred M. Beauchamp were married July 8, 1955, by the Rev. Hart in Rogers.

They have three children, Ronald Luttrell, Robert Luttrell and wife, Liona, and Sharon Luttrell and husband, Billy Caldwell, all of Fayetteville. They have six grandchildren and two great-grandchildren.



Luttrell 50th

Mr. and Mrs. Harvey D. Luttrell of Fayetteville are celebrating their 50th wedding anniversary with a reception from 2 to 4 p.m. July 10, 2005, at Wiggins Memorial United Methodist Church in Fayetteville. Luttrell and Mildred M. Beauchamp were married July 8, 1955, by the Rev. Hart in Rogers.

They have three children, Ronald Luttrell, Robert Luttrell and wife, Liona, and Sharon Luttrell and husband, Billy Caldwell, all of Fayetteville. They have six grandchildren and two great-grandchildren.



McDonald-Ramsey

Amanda Louise McDonald and Alan Russell Ramsey, both of Springdale, plan to marry at 7 p.m. Aug. 6, 2005, at First Presbyterian Church in Springdale.

McDonald is the daughter of Robin and Kevin McDonald of Springdale. She is the granddaughter of Doylene and Robert Fuqua of Bentonville and Shirley and Donnie McDonald of Lowell.

She is an event supervisor for The Event Group in Fayetteville. She is a student at the University of Arkansas in Fayetteville, studying hospitality and restaurant management, and is a 2004 graduate of Springdale High School.

Ramsey is the son of Shanna and Ricky Crum of Springdale. He is the grandson of Welta and Bill Bertschy of Springdale and Valene and Harold Ramsey of Prairie Grove. He is employed by Crum & Marshall

Montfort-McAfee

**Jamie Marie Montfort of Denton, 7
Travis Scott McAfee of Springdale pl
at 7 p.m. July 30, 2005, at Immaculate
Conception Catholic Church in Denton**

Montfort is the daughter of Cathy Montfort of Denton. She is the granddaughter of Rosemary Wilson of Richardson, Texas and late Jim Montfort.

In August, she begins work as an accountant with Tyson Foods in Spru. Is a 2005 graduate of St. Gregory Uni- Shawnee, Okla., with a bachelor's deg- accounting, and a 2001 graduate of Li School in Denton.

McAfee is the son of Sherry and Scott of Springdale. He is the grandson of (McAfee of Maui, Hawaii, Wes McAfee City, Calif., Janis Hill of Cathedral City and the late Dearth Hill.

He is a youth ministry coordinator.

[2005 weddings](#) | [portfolio](#) | [info](#) | [contact](#) | [home](#)



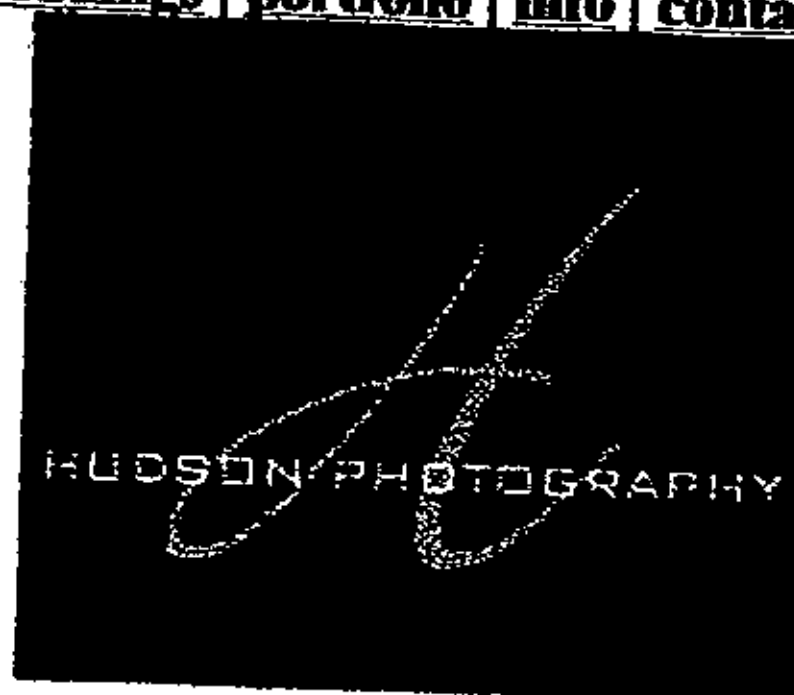
Melissa and Sam were married at the Pratt Place Barn
in Fayetteville, Arkansas on December 3, 2005.

A reception followed at the same location.
Cake was from Rick's Bakery.

Photography by Jason Hudson



[2006 weddings](#) | [portfolio](#) | [info](#) | [contact](#) | [home](#)



Leigh and Kevin were married on Saturday, February 11, 2006,
at the Pratt Place Dam in Fayetteville, Arkansas.

They had a great reception at the same location.



[2006 weddings](#) | [portfolio](#) | [info](#) | [contact](#) | [home](#)



Central United Methodist Church in Fayetteville, Arkansas, was the setting for Shelly and Jeff's wedding on Saturday, February 25, 2006.

A reception followed at the Pratt Place Barn.





Sunday, November 12, 2006 Weather: M/SUNNY 55 F

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Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Pardners raise sizzling sum for Rebuilding Together

— Cyd King

Posted on Sunday, August 27, 2006

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FAYETTEVILLE — A little

sweat never hurt anybody,

Dick Trammel said to a

panting crowd of 300 or so guests and volunteers at the Aug. 19 **Diamonds, Denim and Dice**, the first large-scale fundraiser for Rebuilding Together of Northwest Arkansas. "Don't worry about sweating. Cowboys sweat," Trammel said with a laugh. The party was held at Pratt Place Barn at Sassafras Hill, a rustic, but regal structure on a picturesque patch of land at the end of Markham Road. The barn was the perfect place for such a casual affair, even if it was surface-of-the-sun hot and humid to boot.

Guests entered through a white tent and joined a buffet line that included smoked ribs, chicken and pork, plus miscellaneous fare from participating restaurants and caterers, such as A Fare to Remember, Panera Bread and Susan's restaurant. Wine from Altus-based Post Familie Vineyard and beer were also served. Dinner music was by an acoustic duo, Flip and Kelly.

Once inside the barn, partygoers tried their hands at casino games including blackjack and roulette. At sunset, Trammel led a live auction that included a 14-karat white gold necklace with diamonds

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all the way around it. The piece, donated by Perry's Fine Jewelry and Gifts, went to Debbie Pianalto for \$ 5, 500. Pianalto also paid \$ 2, 000 for a Western playhouse donated by The Cabins at Big Springs. All told, the auction brought in nearly \$ 10, 000.

With the business of the evening over, guests spent the rest of the night dancing to the music of Tulsa's Mary Cogan Band.

Organizer Donna Hamilton with Image Builders said the party was expected to net around \$ 50, 000 — a healthy sum for a first-time fundraiser. Diamonds, Denim and Dice Chairman Lynn Markel had said the purpose of the event was to create awareness for Rebuilding Together, whose programs help low-income disabled and elderly homeowners with repairs they can't afford. Diamonds, Denim and Dice Aug. 19 WHAT: A fundraiser for Rebuilding Together of Northwest Arkansas WHERE: Pratt Place Barn on Sassafras Hill, Fayetteville THE LOOT: About \$ 50, 000 CHAIRMAN: Lynn Markel

FEEDBACK:

Something to say about this topic? Submit a Letter to the Editor online

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Contact Us

CITY OF FAYETTEVILLE
BUILDING SAFETY DIVISION
575-8233 FAX: 575-8316

C. 5
Easement Vacation for Archer
(VAC 06-2289) Appeal
Page 53 of 98

CERTIFICATE OF OCCUPANCY

A/P #: 21462

AUDITORIUM

DATE ISSUED: 8/1/06

ADDRESS: 2255 W MARKHAM RD, FAYETTEVILLE, AR 72701-

APPLICANT:

ARCHER JULIAN
2115 MARKHAM ROAD
FAYETTEVILLE, AR 72701
(479)582-5443 x

OWNER:

SAME

USE GROUP *A-3*

AREA *3960 ground + 2160 Balcony = 6120 SF*

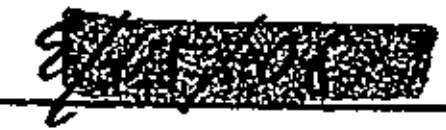
CONST TYPE *VB*

DESCRIPTION OF WORK:

install second set of stairs, raise guardrail to 42", install handrails, *SPRINKLER system*

This Certificate of Occupancy is issued pursuant to the requirements of the Arkansas Fire Prevention Code as amended by City Ordinances. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other Ordinances of the jurisdiction.

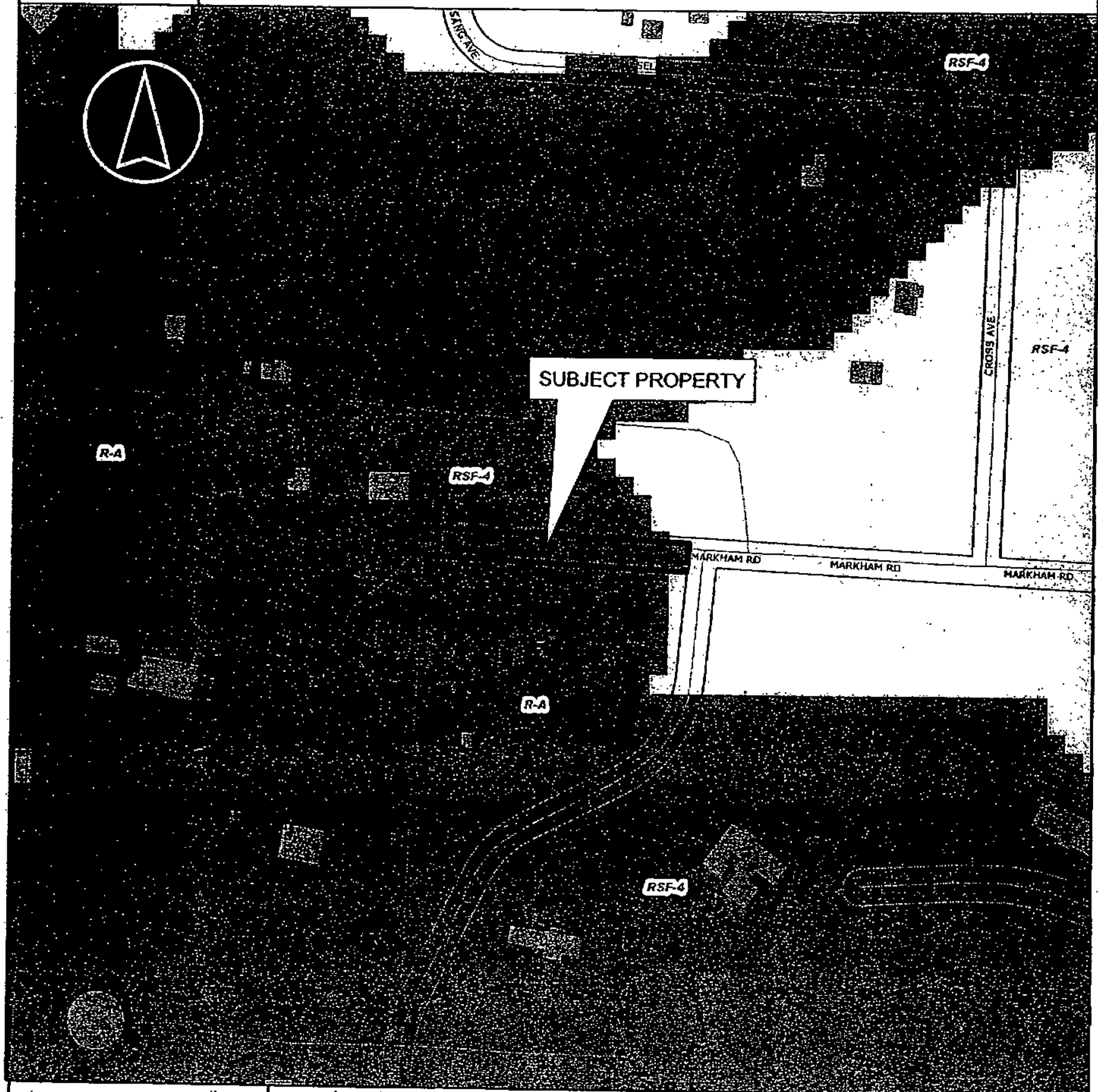

APPROVED BY THE BUILDING OFFICIAL


DATE

VAC06-2289

Close Up View

ARCHER



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- VAC06-2289
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 75 150 300 450 600 Feet

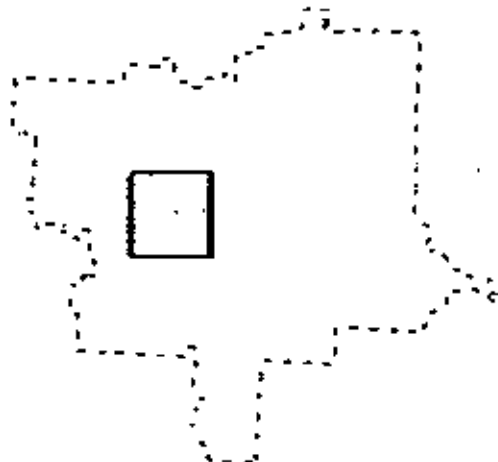
VAC06-2289

One Mile View

ARCHER



Overview



Legend

Subject Property

VAC06-2289

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

VAC 06-2289: VACATION (ARCHER, 442): SUBMITTED BY CRAFTON TULL & ASSOCIATES FOR PROPERTY LOCATED AT THE W END OF MARKHAM, W OF SANG. THE PROPERTY IS ZONED C-PZD, COMMERCIAL PLANNED ZONING DISTRICT. THE REQUEST IS TO VACATE A PORTION OF A RIGHT-OF-WAY ON THE SUBJECT PROPERTY.

Garner: This item was heard at the October 23 Planning Commission meeting and it was tabled at that meeting to address concerns of the Planning Commission with traffic and pedestrian safety issues related to the private drive. The subject vacation area on Markham Road becoming a one way driveway unto the property which would require Evangeline Lane to become the primary exit. I won't go over this application in detail. Since that Planning Commission meeting, we have talked to the Solid Waste Division and they have discussed with us that they could use Evangeline Lane to exit the property after collecting trash. A condition of approval has been added per the Solid Waste Division regarding the use of that private drive. I did talk to the Fire Department and they generally indicated they thought in an event of an emergency, they would use the one way drive to come in. They would probably use it to exit as well, as opposed to going on the gravel drive. The applicant has submitted a letter and that was included, I just placed it in your seats before the meeting. They indicated that from the uses that they would access their property, which is the catering company or Rental Company would also use Evangeline Lane and would not have to exit against the flow of one way traffic. Those are the main issues, I think were discussed and those are the updates we have. I would be happy to answer any questions you might have.

Anthes: Thank you Mr. Garner, would any member of the public would like discuss this vacation request 06-229 for Archer? Mrs. Farris.

Farris: My name is Felicia Farris, I reside at 2215 Halsell Heights, just off Sang near the south end. I would like to speak tonight about the safety issues of this one way street as well as the maintenance issues of the shallow ditches. And the promises involved with both of these, but the one way street being strictly a one way street and the issues of the shallow ditches being maintained if they are not in the system of culverts when it comes and meets Sang and Markham and not functioning properly. I believe as we discussed in the last meeting, that we already have a problem with this drainage system not working well. Not only is this one way road a risk of life and limb, if a person casually cheats to use this street the wrong way, such as an employee. As reminders, I understand the Archers do not reside the majority of the time in Fayetteville to police closely the usage of this one way street usage. Be it traffic from one of these long rainy weeks that

devastates this gravel road doesn't bode well for any of these cars that would want to use to gravel road, especially there high priced car. But one of these events puts a lot of pressure on the event staff for these cars, who maybe want to use the street after they leave an event. Especially, after the gravel road would be damaged after some of these rains, especially this fall. But, most realistically it is likely that we would see a catering truck as they are rushing back and forth to try and get a party ready. Not wanting to go the long way around on these gravel roads but wanting to cut quickly down the one way against the one way street back down the hill to go for another quick trip to wherever they need to bring back stuff again back up the hill. As neighbors becoming accustomed to freely turning left with no hesitation of oncoming traffic, due to the one way street posing no threat, in other words, no oncoming traffic from down hill that's suddenly, unrepentantly vehicle, large truck would be disastrous for any one of us living who live on that hill. That's the fear of this promise that it's going to be one way and no traffic ever coming down the hill is the fear that this promise won't be kept. Secondly, the leaves and small limbs, large limbs clogging this storm system. If a person or persons in charge to keep this ditch does a haphazard job, it clogs the system. Promises of this keeping this ditch clean, I fear is not going to happen. By far, in light of the safety issues, the maintenance issues, the Commission's first proposal of curbing the storm drain the full length without the shallow ditch system would seem best. But most importantly, leaving out the one way street with private maintenance with this promises that may not be maintained, I fear, I think it would be best to just leave out the one way issues would service best these neighbors. Evidence of the potentials of these promises not being kept can be seen in the packet that I've handed out to you. The first one that we will start with is the Bill of Assurance that was set up for this barn.

Anthes: Mrs. Farris, I need you to directly address this development proposal or this vacation proposal, if you would.

Farris: Just as one or two speeding tickets don't show a poor driving record several of them show reckless driving history. Just as one or two promises don't necessarily show a poor history of ability to keep promises, several of them show someone's ability incredibility of ability to keep promises.

Anthes: We do not talk about applicants.

Farris: It just shows that the probability or lack of safety issues for us as neighbors. I think you can see here the ability for someone to keep promises. There's an issue here of a violation notice presented to Mr. Archer. It's a whole

series of several parties that went on in that barn after the violation notice was given. This shows here several parties of weddings.

Anthes: I really need to stop your discussion on that matter and redirect you to the vacation request.

Farris: I hope you look closely to the issue, the fact that this is safety issue and that the one way street needs to be strictly enforced. It's going to be a grey area that's not going to be policed there. I think you can see that there are issues here and there's not going to be someone to police it. It's going to be someone that is going to have to over look it and that person needs to be in the situation that's going to be credible. The issues, as far as the ditches, that is as well going to be a situation where the issue is going to have to have credibility in maintaining it. This one last issue, as far as the lighting, when it was discussed before, we talked about the need for it. I would like to make a clarification that the area that's not going to be resurfaced in the ditches that are going to remain open. Just east of Cross, that we may look also, make sure that area maybe addressed because it remains very unsafe and it's a very dark area. Thank you very much for your time.

Anthes: Thank you Mrs. Farris. Would any other member of the public like to address this vacation request for Archer? Seeing none, I will close the public comment section, would the applicant give their presentation.

Archer: Yes, Julian Archer 2115 West Markham. I want to thank you first of all, in taking the time to review this once again. I hope all of you received the letter and plus the attachments that I have sent to you by regular mail, and if you don't have a copy, I believe Jeremy or Andrew have copies already. So, you already have those in hand. Answering all, I hope, the concerns and questions that you had at the previous meeting. There is very little that I can add to what you have in hand. The only thing I can think of, a point that was not emphasized in the letter and to just return to this point. Granting this vacation request will not remove the obligation on us to replace the culvert that goes under Sang or to replace the culvert that goes under Evangeline. That's in addition to replacing the culvert that goes under Cross. So, the drainage question, which was the question from the beginning, that is still going to be address according the size that is prescribed by the Engineer. The mouth of Evangeline Lane would have to be paved back to required distance, which I think is 25 feet. It will have to have a radius curb, standard City radius curb opening up 25 radius curb as well. That same radius curb will also be put on Sang Avenue. So, there are a number of things that were in the original PZD approval that would still be there if you approve this vacation. The ditch on either side of Markham,

west from Sang, thanks to the plan that was presented to us, the illustration, what's done with the Parks service is the kind of fill that we plan to use. It was the one that was originally proposed to use. But, what you do not accept, but that is what we plan to carry through with. We will also, of course, have to widen the road to the standard 20 feet. We understand that obligation goes with it as well. So, those are the only remarks that I have to make.

Anthes: Thank you Mr. Archer.

Archer: Thank you.

Motion:

Anthes: Commissioners? Well, as we know, this is the PZD, this is a portion of the PZD that went to City Council first. They sent the large scale development back to us with specific reasoning to work through the street and access, as far as I understand it. Engineering Staff, Planning Staff, the applicant, many members of the public, and this Commission have spent hours, literary hours, working through this section on this particular piece of roadway. This vacation and the petition that goes along with it would alter that section that was a very difficult compromise to reach and one we spent, invested tremendous amount of time and I for one, am not willing to undo those hours of work and for that reason I will make a motion, that we will deny vacation request VAC 06-2289.

Myres: Madam Chair

Anthes: Commissioner Myres

Ostner: I'll second it

Anthes: Ok

Ostner: Excuse me.

Myres: I have to go along with both of you, assuming you agree, for exactly the reasons that you stated. We spend a lot of time on a lot of projects, but this one seems to be inordinately difficult in terms with reasonable compromise and I, too, am reluctant to set aside that time and effort, which I think was well done. So, I will also vote to deny.

Anthes: Thank you Commissioner Myres. We have a motion to deny by Commissioner Anthers, second by Commissioner Ostner, is there further discussion? Will you call the role.

Roll Call: The VAC 06-2289 for Archer was denied by a vote of 7-1-0.

DRAFT

C.8. New Business

Easement Vacation
for Archer (VAC 06-2289)
Appeal

C. 5

Easement Vacation for Archer

(VAC 06-2289) Appeal

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Markham Hill
Sang Avenue/Haskell Heights Neighborhood
Fayetteville, AR 72701

December 5, 2006

Fayetteville City Council
113 West Mountain Street
Fayetteville, AR 72701

RE: Easement Vacation for Archer (VAC 06-2289)

Dear Fayetteville City Council,

As residents of Markham Hill, we have concerns about the proposed vacation of the West end of Markham and it becoming a one-way street. In doing so we feel this would lead to both a safety hazard and perpetuate the existing water run-off issue that currently troubles our neighborhood.

SAFETY

The proposal put forth by the Archers takes the traffic one-way—westward—up the hill. Vehicles, including heavy delivery and catering trucks servicing the bed and breakfast and event barn would have to circle around on a sloped gravel road to return to Markham. Our concern is the likelihood, even if rare, of a vehicle especially a large truck using the one-way section unexpectedly the wrong way. Most fearful is when any one person may become accustomed to freely turning left onto Sang off Markham or vice versa expecting NO on coming traffic from the steep hill to the West. We think one can see the potential for a collision. If this passes, this will be a private, secluded section of road making it difficult to be enforced as a one-way street. Catering and event trucks hurrying to make return trips would certainly want to take a more desirable route down the one-way street the WRONG-WAY. Either a fully paved route or a two-way street as proposed by the Planning Commission would hopefully instill more compliance and/or safety.

MAINTENANCE

As residents of this neighborhood, we are all too familiar with the habitual drainage problems at the Southwest corner of Sang and Markham. There is such a large volume of water coupled with tree debris (leaves and limbs) that it prevents the culvert pipe from functioning properly. The newly paved road is eroding and the culvert pipe is evident from so much water that rushes over the road where the two drainage ditches from Sang

and Markham converge. This is a chronic problem due to culvert pipe becoming plugged with debris.

This proposed open ditch system is dependent upon maintenance in order to keep this corner open-storm-drain functioning. Our fear is will this new system be any better than what we have? And if it proves not to function adequately—who will fix it?

We hope the Council can see that this vacation would too closely impact the neighborhood and any visitors. The one-way street has the potential for abuse with its severe consequences. The ditch system and open-storm-drain at the corner closely resembles the existing system. This is the opportune time to bring the street up to city standards as the Planning Commission decided. Let's not impact those of us who live on Sang with an abbreviated version of a less than standard, cheaper and potentially hazardous street design.

Respectfully,

David Campbell Johnson
Susan M. Johnson

Markham Hill
Sang Avenue/Haskell Heights Home Owners

[Signature]

John G. Williams
Jane M. Stalo
[Signature]
Joyce Feldman
Lynn F. Wade
Elaine Spade

2215 Haskell Heights
Fayetteville, AR 72701

November 27, 2006

Fayetteville City Council
113 West Mountain Street
Fayetteville, AR 72701

RE: Easement Vacation for Archer (VAC 06-2289)

Dear Fayetteville City Council,

As a resident of Markham Hill, I have concerns about the proposed vacation of the West end of Markham and it becoming a one-way street. In doing so I feel this would lead to both a safety hazard and perpetuate the existing water run-off issue that currently troubles our neighborhood.

SAFETY

The proposal put forth by the Archers takes the traffic one-way—westward—up the hill. Vehicles, including heavy delivery and catering trucks servicing the bed and breakfast and event barn would have to circle around on a sloped gravel road to return to Markham. My concern is the likelihood, even if rare, of a vehicle especially a large truck using the one-way section unexpectedly the wrong way. Most fearful is when I or my neighbors become accustomed to freely turning left onto Sang off Markham or vice versa expecting NO on coming traffic from the steep hill to the West. I think one can see the potential for a collision. If this passes, this will be a private, secluded section of road making it difficult to be enforced as a one-way street. Catering and event trucks hurrying to make return trips would certainly want to take a more desirable route down the one-way street the WRONG-WAY. Either a fully paved route or a two-way street as proposed by the planning commission would hopefully instill more compliance and/or safety.

MAINTENANCE

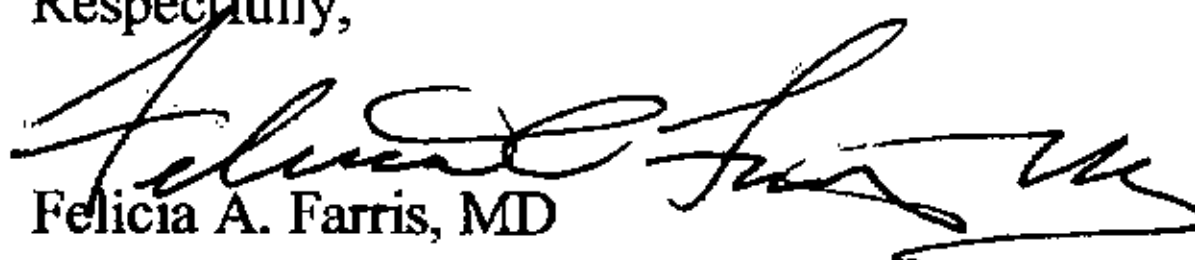
As a resident of this neighborhood for eight plus years, I am all too familiar with habitual drainage problem at the Southwest corner of Sang and Markham. There is such a large volume of water coupled with tree debris (leaves and limbs) that it prevents the culvert pipe from functioning properly. The newly paved road is eroding and the culvert pipe is evident from so much water that rushes over the road where the two drainage ditches from Sang and Markham converge. This is a chronic problem due to culvert pipe becoming plugged with debris.

This proposed open ditch system is dependent upon promises of private citizen maintenance in order to keep this corner open-storm-drain functioning. My fear as well as my neighbors is will this new system be any better than what we have? And if it proves not to function adequately—who will fix it?

I hope the Council can see that this vacation would too closely impact the neighborhood and any visitors. The one-way street has the potential for abuse with severe consequences. The ditch system and open-storm-drain at the corner closely resembles the existing system. A strong aspect to its proper functioning is the debris removal from the private section before it flows into the public section.

To have confidence the one-way street will be used without imposing a hazard and the proposed ditches will not negatively affect the drainage system in difficult in light of the material found in the enclosed packet. Therefore in order to limit the risk and impact to the neighborhood, the Planning Commission's first proposal takes into account these concerns.

Respectfully,


Felicia A. Farris, MD

OUTLINE OF ATTACHMENTS REGARDING PRATT PLACE PROJECT

APRIL 29, 2002--- BILL OF ASSURANCE

Issued to Pratt Place Barn for agricultural use only---limited only to use of animals.

OCTOBER 22, 2003

Based on information received by Steve Cattaneo, a verbal warning of code violations and public hazards issued to Julian Archer regarding the safety of Pratt Place Barn for public use at this time.

SEPTEMBER 9, 2005---CODE VIOLATION NOTICE-- Building Safety Division

DOCUMENTABLE EVENTS-- PRATT PLACE BARN

September 27, 2003	Foster-Brown Wedding
June 12, 2004	Slaughter-Waugh Wedding
July 3, 2005	Lowell-Favorite Wedding
May 12, 2005	Clark-Mahaffey Wedding
May 28, 2005	Hart-Yazwinski Wedding
January 11, 2005	Addison- Seifritz Wedding (*Twin Cedars)
June 25, 2005	Murray -Rutledge Wedding (*Twin Cedars)
September 22, 2005	Chancellor's Dinner
October 29, 2005	Noland-Sutherland Wedding
December 3, 2005	Melissa and Sam Wedding
December 30, 2005	Owen-Bedford Wedding (*Twin Cedars/Pratt Place)
December 31, 2005	Trumbo-Cangelosi Wedding
February 11, 2006	Leigh-Kevin Wedding
February 25, 2006	Shelly and Jeff Wedding
May 27, 2006	Wray-Stephens Wedding
August 19, 2006	Diamonds, Denim, Dice
September 22, 2006	When Pigs Fly
October 28, 2006	James-Carnahan Wedding

SEPTEMBER 15, 2006--- CERTIFICATE OF OCCUPANY ---Approved

*****MULTIPLE NAME USAGE**

Pratt Place Barn aka Twin Cedars; Archer Barn; Twin Cedars at Pratt Place throughout various newspaper articles. See Attachments

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Julian & Jane Archer, hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to Use Unit 1: City Wide Uses by Right, Use Unit 3: Public Protection & Utility Facilities, Use Unit 8: Limited to only single homes, no manufactured homes or trailers parked shall be allowed to be established on the property.
2. Other restrictions including number and type of structures upon the property are limited to Use Unit 7: Limited to only animal farms for show, breeding & training & farms with livestock & recreational use as a riding stable. No commercial concentrated animal feeding operations shall be established on the property.
3. Specific activities will not be allowed upon petitioner's property include Use Unit 6: Agriculture would not be allowed as part of this request.
4. (Any other terms or conditions) _____

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, _____, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

Julian Archer

Jane Archer
Printed Name

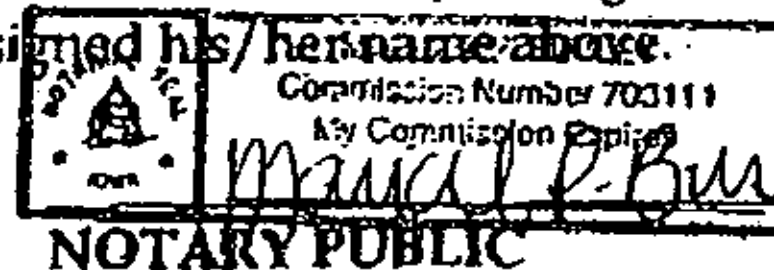
① Date April 29, 02
2115 Markham
Fayetteville, AR 72701.
② 402-29th Street
Address
Los Moches, Pa. 50312

Julian Archer
Jane Archer
Signature

NOTARY OATH

STATE OF ARKANSAS
COUNTY OF WASHINGTON

And now on this the 29 day of April, 2002, appeared before me, Julian and Jane Archer and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.



My Commission Expires:
MAY 01, 2003

Building Safety - Structure at 2255 Markham, Fayetteville

Page 1 of 98

From: "James L. Burke" <jlb@ipa.net>
To: <building_safety@ci.fayetteville.ar.us>
Date: Tue, Sep 30, 2003 4:10 PM
Subject: Structure at 2255 Markham, Fayetteville

Dear Sirs:

I was employed to check this structure for a future wedding reception party of 300 people. I noticed a Permit Box at the site.

I quickly checked some aspects of the mezzanine floor capacity. The single 1/2" diameter bolt connecting the floor girder beams to the timber columns has a capacity of less than a residential (sleeping area) floor load. The bracing in this structure consists of open-link chain (I've never seen this before). The structure is very tall. I have concerns with the adequacy of the wind bracing system.

I have informed my Client to not have their party in this structure.

I highly recommend that the City thoroughly check this structure based on the intended use of the building.

Based on what I observed during my 45 minutes at the site, and based on the responsibilities of my engineering license, I feel I must inform you of this situation.

Sincerely,

James L. Burke, PE
STRUCTURAL ENGINEERING
479-582-4366

10/22/03 Called MR ARCHER this morning to ask about
CFO has Final inspection. He said still working on Plansong &
he will call for final when finished.

I read this mail to MR Archer. He says he didn't know
it would be 300 people and it wasn't ^{intell} next day. I reviewed
the application with him and it's ^(USE) OK. Also that it would be
A ^{HAZARD} ~~HAZARD~~ AND A violation to use this as any other than a
Have down - SFR AND IF he wanted other use he should make
application.
He thanked me for the call

SLC

FAYETTEVILLE

The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

C. 5
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VIOLATION NOTICE

RE: OFFICIAL NOTICE OF A CITY ORDINANCE

TO: Julian Archer
2115 W Markham Rd.
Fayetteville, AR 72701

The undersigned, being an employee of the City of Fayetteville, Washington County, Arkansas, upon his oath disposes and says that on 9th day of September, 2005 February at 2255 W Markham Rd. conditions, as set out below, exist which are contrary to the current City regulations such as:

Code Violation:	Description:
§ 110 of the Building Code	Occupancy without a Certificate of Occupancy. Current approval is for a residential barn. Structure is being used as Assembly Occupancy.

The Above Violations may be corrected in the following manner:

Obtain permits to alter the space to meet the code requirements for use as an Assembly Occupancy.

NOTE: Penalties may be up to \$250 per day (§153.10) and other penalties may apply.
An appeal may be requested. (§153.09)

You are hereby notified, as provided in §153.04 of the City of Fayetteville Code of Ordinances, that the above described violation(s) exist(s) and must be corrected. Should said violation continue to exist on or after October 15th, 2005 the City of Fayetteville will proceed with further lawful action.

Verification of timely correction may be made contacting the Building Safety Office, 113 W. Mountain, Fayetteville, AR, 72701 or by calling 479-575-8233,


Steve Cattaneo, Building Safety Director

Date: September 14, 2005



The City of Fayetteville, Arkansas

BUILDING SAFETY DIVISION

September 9, 2005

Steve Cattaneo, MCP
Building Safety Director
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Julian Archer
2115 Markham Rd.
Fayetteville, AR 72701

Mr. Archer:

Our office has been notified that the Chancellors Reception will be held tonight in your barn. As you may recall, this structure was constructed and approved for use as a private agricultural building (barn) and was not intended to be used for assembly purposes.

Our primary concern is for the safety of those attending this function. For their safety, please do not allow the use of the balcony areas since they were not designed for this use and may collapse under load.

We will be in contact with you concerning this matter.

Thank you,

A handwritten signature in black ink, appearing to read "Steve Cattaneo", is written over a horizontal line.

Steve Cattaneo

113 West Mountain
Fayetteville, AR 72701
(479)521-7700 Fax (479)575-8316

Service Request Detail

C. 5

(VAC 06-2289) Appeal

Page 71 of 98

Report Date 09/14/2005 05:23 PM

Submitted By

Page 1

Service # 28172
Problem BD006 NO CERTIFICATE OF OCCUPANCY
Address 2255 W MARKHAM RD
O
FAYETTEVILLE AR 72701-

Call Date 09/09/2005 17:17

Taken By 816 CATTANEO, STEVEN M.

Source CALLIN

☐ Customer Contact Requested

Service Request Progress

Schedule (Inspected)

Inspect Inspected from 09/09/2005 05:23 PM to 09/09/2005 05:23 PM by 816 STEVEN CATTANEO

Resolve Unresolved with no due date.

Priority

Responsibility BD BUILDING SAFETY

Project

Budget #

Duration of Call 00:00

of Calls 1

Location

Area

District

Parcel

Template Type

Asset

Sub-Area

Map #

A/P #

Primary Caller

Name

First, MI

Address

Title

City

State/Province

Country

E-Mail

Day Phone

Call Date 09/09/2005 17:17

Comments

☐ Foreign

ZIP/PC

Reference #

Evening Phone

Taken By 816

Reports that the U OF A is hosting Chancellors Reception in barn.

There are no additional callers for this service number

Comments

Verified with U of A that they were having reception at Mr. Archers Barn. Faxed a copy of a fax I had recieved from a concerned engineer about the structural integrity of the building to Marsha Overby at U of A. Also tried to call (no success) Mr. Archer. I faxed a letter to Ms. Overby and to Mr. Archer requesting that, for the safety of the attendees, that persons not be allowed on the balconies. 9/9/05

9/13/5 Spoke with Mr. Archer, he says that they didn't allow persons on the balconies.

9/14/5 Mailed Violation notice to Mr. Archer at both his Fayetteville and Des Moines addresses..SMC

Inspected

Resolution

Scheduled Resources

Employee ID	Scheduled Start	Scheduled End	Work Description
No resources scheduled.			

Equipment ID	Scheduled Start	Scheduled End	Work Description
No resources scheduled.			

CITY OF FAYETTEVILLE

BUILDING SAFETY DIVISION

575-8233 FAX: 575-8316

C. 5
Easement Vacation for Archer
(VAC 06-2289) Appeal
Page 72 of 98

CERTIFICATE OF OCCUPANCY

A/P #: 21462

AUDITORIUM

DATE ISSUED: 9/15/2006

ADDRESS: 2255 W MARKHAM RD, FAYETTEVILLE, AR 72701-

APPLICANT:

ARCHER JULIAN
2115 MARKHAM ROAD
FAYETTEVILLE, AR 72701
(479)582-5443 x

OWNER:

SAME

USE GROUP A-3

AREA 3960 Ground + 2160 Balcony = 6120 SF

CONST TYPE VB

DESCRIPTION OF WORK:

install second set of stairs, raise guardrail to 42", install handrails, *SPRINKLER system*

This Certificate of Occupancy is issued pursuant to the requirements of the Arkansas Fire Prevention Code as amended by City Ordinances. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other Ordinances of the jurisdiction.



APPROVED BY THE BUILDING OFFICIAL



DATE



WEDDINGS: TIFFANY ANNE FOSTER LAWRENCE SHEFFIELD BROWN

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, October 5, 2003

URL: <http://www.nwanews.com/adg/announcements/40468/>

FAYETTEVILLE — Tiffany Anne Foster and Lawrence Sheffield Brown united in marriage at 6 p.m. Saturday, Sept. 27, at St. Paul's Episcopal Church with the Rev. Bill Stroop officiating.

The bride is the daughter of Anne and Jay Foster of Springdale. She is the granddaughter of Marilyn and Wayne Key of Goliad, Texas, and Jodie and Jay Foster of Elm Springs.

The bridegroom is the son of Ava Bokker of Bentonville and Mark Brown of Hughes. He is the grandson of Polly Brown, the late Charles Brown, Susie Gardner and Lawrence T. Gardner, all also of Hughes.

The altar was decorated with an arrangement of green hydrangea blooms, hypericum berries, yellow and terra-cotta roses, peach-colored ranunculus and seeded eucalyptus. The aisle was lined with hydrangea blooms and berry and rose-filled nosegays. Music was by organist Charlie A. Rigsby and the St. Paul Quartet.

Given in marriage by her father, the bride wore a two-piece strapless gown of imported Italian satin trimmed in pearls, crystals and rocals. The embroidered waistline fell into a redingot skirt and chapel-length train.

She carried a bouquet of hypericum berries, yellow and deep red ranunculus, terra-cotta roses and seeded eucalyptus.

Poppy Mayes of Springdale was the maid of honor. Bridesmaids were Sarah Gibbons, Kim Johnson, Shanna Amos, Melissa Fulfer and Carrie Henry, all also of Springdale. Junior bridesmaid was Ashley Tyler, also of Springdale and a niece of the bride.

They wore strapless, princess line gowns in mocha-colored satin with fitted bodices that tied at the back of the A-line skirts. Each carried a bouquet of hypericum berries, maple leaves and seeded eucalyptus.

Jeptha Tyler and Caedmon Tyler, both of Springdale and nephews of the bride, were the bell ringers.

Samuel Porter of Las Vegas, uncle of the bridegroom, was the best man. Groomsmen were Chip Martin of Tuscaloosa, Ala.; Martin Brown of Bentonville, brother of the bridegroom; Joey Steele of Hughes; and Nickita Markov and Saleh Harharah, both of

Fayetteville. Junior groomsman was Lon Bokker, also of Fayetteville, brother of the bridegroom.

Seating the guests was Scott Tyler of Springdale.

A reception followed at the Pratt Place in Fayetteville. Guest tables were centered with hand-forged metal vine-covered trees with amber-colored hanging illuminaries and urns filled with roses, hydrangeas, hydrangea blooms, hypericum berries, French tulips and ranunculus. Music was by a disc jockey and Greer Gamble on the saxophone. Assisting at the reception was Randal Wright.

The bride is pursuing a bachelor's degree in art history from the University of Arkansas and is employed at Ozark Orthopaedic and Sports Medicine.

The bridegroom is pursuing an associate degree in business from Northwest Arkansas Community College in Bentonville and is employed at Estes Wood Designs.

After a wedding trip to New Orleans and St. Joseph's Bay, Fla., the couple will be at home in Springdale.

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NORTHWEST
ARKANSAS **TIMES**

Weddings: Fries-Slaughter

Northwest Arkansas Times

Posted on Sunday, June 27, 2004

URL: <http://www.nwanews.com/nwat/Announcements/17443/>

Sarah Lee Slaughter of Springdale and Patrick Vaughn Fries of Fayetteville were joined in marriage June 12, 2004, at Pratt Place in Fayetteville. The Rev. Matt Slaughter officiated the ceremony.

Parents of the bride are Roy and Susan Slaughter of Springdale. Parents of the groom are Frank and Carolyn Fries of Rogers.

The bride, given in marriage by her father, wore an ivory satin A-line gown with fine silver embroidery wrapping around the bodice and hemline. The gown's embroidery was enhanced with bugle beads and tiny star sequins, and buttons followed the bodice down the paneled chapel train. She carried a biedermeier bouquet of limbo green roses surrounded in concentric circles with blue hydrangeas, green hypericum berries and blue agapanthus. The bouquet was wrapped in ivory satin overlaced in sheer satin-edged ribbon.

Matron of honor was Michele Tollett of Springdale, and bridesmaids were Angela Slaughter, Kimberly Martin and Meagan Frazier.

Flower girls were Isabelle Slaughter, Vivian Gray and Ava Gray. Ring bearers were Turner and Truitt Tollett.

Best man was Hank Gray of Memphis, Tenn., and groomsmen were Luke Fries, Joe Fries and Steve Yang.

Ushers were Brandon Campbell, James Madison, Justin Clay and Cody Slaughter. Wedding music was provided by Candi Sappenfield and Jonathan Walker.

After a wedding trip to Mexico, the couple will live in Springdale.

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WEDDINGS



Lowell-Favorite

Taylor L. Favorite and Benjamin J. Lowell, both of Oklahoma City, Okla., were married at 6 p.m. May 7, 2005, at the ~~Prairie Place Barn~~ in Fayetteville. Lance Humphreys officiated.

The bride is the daughter of Julie and Randy Favorite of Rogers.

The groom is the son of Becky and Steve Lowell of Oklahoma City.

The bride wore a strapless sheath gown of imported ivory mikado, with a banded high waist and fitted bodice. Covered buttons accented the back and ended at a bow that topped the trumpet skirt that flowed to a chapel-length train.

Sydney Favorite of Lowell served her sister as maid of honor. Bridesmaids were Olivia Bunch of Waburn, Mass., and Whitney Fox, Andi Garrison and Mindy Shaw, all of Fayetteville.

Brian Smith of Dallas, Texas, the groom's brother-in-law, and Kirt Garnett of Oklahoma City served as best men. Groomsmen were Sheriff Shalaby of New York, N.Y., Ryan McMasters and Ryan Coe, both of Oklahoma City.

Ethan Favorite served as ring bearer.

A reception followed the ceremony.

After a wedding trip to Cabo San Lucas, Mexico, the couple lives in Oklahoma City.



Lindstrom-Morales

Irma Dolores Morales and Michael E. Lindstrom, both of Fayetteville, were married at 7:30 p.m. June 11, 2005, at Durango, Mexico. The Rev. Salvador Medina officiated.

The bride is the daughter of Basilisa Favela and Jose Antonio Morales, both of Durango.

The groom is the son of Murray Lindstrom and Irma Buckbee, both of Sidney, N.Y. He is the grandson of the late Raymond Page and the late Marjorie Page.

A reception was held at the Hotel Gobernador in Durango.

The couple lives in Fayetteville. The bride is employed by Tyson Foods in Fayetteville, and the groom is a production supervisor for Tyson Foods in Fayetteville.



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NORTHWEST
ARKANSAS **TIMES**

Engagements: Clark-Mahaffey

Northwest Arkansas Times

Posted on Sunday, March 13, 2005

URL: <http://www.nwanews.com/nwat/Announcements/26178/>

Chelsea Lea Clark and John Kaleb Mahaffey, both of Fayetteville, plan to marry at 6 p.m. May 14, 2005, at Pratt Barn in Fayetteville.

The bride-elect is the daughter of Debbie and John Clark of Fayetteville. She is the granddaughter of Helen Joiner of Fayetteville, Bill Clark of Springdale and Roxie and Bill Alston of Malvern.

She is a student at Leon's Cosmetology School in Springdale and works as a patient care assistant at Northwest Arkansas Pediatric Clinic in Fayetteville.

The prospective groom is the son of Sandy and Mark Mahaffey of Fayetteville. He is the grandson of Patsy and Clinton Pike of Farmington, Leta Mahaffey of Fayetteville and the late John Mahaffey.

He works as a heavy machine operator for Tomlinson Asphalt Co. in Fayetteville.

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ENGAGEMENTS

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, October 24, 2004

URL: http://www.nwanews.com/adg/Northwest_Profiles/96568/

Hart-Yazwinski

FAYETTEVILLE — Sydney Lee Hart and Thomas Anthony Yazwinski, both of Fayetteville, plan to marry at 6:30 p.m. Saturday, May 28, 2005, at the Pratt Place Barn.

Hart is the daughter of Geneva and Jeff Hart of Canby, Ore. She is the granddaughter of Lorene and Ernest Wood of Salem, Ore.; the late Janice Hart; and the late Doris and Ray Hart.

She has a bachelor's degree in communications and broadcasting from the University of Arkansas and works as a reporter for KNSA-TV, Channels 24/51.

Yazwinski is the son of Shirlee and Thomas Yazwinski of Fayetteville. He is the grandson of Frank Yazwinski of Deerfield, Mass.; the late Stella Yazwinski; and the late Doris and Charles Killman.

He has a bachelor's degree in broadcasting from the UA and works as a photojournalist for KHBS/KHOG-TV, Channels 40/29. Minor-Skarsten

LOWELL — Lindsey Nicholle Minor of Rogers and Jason Edward Skarsten of Centerton plan to marry at 7 p.m. Friday, Nov. 12, at Fellowship Bible Church.

Minor is the daughter of Karen and Chris Minor of Rogers. She is the granddaughter of Madelyn Binkley of East Alton, Ill.; the late LaVetra and Bill Binkley; and Mary and Sam Minor of Everton, Mo.

She attended Evangel University in Springfield, Mo., and works as a divisional assistant for Wal-Mart Stores Inc. in Bentonville.

Skarsten is the son of Ted Skarsten of Springdale and the late Patra Skarsten.

He has a bachelor's degree in computer information systems from the University of Arkansas and works as a business systems analyst for Tyson Foods Inc. in Springdale. France-Norris

EUREKA SPRINGS — Lisa-Marie France and Samuel Ryan Norris, both of Springfield, Mo., will unite in marriage at 5 p.m. Saturday, Nov. 13, at Thorncrown Chapel.

France is the daughter of Irene and Lanier France of Mountainburg. She is the granddaughter of Edith France, also of Mountainburg; the late Logan France; and the



Wednesday, November 15, 2006 | Weather: RAIN 41 F

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**KATHERINE ANN JOHNSON ADDISON
JONES SEIFRITZ**

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, June 19, 2005

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FAYETTEVILLE —

Katherine Ann Johnson

and Addison Jones Seifritz exchanged wedding vows at 4:30 p.m. Saturday, June 11, at Twin Cedars with John Humphries officiating.

The bride is the daughter of Teri and Ron Johnson of Fayetteville. She is the granddaughter of Mary and Don Johnson of Fayetteville and Lorna and Bill Schilling of Kansas City, Mo.

The bridegroom is the son of Sonya and Mike Yates of Fayetteville and Debbie and Jere Seifritz of Highland Ranch, Colo. He is the grandson of Helen and the late Hollis Seifritz, also of Fayetteville, and the late Katie and Casey Jones of Pine Bluff.

Lighted grapevine lined the balcony of the barn, and the ceremony featured pillars and verdigris wall pockets filled with floral arrangements of tall bear grass, green hypericum, Kermit mums, grapevine and ivy. Additional decorations included candelabra and topiaries of rose and green hydrangeas, bells of Ireland, roses, green hypericum and Kermit mums. Nuptial music was provided by keyboard player Bruce Parker and vocalist Lydia Seifritz.

Given in marriage by her father, the bride wore a floor-length gown of diamond white satin with crisscrossed shoulder straps and a satin-trimmed elbow-length veil. She carried a bouquet of pink sweet peas, lady's mantle, lime-green roses, peonies and green

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lisianthus.

Marcy Hill of Fayetteville served as maid of honor. Bridesmaids were Natalie Seifritz and Lydia Seifritz, sisters of the bridegroom, and Rachel Long, all of Fayetteville, and Staci Joyce of Springdale.

They wore strapless tea-length gowns of carnation pink chiffon. The maid of honor carried a bouquet similar to the bride's, and bridesmaids carried green bouquets of hydrangeas, bells of Ireland, Kermit mums, amsonia and hypericum.

Aaron Seifritz of Fort Collins, Colo., served as his brother's best man. Groomsmen were Justin Parker of Monterey, Calif.; B. J. Johnson, a brother of the bride, and Brian Byrd, both of Fayetteville; and Jeff Johnson of Houston, a brother of the bride.

Guests were seated by Adam Driver of Fayetteville.

At the reception that followed, tables were draped with floor-length ivory linens and green runners and topped with verdigris vases filled with pink roses and green candles surrounded by ivy. The covered porch held a hand-painted galvanized water trough adorned with the couple's initials.

Reception music was provided by Bruce Parker and a disc jockey. Whitney Flora, Katie Byers, Kenlie Posey, Blake Posey, Alex Posey, Clarinda Carr, Carol Roberson and Anne Foster assisted at the reception.

The bride has a bachelor's degree in middlelevel education from the University of Arkansas and is a literacy aide at Leverett Elementary School in Fayetteville.

The bridegroom attended Arkansas College of Electricity in Bentonville and is an electrician for Campbell Electric in Fayetteville.

After a wedding trip to Montego Bay, Jamaica, the couple will reside in Fayetteville.

FEEDBACK:

Something to say about this topic? Submit a Letter to the Editor online

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NORTHWEST ARKANSAS EDITION

MELISSA LYNN MARGARET MURRAY JOHN REYNOLDS RUTLEDGE JR.

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, July 3, 2005

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FAYETTEVILLE —

Melissa Lynn Margaret

Murray and John Reynolds Rutledge Jr. exchanged wedding vows at 7 p.m. Saturday, June 25, at Central United Methodist Church. The Rev. Rob Renfroe of The Woodlands, Texas, officiated.

The bride is the daughter of Lynn and George M. Murray III of The Woodlands. She is the granddaughter of Isabelle and the late Roy Moxley of Augusta, Ga., and Kenneth F. C. and the late Margaret Murray of Garden City, N. Y.

The bridegroom is the son of Ann and Reynie Rutledge of Searcy. He is the grandson of Velma Jeanne and the late N. T. Rutledge of Smackover and the late Nan Kathryn and Earl Vanhook of Newport.

The doors of the church were hung with large wreaths of greenery accented with pink satin ribbon, and the altar was adorned with four silver candelabra with Boston ferns and large floral arrangements of pink roses, green hydrangeas and green button mums accented with curly willow. The altar table was covered with candles. Nuptial music was provided by soloist MeMe Hagers.

Given in marriage by her parents, the bride wore a white gown with a fitted silk bodice featuring a bow held in place at the waist by a brooch of Swarovski crystals, silkcovered buttons down the back and a flared tulle skirt continuing into a sweep train.

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She wore a blusher veil of white tulle held in place by a crystal tiara and carried a bouquet of hot pink and medium pink roses wrapped in sheer white ribbon.

Michelle Murray and Laura Murray, both of The Woodlands and sisters of the bride, served as maids of honor. Bridesmaids were Anna Reed of Marianna; Patricia Grimes of Dumas; Mary Elizabeth Brice of Tullahoma, Tenn.; Elizabeth Redyke of Dallas; and Gena Johnson of Hot Springs.

They wore strapless gowns of chocolate brown satin accented with ruching on the left side and carried hand-tied bouquets of hot pink and light pink roses, green hydrangeas and green button mums with ribbon-wrapped stems.

Attendants also included Ashley Wright of Weehawken, N. J.; Lindsey Carpenter of Fayetteville; and Emelia Horn of Denver. They wore tea-length strapless gowns of dark pink seersucker and carried small bouquets of pink flowers.

The father of the bridegroom served as best man. Groomsmen were Adam Rutledge and Nathan Rutledge, both of Fayetteville and brothers of the bridegroom; Grant Sumner of Dallas; Marshall Hughes of Searcy; Jake Hargraves of Little Rock; and Brandon Hurlbut, also of Fayetteville.

Guests were seated by Michael Heath of Houston, a cousin of the bride, and Kyle Hamilton of Searcy.

A reception followed at Twin Cedars, where large hurricane vases with candles lined the walkway. Curtains of white tulle draped the doors of the barn, which was filled with luminarias. White tulle adorned the balcony and hung over the dance floor. Tables were topped with large floral arrangements of roses and peonies.

The Little Rock band First Impressions provided music at the reception.

The bride has a bachelor's degree in elementary education from the University of Arkansas and works as a first-grade teacher at Harvey Jones Elementary School in Springdale.

The bridegroom has a bachelor's degree in finance management and a master's degree in business administration, both from the UA. He is employed as a loan officer for First Security Bank in Springdale.

After a wedding trip to Maui, Hawaii, the couple will be at home in Fayetteville.

Northern Lights by Cyd King : Chancellor's dinner fetes donors hungry for party

— Cyd King

Posted on Sunday, September 18, 2005

URL: http://www.nwanews.com/adg/Northwest_Profiles/128846/

FAYETTEVILLE — University

of Arkansas Chancellor John

A. White was without his usual escort for the annual Chancellor's Society reception Sept. 9, but his spirits were nonetheless buoyed by his supporters. The chancellor's wife, Mary Lib, was in White Pine, Tenn., attending her 50 th high school reunion while he was hobnobbing with donors at Archer-Barn, high on a hill in a picturesque setting west of campus. The Chancellor's Society includes those who contribute \$2,000 or more annually to the UA's Fayetteville campus. Gifts may be directed to a college, school, department, program or other area that has special meaning to the donor. The annual reception is the chancellor's way of saying "Thank you" for their notable contributions. There were about 640 members in the society for the year that ended June 30. Members hail from all over the country. Feeding the crowd of 235 or so hungry benefactors was Barbara Lindsey of Creative Kitchens. She brought shrimp cocktail, smoked turkey pineapple salad with a variety of breads, pork tenderloin sandwiches, pesto bacon focaccia sandwiches, zucchini torta squares, cream cheese roses with jezebel and hot pepper jelly, spinach corn salsa tortilla spirals and steamed asparagus with house dipping sauce. Sweets included almond tartlets, cream cheese brownies and peanut butter bars. Cathy Dicus, Boyce Billingsley, Marilyn Bogle and Chuck Dicus

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HILLARY ELISE NOLAND MATTHEW STEPHEN SUTHERLAND

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, November 6, 2005.

URL: http://www.nwanews.com/adg/Northwest_Profiles/135563/

AYETTEVILLE — Hillary Elise Noland became the bride of Matthew Stephen Sutherland at 6 p. m. Saturday, Oct. 29, at Central United Methodist Church with the Rev. Jack Wilson officiating.

The bride is the daughter of Barbara and Steve Noland of Fayetteville. She is the granddaughter of Eloise and Edward Bedwell of Fort Smith and Eunice and Paul Noland of Fayetteville.

The bridegroom is the son of Penni Sutherland and Chris Sutherland, both of Tulsa. He is the grandson of Barbara and John Sutherland of Mission Hills, Kan.

The railings outside the church were decorated with swags of greenery and berries. Columns in the church were adorned with large ferns, and pews were marked with bows and floral arrangements of chocolate roses, berries and greenery. The altar featured floral arrangements of chocolate roses, fall-colored snapdragons and gladioli, flame calla lilies, asiatic lilies and hydrangeas accented with curly willow, berries and feathers. Nuptial music was provided by organist Jonathan Story and vocalist MeMe Hagers.

Given in marriage by her father, the bride wore a strapless gown of ivory satin accented at the waist with a wide gold sash that continued into streamers at the back of the gown, which fell onto a chapel-length train.

She wore a cathedral-length veil that was trimmed with French Chantilly lace and carried a hand-tied bouquet of cream-colored vendella roses wrapped in ivory ribbon.

Claire Noland of New York, a cousin of the bride, served as maid of honor. Bridesmaids were cousin of the bride Emily Noland of Southlake, Texas, and Carrie Jo DeBriyn, Mandy Macke, Charlotte Ludwick, Ashley Stockland and Sara Beth Stockland, all of Fayetteville.

They wore gowns of espresso silk accented with bows of grosgrain ribbon and carried bouquets of gold calla lilies and chocolate roses accented with berries and pheasant feathers.

Sydney Winborn and Sarah Davis, both of Fayetteville, served as flower girls.

Spencer Sutherland of Tulsa served as his brother's best man. Groomsmen were brother of the bridegroom Drew Sutherland, Blake Gross, Scott McCarty and Jeremy Ward, all

also of Tulsa, and Scott Bullock and brother of the bride Heath Noland, both of Fayetteville.

Guests were seated by Jon Coursey and Roy Nelson, both of Tulsa ; Chris Jennings and Michael Moyers, both of Little Rock ; and Clayton Paddle of Fayetteville.

A reception followed at Archer Barn in Fayetteville, where the balcony was adorned with floral arrangements of hydrangeas, feathers, bear grass and curly willow.

Buffet tables were topped with fall floral arrangements of chocolate roses, cat tails, hydrangeas, rust lilies, snapdragons, fruit and pumpkins.

Guest tables featured floral arrangements in shades of chocolate and gold, and some were topped with wrought iron trees and arrangements of fruit, chocolate and gold roses accented with berries.

Reception music was provided by vocalist Mary Cogan of Tulsa. Ann Foster assisted at the reception.

The bride has a bachelor's degree in elementary education from the University of Arkansas.

The bridegroom has a bachelor's degree in computer information systems from the UA and works as a vice president for Commercial Bank in Parsons, Kan.

After a delayed wedding trip to Australia and Tahiti, the couple will be at home in Independence, Kan.

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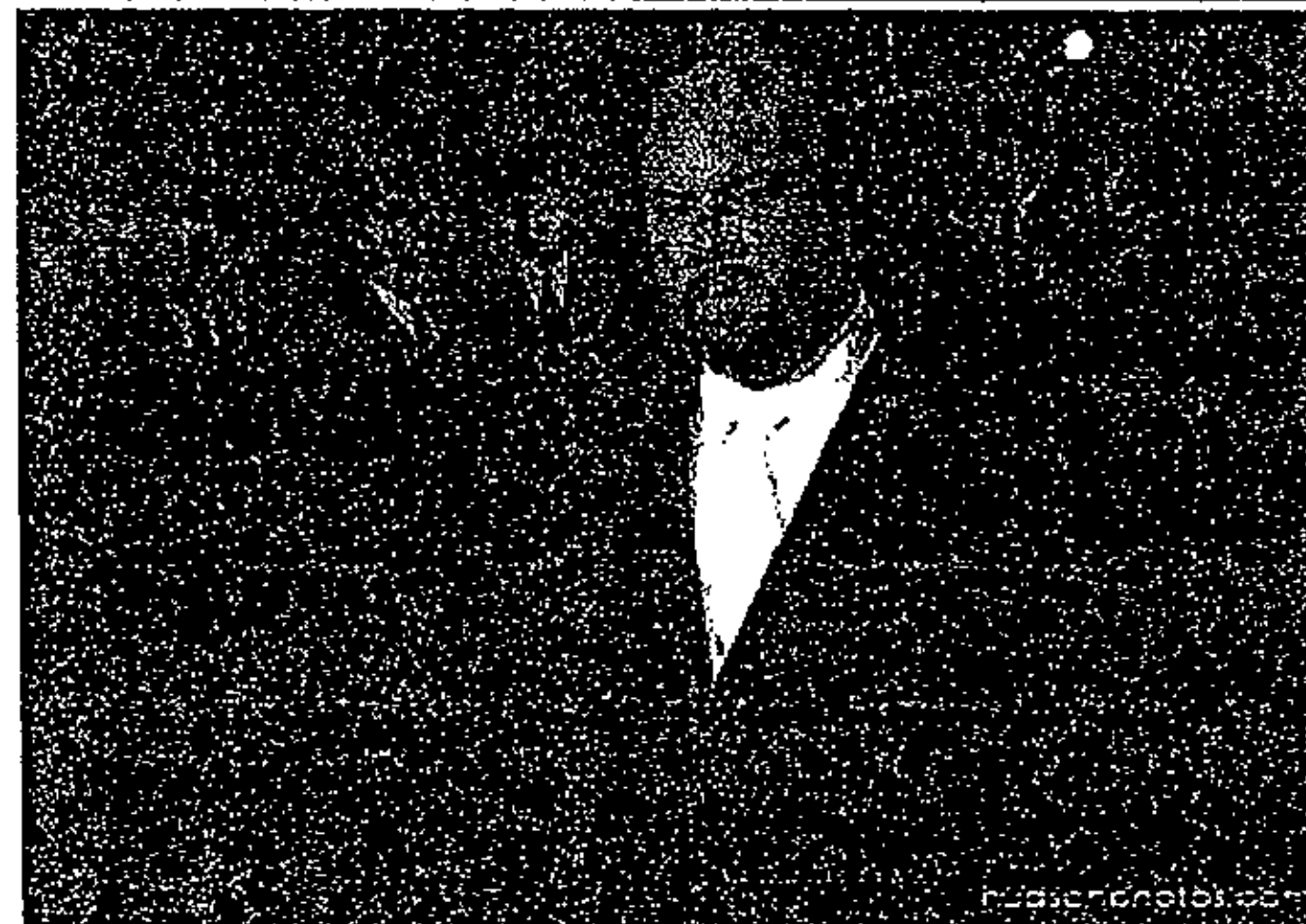
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Melissa and Sam were married at the Pratt Place Barn
in Fayetteville, Arkansas on December 3, 2005.

A reception followed at the same location.
Cake was from Rick's Bakery.

Photography by Jason Hudson





The Grandest Location
In The Ozarks To Get Married

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NORTHWEST ARKANSAS TIMES



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ENGAGEMENTS: Owen-Bedford

Northwest Arkansas Times

Posted on Sunday, December 18, 2005

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Natisha Nicholle Owen
and Jason Alan

Bedford, both of Springdale, plan to marry at 6:30 p.m. Dec. 30,
2005, at Twin Cedars Barn at Pratt Place in Fayetteville.

The bride-elect is the daughter of Dawnetta and Tim Owen of Springdale. She is the granddaughter of Don Moore of Alma Sharlene Smith of Antlers, Okla., and Bev Owen of Gridley, Calif.

She is a graduate of the Vanderbilt University School of Nursing in Nashville, Tenn., and is a licensed practical nurse at Washington Regional Medical Center in Fayetteville.

The prospective groom is the son of Tonya and Stan Bedford of Springdale. He is the grandson of Ercile Irion of Abilene, Texas, the late Richard Irion and the late Mary Jane and Rev. T. R. Bedford.

He serves on the board of directors for Bedford Camera & Video and oversees several stores in Northwest Arkansas and Little Rock.

FEEDBACK:

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NORTHWEST ARKANSAS EDITION

ENGAGEMENTS

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, November 20, 2005

URL: <http://www.nwanews.com/adg/announcements/137064/>

Weaver-Kennington

SPRINGDALE — Mary Elisabeth Weaver and Michael Brent Kennington, both of Fayetteville, plan to marry at 7 p. m. Saturday, Jan. 7, at the chapel at the Harvey and Bernice Jones Center for Families.

Weaver is the daughter of Cathy and John Weaver of Fayetteville. She is the granddaughter of Hibernia Weaver, also of Fayetteville ; the late Lester Weaver ; and Georgia and James Deane of Temple Terrace, Fla.

She is pursuing a bachelor's degree in history at the University of Arkansas.

Kennington is the son of Darlene and William Kennington of Tyler, Texas. He is the grandson of Violet Rowland of Sumter, S. C. ; John Weible of Myrtle Beach, S. C. ; and the late Sadie and Vernon Kennington.

He has a bachelor's degree in mathematics from the UA and works as a case manager for Claims Management Inc. in Rogers. Trumbo-Cangelosi

FAYETTEVILLE — Tanner Holland Trumbo of Fayetteville will become the bride of Cory Douglas Cangelosi of Mandeville, La., at 2 p. m. Saturday, Dec. 31, at Archer Barn.

Trumbo is the daughter of Karen and Trey Trumbo of Fayetteville. She is the granddaughter of Jan Trumbo, also of Fayetteville ; the late Don Trumbo ; and Sue and William Harlin of Gamiel, Ky.

She is pursuing a bachelor's degree in early childhood education from the University of Central Arkansas in Conway.

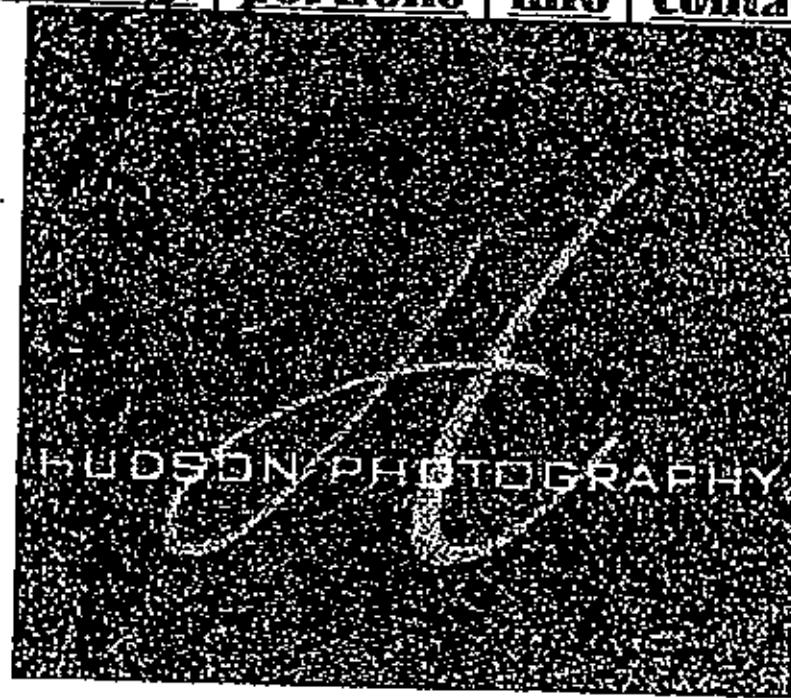
Cangelosi is the son of Melanie Johnston of Mandeville and Dale Cangelosi of Baton Rouge. He is the grandson of Jerry Johnston of New Orleans, the late Joan Johnston, the late Peggy Spacy and the late Theo Cangelosi.

He is pursuing a bachelor's degree in business and communication from UCA. Taldo-McAfee

SPRINGDALE — Megan Suzanne Taldo and Jared Dean McAfee, both of Springdale, will unite in marriage at 7 p. m. Friday, Dec. 30, at St. Raphael's Catholic Church.

Taldo is the daughter of Mary Ann and Philip Taldo of Springdale. She is the

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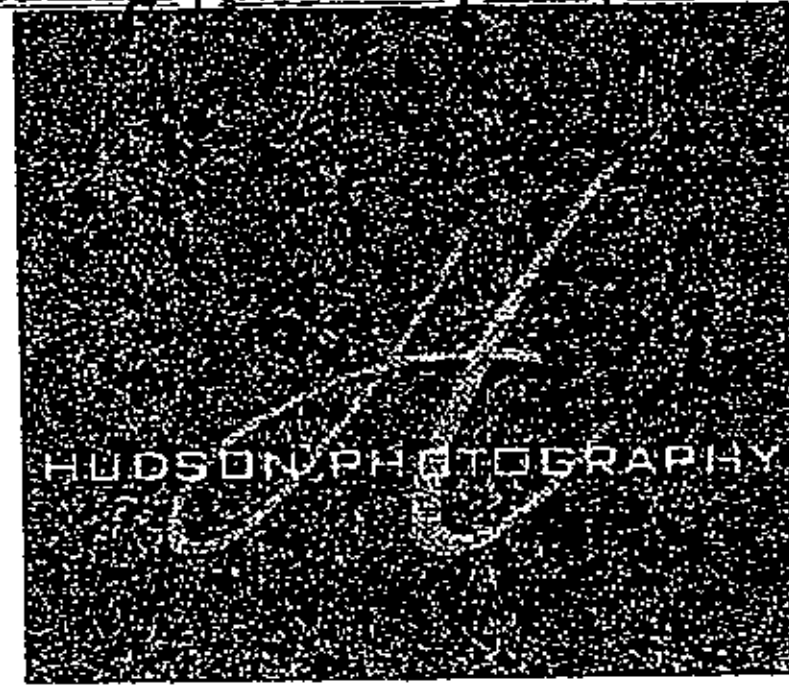


Leigh and Kevin were married on Saturday, February 11, 2006,
at the Pratt Place Barn in Fayetteville, Arkansas.

They had a great reception at the same location.



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Central United Methodist Church in Fayetteville, Arkansas, was the setting for Shelly and Jeff's wedding on Saturday, February 25, 2006.

A reception followed at the Pratt Place Barn.





NORTHWEST
ARKANSAS **TIMES**

ENGAGEMENTS: Wray-Stephens

Northwest Arkansas Times

Posted on Sunday, May 14, 2006

URL: <http://www.nwanews.com/nwat/Announcements/40658/>

Allison Lynn Wray of Fayetteville and Jay Stephens of Bentonville plan to marry at 6 p.m. May 27, 2006, at Pratt Place Barn at Sassafras Hill in Fayetteville.

The bride-elect is the daughter of Becky and Curtis Wray of Fayetteville. She is the granddaughter of Maxine McNair of Prairie Grove, Mary Margaret Wray of Fort Smith, the late Charles McNair and the late Benton Wray.

She is the owner of AlliCat Designs Jewelry.

The prospective groom is the son of Phyllis and Jim Stephens of Fort Smith. He is the grandson of L. J. Stephens and Daisy Akins, both of Fort Smith, the late Sue Stephens and the late Hollis Akins.

He works as a sales and service representative at Sofa Mart in Springdale.

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Contact: webmaster@nwanews.com



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Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Pardners raise sizzling sum for Rebuilding Together

— Cyd King

Posted on Sunday, August 27, 2006

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FAYETTEVILLE — A little

sweat never hurt anybody,

Dick Trammel said to a

panting crowd of 300 or so guests and volunteers at the Aug. 19 ~~Diamonds, Denim and Dice~~, the first large-scale fundraiser for Rebuilding Together of Northwest Arkansas. "Don't worry about sweating. Cowboys sweat," Trammel said with a laugh. The party was held at Pratt Place Barn at Sassafras Hill, a rustic, but regal structure on a picturesque patch of land at the end of Markham Road. The barn was the perfect place for such a casual affair, even if it was surface-of-the-sun hot and humid to boot.

Guests entered through a white tent and joined a buffet line that included smoked ribs, chicken and pork, plus miscellaneous fare from participating restaurants and caterers, such as A Fare to Remember, Panera Bread and Susan's restaurant. Wine from Altus-based Post Familie Vineyard and beer were also served. Dinner music was by an acoustic duo, Flip and Kelly.

Once inside the barn, partygoers tried their hands at casino games including blackjack and roulette. At sunset, Trammel led a live auction that included a 14-karat white gold necklace with diamonds

all the way around it. The piece, donated by Pamela Fine Jewelry,

11/12/2006

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ADVERTISING

all the way around it. The piece, donated by Perry's Fine Jewelry and Gifts, went to Debbie Pianalto for \$ 5, 500. Pianalto also paid \$ 2, 000 for a Western playhouse donated by The Cabins at Big Springs. All told, the auction brought in nearly \$ 10, 000.

With the business of the evening over, guests spent the rest of the night dancing to the music of Tulsa's Mary Cogan Band.

Organizer Donna Hamilton with Image Builders said the party was expected to net around \$ 50, 000 — a healthy sum for a first-time fundraiser. Diamonds, Denim and Dice Chairman Lynn Markel had said the purpose of the event was to create awareness for Rebuilding Together, whose programs help low-income disabled and elderly homeowners with repairs they can't afford. Diamonds, Denim and Dice Aug. 19 WHAT: A fundraiser for Rebuilding Together of Northwest Arkansas WHERE: Pratt Place Barn on Sassafras Hill, Fayetteville THE LOOT: About \$ 50, 000 CHAIRMAN: Lynn Markel

FEEDBACK:

Something to say about this topic? Submit a Letter to the Editor online

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Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Date

Arkansas Democrat-Gazette Northwest Edition

Posted on Sunday, September 10, 2006

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Saturday — The 2006

Polo in the Ozarks

fundraiser for Life Styles Inc. will be held at the farm of Donna and Dr. Brian Buell in Goshen. The polo match, tailgate parties and silent auction will start at 4: 30 p. m., followed by dinner, a live auction and music by Foxy. Advance tickets for all the activities are \$ 60 each. More information is available at (479) 521-3581.

Saturday — Associated Builders and Contractors of Arkansas will host the second Star of the Ozarks, a benefit for Ronald McDonald House and Children's House. The black-tie event, beginning at 7 p. m. at the John Q. Hammons Convention Center in Rogers, will feature dinner, a silent auction and dancing. Guests are encouraged to dress for the theme, "Pirates of the Ozarks." Tickets are \$ 125. More information is available at (479) 725-0378.

Saturday — The 2006 Walk to Cure Juvenile Diabetes will take place at the University of Arkansas. Check-in for the 5 K walk begins at 8 a. m., and the walk begins at 9: 30 a. m. at Bud Walton Arena. More information is available from Deb Euculano, special events coordinator for the Northwest Arkansas branch of the Juvenile Diabetes Research Foundation, at (479) 443-9190.

Saturday — The Benton County Memory Walk, a fundraiser for the Alzheimer's Association, will be held at Lake Bella Vista Trail in Bella Vista. More information is available at (479) 855-2288.

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Sept. 22 — The second annual When Pigs Fly, a fundraiser for the Ozark Food Bank, will begin at 6: 30 p. m. at Pratt Place Barn at Sassafras Hill in Fayetteville. The event includes a barbecue dinner, music, door prizes and silent and live auctions of decorated ceramic pigs. Tickets are \$ 40. Sponsorships are also available. The speaker will be John Menzer, and music will be by The Liar's Club. More information is available at (479) 872-8774, Ext. 204.

Sept. 22 — The Pay It Forward Gala, an event to benefit the planned Bob Kraynik Community Sports Complex in Fayetteville, will be held from 6: 30 to 11 p. m. at the Fayetteville Town Center. Local sports dignitaries are expected to attend in honor of the late Bob Kraynik, former physical education coach at Vandergriff Elementary. More information is available at (479) 530-9422 or (479) 587-8494.

Sept. 28 — The Arkansas Sheriffs' Youth Ranches will conduct the 11 th annual Arkansas Children's Award dinner beginning at 6 p. m. at the John Q. Hammons Convention Center in Rogers. The recipient of this year's Children's Award is University of Arkansas Chancellor John A. White. Tickets are \$ 150 each or \$ 1, 500 for a table of 10. More information is available at (870) 793-6841.

Sept. 30 — The annual Taste of the Ozarks, a benefit for Big Brothers Big Sisters of Northwest Arkansas, will be held from 7 to 10 p. m. at the Fayetteville home of Glenda and Ron Milam. Tickets are \$ 75 each. More information is available at (479) 756-5683. Send information about fundraisers and social events to Cyd King at

cking@arkansasonline. com

FEEDBACK:

Something to say about this topic? Submit a Letter to the Editor online

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THE BENTON COUNTY
DAILY RECORD ROGERS
EDITION

ENGAGEMENTS: James-Carnahan to marry

Benton County Daily Record Rogers Edition

Posted on Sunday, September 17, 2006

URL: <http://www.nwanews.com/brog/Announcements/39292/>

Laura and Andrew James of Bella Vista are pleased to announce the engagement and approaching marriage of their daughter, Amy Beth James of Little Rock, to Brian Douglas Carnahan, also of Little Rock.

The couple plan to marry at 4 p. m. Saturday, Oct. 28, 2006, at Archer Barn in Fayetteville.

The bride-elect is the granddaughter of Carolyn and Bob Miller of Bella Vista, and Joan and Roger James of Raymore, Mo. She is a 2000 graduate of Faith Christian Academy in Arvada, Colo., and a 2005 graduate of the University of Arkansas with a degree in architecture. She is employed with Fennell, Purifoy and Hammock Architects in Little Rock.

The prospective groom is the son of Vicki and Doug Carnahan of Joplin, Mo. He is the grandson of Kathleen Bell of Perrysburg, Ohio, and Ruth and Martin Carnahan of Jamestown, N. Y. He is a 2000 graduate of Joplin High School and a 2005 graduate of the University of Arkansas with a degree in architecture. He is employed with Jameson Architects in Little Rock.

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Contact: webmaster@nwanews.com

JOHN G. WILLIAMS
140 north sang avenue, fayetteville, arkansas 72701
(479) 442-4317

Dec. 3, 06

Dear Mayor Goody and Members of
The City Council,

I share the concerns re: the
proposed vacation of the West end
of Markham street and it becoming
a one way street as outlined in
Dr Felicia Farris' letter to the
Fayetteville City Council dated
Nov. 27, 2006.

John G. Williams

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

D. 1
RZN 06-2336 Sloan-Broyles and Persimmon
Page 1 of 22

19-Dec-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2336: (Sloan - Broyles and Persimmons, 479/515): Submitted by Jorgensen & Associates for property located at the southwest corner of Broyles Avenue and Persimmon Street. The property is zoned R-A, Residential Agricultural, and contains approximately 36.62 acres. The request is to rezone the subject property to RSF-8, Residential Single-Family, 8 units per acre.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

12-1-06

Received in City Clerk's Office



Finance and Internal Service Director

Date

Received in Mayor's Office



Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^g

Date: December 1, 2006

Subject: Rezoning for Sloan – Broyles & Persimmon (RZN 06-2336)

RECOMMENDATION

The Planning Commission recommended approval of the subject rezoning the 32.62-acre property from R-A to RSF-8 with the associated Bill of Assurance provided by the applicant.

BACKGROUND

The subject property contains approximately 36.62 acres and was part of the original piece of land annexed for the City's Westside Treatment Plant (a new wastewater treatment facility). This portion of the subject property will not be used for the wastewater treatment plant which will be located approximately a quarter-mile to the south. In the past year the City has entered into a contract to sell the property to the applicant. The site is currently under contract with the applicant.

The site is located on the south side of Persimmon Street, between Broyles Avenue and 54th Avenue and zoned R-A. The Interim Future Land Use Plan identifies the property as Residential. As shown in *Table 1*, the property is undeveloped pasture and is surrounded by property that is rural residential or undeveloped, although two subdivisions have been recently approved to the west and east of the site. The Master Street Plan was amended in the past year to realign Persimmon Street, a Collector, through the property. Development of this property would facilitate the final phase of construction of Persimmon, connecting Double Springs Road to Shiloh/I-540.

The request is to rezone the subject property from R-A, Residential Agricultural, to RSF-8, Residential Single Family – 8 units per acre. The request is subject to a Bill of Assurance offered by the applicant that limits the number of lots to 143, a density of approximately 3.9 units per acre.

DISCUSSION

This item was heard at the regular Planning Commission on November 27, 2006. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request with the associated Bill of Assurance to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2336, FOR
APPROXIMATELY 36.62 ACRES, LOCATED
AT THE SOUTHWEST CORNER OF BROYLES
AVENUE AND PERSIMMON STREET FROM R-
A, RESIDENTIAL AGRICULTURAL, TO RSF-8,
RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER
ACRE WITH THE ASSOCIATED BILL OF
ASSURANCE.

**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 acre to RSF-8,
Residential Single-Family, 8 units per acre, as
shown on Exhibits "A" and "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.

Section 3: That this rezoning approval is subject to the Bill of Assurance offered by the
Applicant as shown on Exhibit "C".

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2336

PART OF THE NW ¼ OF THE NE ¼ AND A PART OF THE NE 1/4, OF SECTION 14, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOW: COMMENING AT THE NW CORNER OF SAID NW ¼, NE ¼ THENCE EAST 64.68 FEET, THENCE SOUTH 29.73 FEET TO THE P.O.B., THENCE N89°51'18"E 2190.37 FEET, THENCE S37°50'57"E 118.18 FEET, THENCE S52°09'03"W 62.18 FEET, THENCE S37°50'57"E 100.00 FEET, THENCE S52°09'03"W 302.78 FEET, THENCE S66°57'26"W 279.91 FEET, THENCE S86°21'34"W 468.74 FEET, THENCE S00°08'43"E 358.87 FEET, THENCE S89°51'17"W 1316.48 FEET, THENCE N00°06'49"E 302.76 FEET, THENCE N00°25'00"E 589.47 FEET TO THE P.O.B.; CONTAINING 36.62 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

EXHIBIT "B"

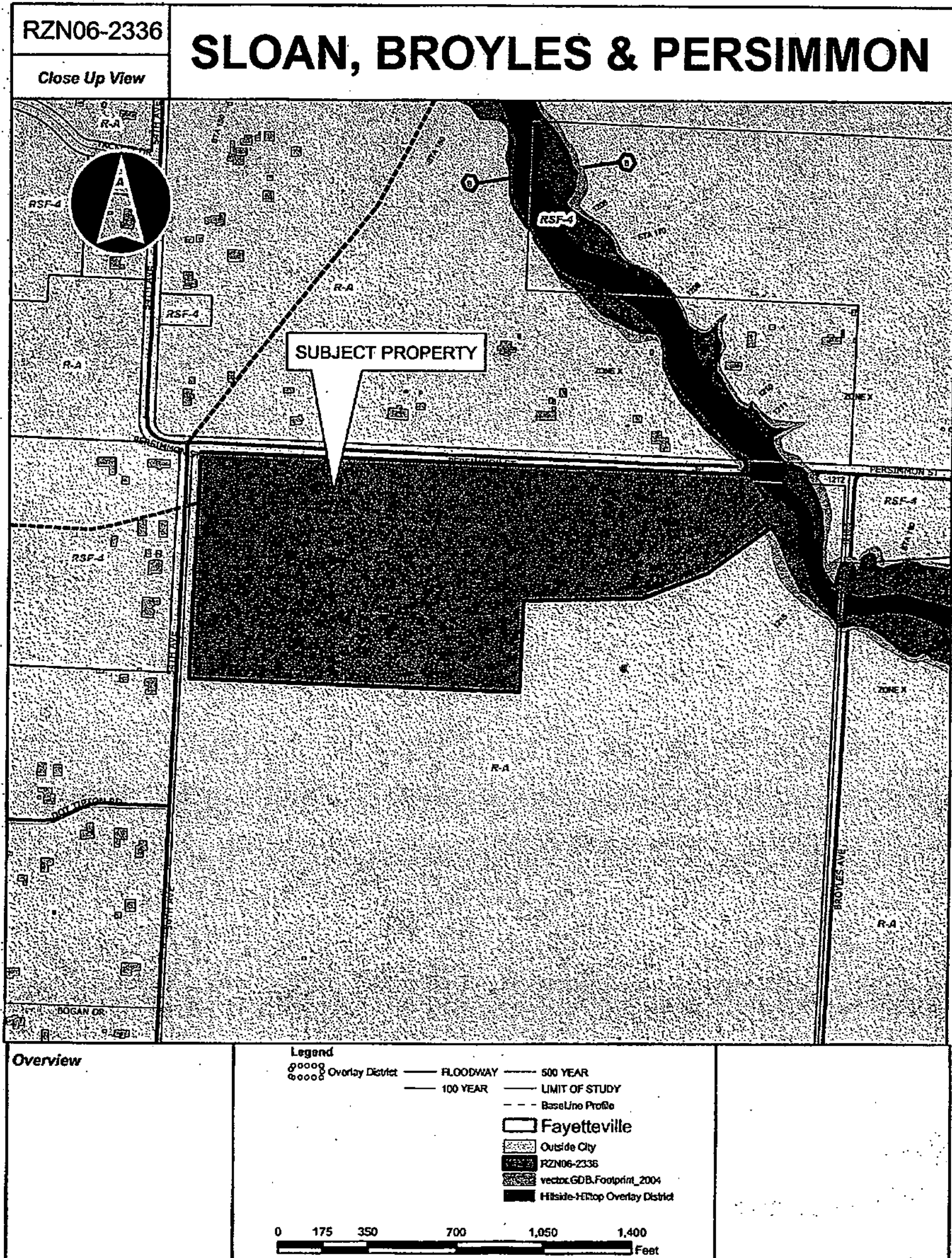


EXHIBIT "C"

Page 1 of 2

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") SLOAN PROPERTIES, INC., hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonable rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to SINGLE
FAMILY RESIDENTIAL
2. Other restrictions including number and type of structures upon the property are limited to PROJECT LIMITED TO 143 LOTS
3. Specific activities will not be allowed upon petitioner's property include N/A
4. (Any other terms or conditions) NONE

EXHIBIT "C"
Page 2 of 2

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Charles W. Sloan, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

11/21/06
Date

Charles W. Sloan
Printed Name

1335 Mississippi Drive
Address
Fayetteville AR 72703

[Signature]
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the _____ day of _____, 200__, appeared before me, _____ and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

NOTARY PUBLIC

My Commission Expires: _____



PC Meeting of November 27, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2006

RZN 06-2336: (SLOAN / BROYLES & PERSIMMON, 479/515): Submitted by DAVE JORGENSEN for property located at the SOUTHWEST CORNER OF BROYLES AND PERSIMMON. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 36.62 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre.

Property Owner: CITY OF FAYETTEVILLE
Developer: SLOAN PROPERTIES, INC.
Planner: ANDREW GARNER

RECOMMENDATION:

Staff recommends approval of the requested rezoning from R-A to RSF-8 with the associated Bill of Assurance based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: November 27, 2006			
Motion: Clark			
Second: Timbo			
Vote: 3-0-0			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☒ Approved	☐ Denied
Date: December 19, 2006 (1 st reading if recommended)			

BACKGROUND:

Background: The subject property contains approximately 36.62 acres and was part of the original piece of land annexed for the City's Westside Treatment Plant (a new wastewater treatment facility).

This portion of the subject property will not be used for the wastewater treatment plant which will be located approximately a quarter-mile to the south. In the past year the City has entered into a contract to sell the property to the applicant. The site is currently under contract with the applicant.

Property Description: The site is located on the south side of Persimmon Street, between Broyles Avenue and 54th Avenue. It is zoned R-A, although the Interim Future Land Use Plan identifies the property as Residential. As shown in *Table 1*, the property is undeveloped pasture and is surrounded by property that is rural residential or undeveloped, although two subdivisions have been recently approved to the west and east of the site. The City's new wastewater treatment plant is under construction approximately one-quarter mile to the south. The Master Street Plan was amended in the past year to realign Persimmon Street, a Collector, through the property. Development on this property would facilitate the final phase of construction of Persimmon, connecting Double springs Road to Shiloh/I-540.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural Residential	R-A
South	Undeveloped/Pasture	R-A
East	Rural Residential (Approved Cross Keys Phase II Subdivision)	RSF-4; R-A
West	Rural Residential (Approved Legacy Pointe Phase IV Subdivision)	RT-12

Proposal: The applicant proposes a rezoning of the 36.62-acre property to RSF-8 for a single-family development with an associated Bill of Assurance to limit the total number of units to 143 for an approximate density of four units per acre. The applicant proposes the RSF-8 zoning to allow for reduced building setbacks (15' front, 5' side and rear) than those permitted within the RSF-4 zoning district (25' front, 8' side, 20' rear).

Recommendation: Staff recommends approval of the rezoning request with the associated Bill of Assurance. Development on this site will be regulated by the city allowing for a uniform and consistent development pattern, consistent with the adjacent developments and zonings. The RSF-8 designation allows the potential for a more traditional form of development with narrow lots and homes closer to the street than would be allowed under a typical RSF-4 zoning. The Bill of Assurance limiting the property to approximately four units per acre helps ensure that the density would be compatible to surrounding developing subdivisions with an RSF-4 designation, and also helps ensure that impacts to surrounding infrastructure and public services would not be significant.

INFRASTRUCTURE:

Streets: The site has access to Persimmon (Collector), Broyles (Collector), and 54th Avenue (Principal Arterial). Improvements to the adjacent streets will be evaluated at the time of development.

Water: Public water is located adjacent to the site. There is a 12" waterline along Persimmon and along Broyles. Water service will need to be extended through the property at the time of development.

Sewer: Sanitary sewer is available adjacent to the site. Sewer service will need to be extended within the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main will need to be studied at the time of development.

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

Fire: These 36.62 acres are covered by Engine 7 located at 835 N Ruppel Road. The property is 1.4 miles from the station with an expected response time of 4.25 minutes. The Fire Department anticipates 30 (19 EMS – 11 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. There is no measured hydrant flow in the 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 call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Interim Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Residential**, and the Sector Map does not identify this site as an infill or growth sector. Rezoning this property to RSF-8 with the associated Bill of Assurance to limit the total number of units to 143 (density of four units per acre) is compatible to the surrounding density of adjacent residential development and consistent with the surrounding land uses. The RSF-8 zoning would allow for a more traditional form of residential development with narrower lots and buildings closer to the street. This would allow for a mix of lot sizes in an area that currently has a number of standard suburban neighborhoods, consistent with the City Plan 2025 policies. The Bill of Assurance would ensure that the overall density would be compatible, and that impacts to infrastructure would be limited.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-8 zoning for single-family residential use with the associated Bill of Assurance limiting the property to 143 units (four units per acre), is

compatible with adjacent and nearby single family residential land use while promoting a variety of lot sizes and development patterns. This property was purchased by the City and annexed in 1999 – 2000 for the new wastewater treatment plant. In 2004, several surrounding properties in the area were annexed into the City as part of individual development proposals. Therefore, it has only been recently that the properties in this vicinity have begun to develop. These developments include residential subdivisions zoned RSF-4 (maximum four units per acre) and being developed to the east and west of the property (Legacy Point Subdivision Phase IV and Cross Key subdivisions).

The 36.62-acre tract is currently zoned R-A, inconsistent with the Interim Future Land Use Plan showing Residential. Residential development on this property at a density of approximately four units per acre is appropriate in this developing area. Development of this property will provide an improved east-west street linkage and connectivity between two new subdivisions. The RSF-8 zoning will allow for a mix of residential housing types in a more traditional design and the opportunity for narrow lots and houses closer to the street, consistent with land use planning policies.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with density compatible to those surrounding subdivisions within the City could not be developed as it is currently zoned.

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

Finding: The proposed zoning will provide additional traffic on the surrounding street system including Persimmon Road, 54th Avenue, Broyles Avenue and Wedington Drive (State Highway 16). However, the amount of traffic generated by the development of a maximum 143 lots can be managed with proportional improvements. Persimmon and Broyles are Collector Streets, and 54th Avenue is a Principal Arterial street which will be improved to carry large volumes of traffic east-west and north-south. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

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

Finding: The proposed zoning would increase population density. Under the current zoning, approximately 18 units could be constructed on the subject property. Under the proposed RSF-8 zoning district with the associated Bill of Assurance, a total 143 units could be constructed on the property. Rezoning the property increases the possible number of residential units and population than that which would be allowed in the current zoning districts, but is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District,

provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	—
Two-family dwelling units per acre	—	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
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- (G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05)

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") SLOAN PROPERTIES, INC., hereby voluntarily offers this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if Petitioner or Petitioner's heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows IF Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to SINGLE
FAMILY RESIDENTIAL
2. Other restrictions including number and type of structures upon the property are limited to PROJECT LIMITED TO 143 LOTS
3. Specific activities will not be allowed upon petitioner's property include N/A
4. (Any other terms or conditions) NONE

5. Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, Charles W. Sloan, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

11/21/06
Date

Charles W. Sloan
Printed Name

1335 MASONIC DRIVE
Address
FAY - AR 72703

[Signature]
Signature

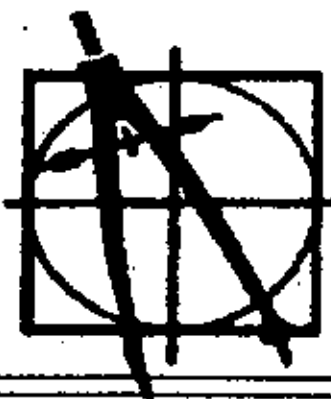
NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the ____ day of _____, 200__, appeared before me, _____ and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

NOTARY PUBLIC

My Commission Expires:



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

D. 1
RZN 06-2336 Sloan-Broyles and Persimmon
Page 17 of 22

10/18/06

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept
Re: Rezoning of "City" Property

Attached herewith please find the application and documents needed for the above referenced rezoning.

This property is located south of Persimmon Street and West of Broyles Road and is currently zoned R-A. The request is to rezone to RSF-8. The reason for this request is to allow for reduced setbacks (5' side & 15' front).

The RSF-8 zoning would allow for 8 lots per acre which would yield 293 lots. However, the developer is willing to submit a bill of assurance that would limit the amount of lots to 145.

The property to the north is zoned R-A, to the east is R-A, to the south is R-A and to the west is RSF-4 & R-A.

This property will be served by an 8" waterline located on 54th Street and on Persimmon Street. Sewer is available at the northeast corner. Also, the new treatment plant will be located to the south.

Persimmon Street will be relocated to the south through this property and will be dedicated as a 70' Right of Way.

Fire protection will be from the new station located on Rurple Road.

This rezoning request will allow the developer to provide houses that will be more affordable.

Please review this information and call concerning any questions you may have.

Thank you.


David L. Jorgensen, P.E.



Fayetteville Fire Department

RZN 06-2336 (Sloan/Broyles & Persimmon)

These 33.43 acres are covered by Engine 7 at 835 Ruppel Road.

It is 1.4 miles from the station with an expected response time of 4.25 minutes.

The Fire Department anticipates 30 (19 EMS – 11 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There is no 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.

Feel free to contact me if you have any questions concerning any of these comments

Dale Riggins

Dale Riggins
Fayetteville Fire Department

PUBLIC COMMENT

JESSE FULCHER

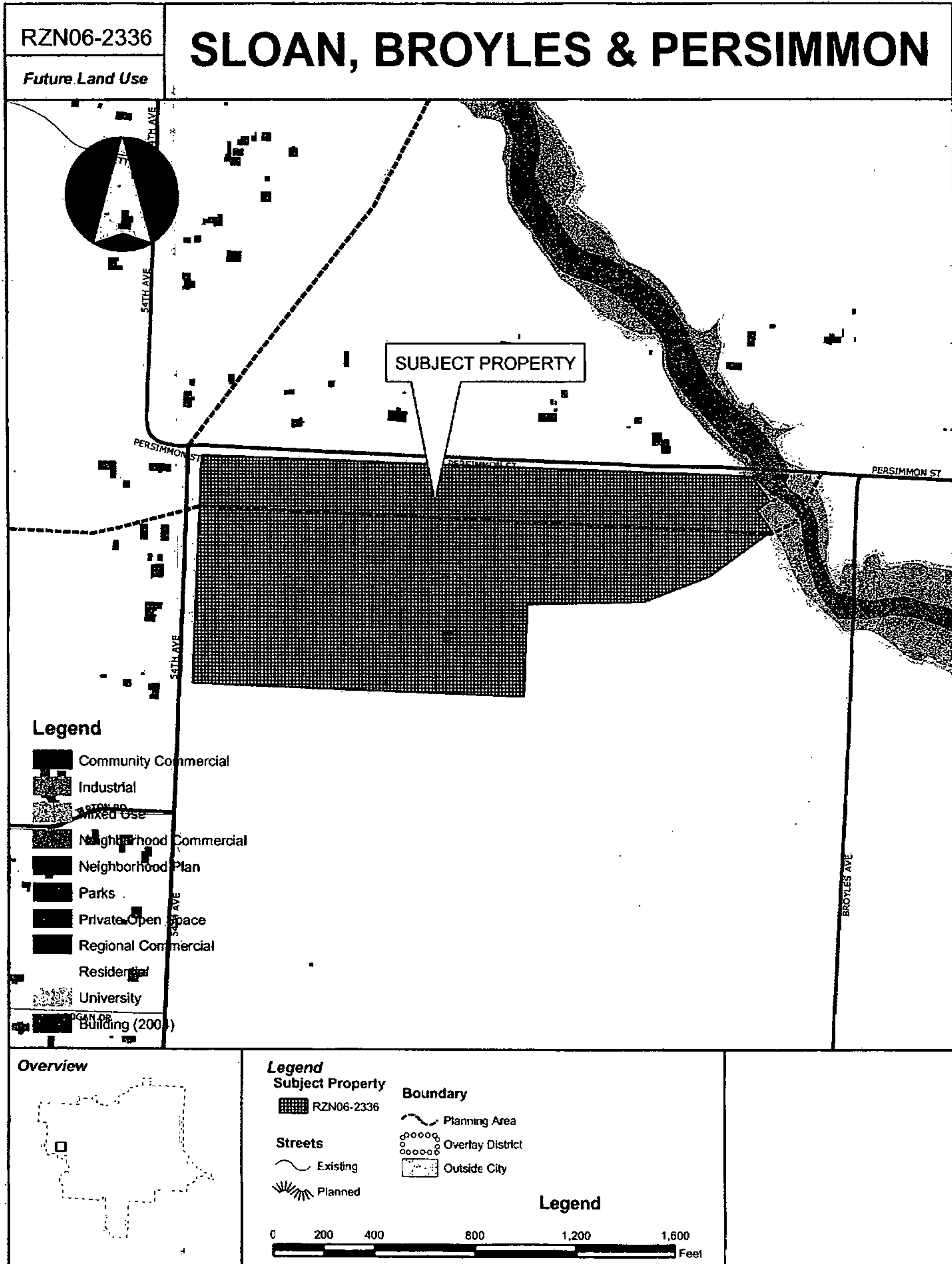
I spoke to you today about the planned rezoning for Broyles & Persimmon. During our discussion I ask why they are moving Persimmon South of us?

We have a lot of traffic on this very narrow road!! Also a lot of walkers

Since the new school opened we have even more. It will not hold 2 cars without someone stopping & waiting for the other to go.

I'm sure putting in another Persimmon South of us will do nothing for the problem because our street is a straight shot to the new school. Why can't they just add another lane to our street instead? That would help all the traffic we have with a 2 lane road. I would appreciate you asking this question for the Planning Commission.

Thank you
Mrs. Priest



SLOAN, BROYLES & PERSIMMON

The map displays a residential neighborhood with various zoning districts. A large, dark-shaded rectangular area is labeled 'SUBJECT PROPERTY' with a callout box. Surrounding this area are several streets: Persimmon St runs horizontally across the middle, Bogan Dr runs horizontally at the bottom, and Broyles Ave runs vertically on the right. A diagonal street, likely a driveway or alley, runs from the top left towards the center. The map is divided into several lots, many of which are marked with small square icons. Zoning districts are labeled throughout: 'R-A' is seen in the upper left and lower right; 'RSF-4' is labeled in several areas, including a large section to the left of the subject property and a smaller section to the right; 'ZONE X' is labeled in the upper right and lower right. Station markers are present: 'STA 160' is near the top center, and 'STA 170' is near the top right. A north arrow is located in the upper left corner, pointing towards the top of the map. The overall layout suggests a suburban or rural residential setting.

0 175 350 700 1,050 1,400 Feet

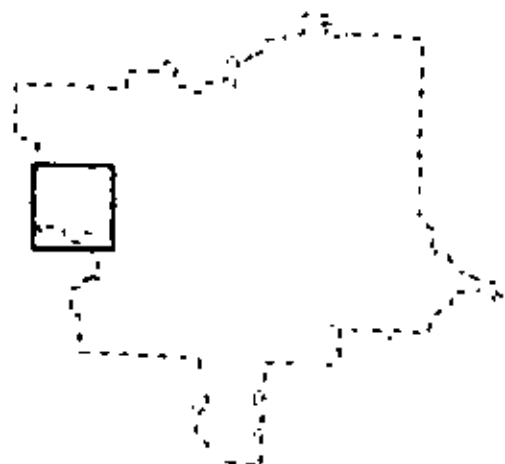
RZN06-2336

One Mile View

SLOAN, BROYLES & PERSIMMON



Overview



Legend

Subject Property

RZN06-2336

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

19-Dec-06
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 06-2382: (House Vacation Extension, 484): Submitted by Milholland Company for property located at the southwest corner of St. Charles Avenue and Watson Street. Approval of an ordinance repealing and replacing Ordinance No. 4807 (ADM 05-1848), allowing for a non-expiring time extension for the approved easement vacation.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

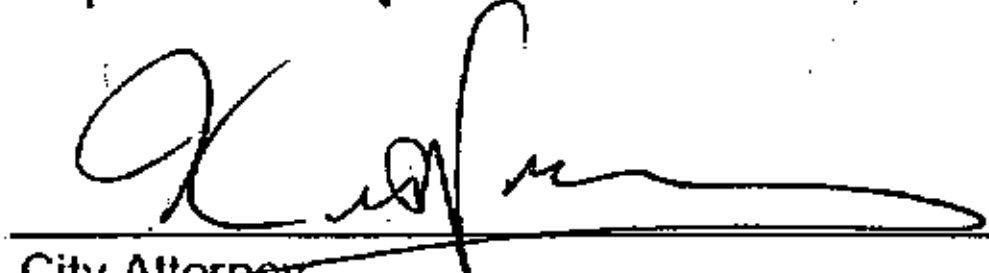
Budgeted Item ☐

Budget Adjustment Attached ☐

 12-1-06
Department Director Date

Previous Ordinance or Resolution # n/a

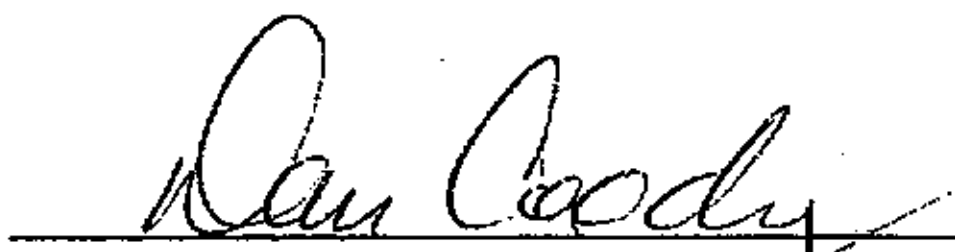
Original Contract Date: n/a

 12-1-06
City Attorney Date

Original Contract Number: n/a

 12-1-06
Finance and Internal Service Director Date

Received in City Clerk's Office


 12/3/06
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 *JP*

Date: November 30, 2006

Subject: (ADM 06-2382) House Vacation Extension of Ordinance No. 4807, granting a non-expiring time extension for the approved easement vacation

RECOMMENDATION

Planning Staff recommends approval of an ordinance repealing and replacing Ordinance No. 4807 (ADM 05-1848), allowing for a non-expiring time extension for the approved easement vacation.

BACKGROUND

The subject property is located at the southwest corner of St. Charles Avenue and Watson Street, containing two portions of an existing drainage easement. The developer plans to process a project proposal in which the drainage will be relocated and new easements established in combination with the redevelopment of the property. New easements and drainage improvements are conditions of approval for this requested vacation.

The City Council on December 03, 2002 granted approval for the vacation of the subject drainage easement, **VAC 02-12 & 13.00: (Houses Development)**, with **Ordinance No. 4442**. A specific condition of approval for the ordinance to be effective is that the existing storm sewer be relocated, inspected and accepted by the City Engineer. The original expiration date for completing this relocation was placed at December 01, 2003. Subsequently, the applicant returned to the City Council with a request to extend the time frame in which the storm sewer was to be relocated, which was moved to December 01, 2005 by **Ordinance No. 4506**, amending a section of the original ordinance. December 01, 2005 passed and the applicant had not relocated the storm sewer and consequently the vacation approval was null and void. The applicant again requested that the City Council vacate said easement on December 20, 2005. The City Council passed **Ordinance # 4807** vacating said easement with a condition of approval that the existing storm sewer be relocated, inspected and accepted by the City Engineer prior to December 1, 2006.

Due to the expense of the new drainage system the applicant has decided to combine the new drainage system with the overall site redevelopment. However, at this time the applicant is undecided as to the time frame for the project. Therefore, the applicant requests a non-expiring time extension for the referenced project, which is typical of many vacation requests.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING ADM 06-2382, FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF ST. CHARLES AVENUE AND WATSON STREET, REPEALING ORDINANCE NO. 4807 AND VACATING DRAINAGE EASEMENTS AS INDICATED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes, and

WHEREAS, the City Council on several occasions has extended the expiration date for the relocation of the existing drainage structures within the affected easements, and

WHEREAS, due to the expense of the new drainage system, the applicant is proposing to combine the new drainage system with an overall site redevelopment, but is unable to commence or complete the conditions of the vacation prior to the expiration date currently imposed by the City Council;

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby repeals Ordinance No. 4807 in its entirety.

Section 2. That the City of Fayetteville, Arkansas hereby vacates and abandons the following described drainage easement:

See Exhibit "A" and Exhibit "B" attached hereto and made a part hereof.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed by the applicant and accepted by the City Engineer.

Section 4. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED and APPROVED this ___ day of ___, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

Easement Description #1:

A fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the northeast corner of Lot 8, in Watson's Subdivision of Lot Number 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas; thence South 27 degrees 33'22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

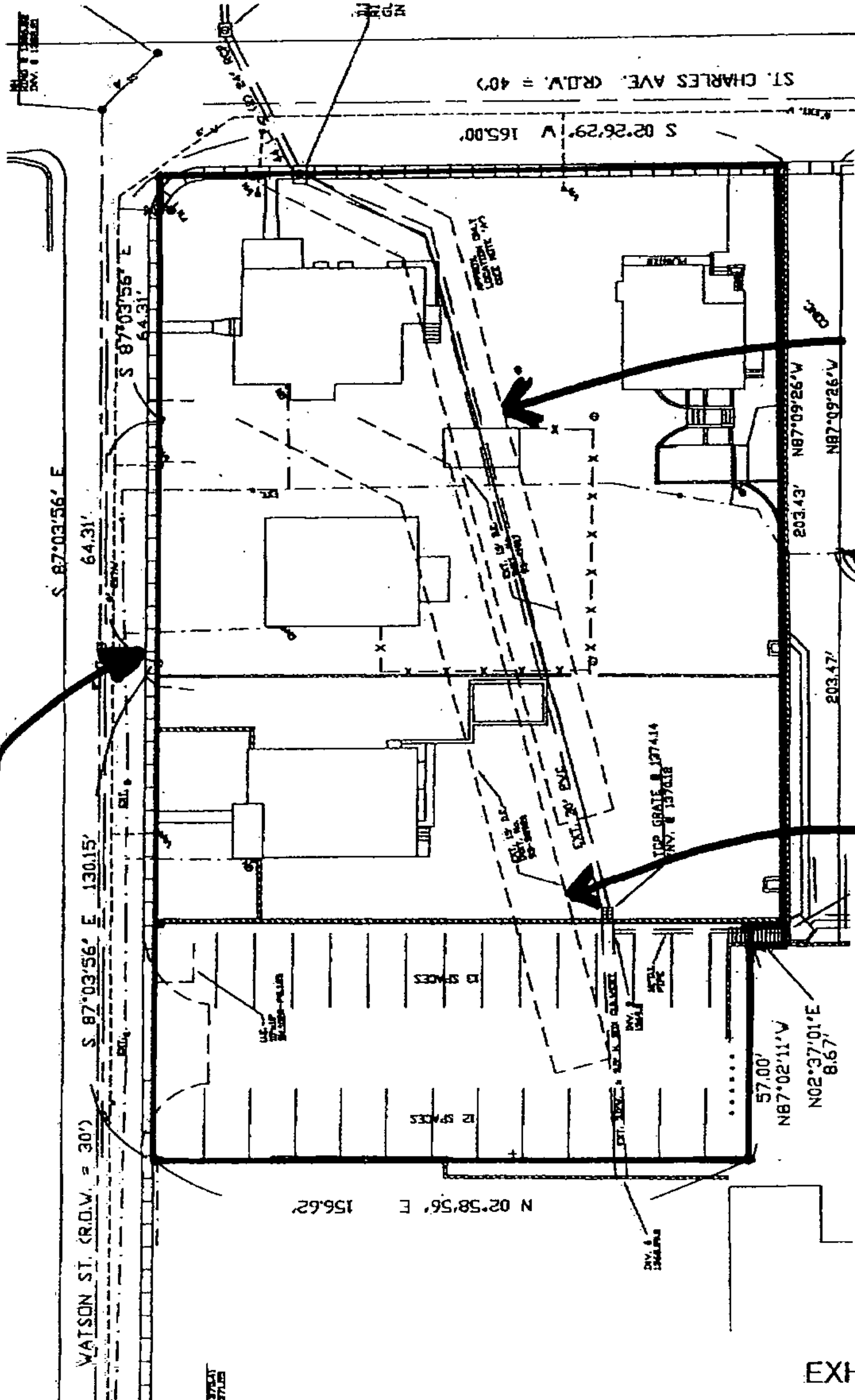
Easement Description #2:

A fifteen (15) foot wide permanent drainage easement described as being seven and one-half (7 1/2) foot on both sides of a center line that is within the above described property. Said centerline described as beginning 36.70 feet south of the Northwest Corner of Lot 8, in Watson's Subdivision of Lot Numbered 14, Block 8, County Court Addition to the City of Fayetteville, Arkansas, thence South 27 degrees 33'22" West 38.08 feet; thence South 74 degrees 44'20" West 158.18 feet.

EXHIBIT "B"

← N

Subject Property





PC Meeting of November 27, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: November 21, 2006

ADM 06-2382: Administrative Item (House Vacation Extension, 484): The request is for an extension of the approval for a vacation of a utility easement as approved and amended by the City Council with Ordinance No. 4807, regarding the timing for the relocation of a storm sewer on the subject property.

Planner: JESSE FULCHER

BACKGROUND

Project Description: The subject property is located at the southwest corner of St. Charles Avenue and Watson Street, containing two portions of an existing drainage easement. The applicant requests a non-expiring time extension of ADM 05-1848 passed and approved as Ordinance # 4807. The developer plans to process a project proposal in which the drainage will be relocated and new easements established in combination with the redevelopment of the property. New easements and drainage improvements are conditions of approval for this requested vacation.

Background: The City Council on December 03, 2002 granted approval for the vacation of the subject drainage easement, VAC 02-12 & 13.00: (Houses Development), with Ordinance No. 4442. A specific condition of approval for the ordinance to be effective is that the existing storm sewer be relocated, inspected and accepted by the City Engineer. The original expiration date for completing this relocation was placed at December 01, 2003. Subsequently, the applicant returned to the City Council with a request to extend the time frame in which the storm sewer was to be relocated, which was moved to December 01, 2005 by Ordinance No. 4506, amending a section of the original ordinance. December 01, 2005 passed and the applicant had not relocated the storm sewer and consequently the vacation approval was null and void. The applicant again requested that the City Council vacate said easement on December 20, 2005. The City Council passed Ordinance # 4807 vacating said easement with a condition of approval that the existing storm sewer be relocated, inspected and accepted by the City Engineer prior to December 1, 2006.

Proposal: Due to the expense of the new drainage system the applicant has decided to combine the new drainage system with the overall site redevelopment. However, at this time the applicant is undecided as to the time frame for the project. Therefore, the applicant requests a non-expiring time extension for the referenced project, which is typical of many vacation requests.

RECOMMENDATION

Planning Staff recommends approval of ADM 06-2382, the requested time extension of Ordinance # 4807, with the following conditions:

1. Said vacation shall not be effective until and unless the relocated storm sewer is installed, inspected and accepted by the City Engineer.
2. Any relocation of existing utilities shall be at the owner/developer's expense.
3. City Council approval of a revised ordinance shall be required to make this request effective.

Milholland Company

Engineering & Surveying

Melvin L. Milholland, PE, PLS

Thomas M. Jefcoat, RLA, REM, CPESC, ISA-CARLS: AR

RESISTRATIONS:

PE: AR, MO; PLS: AR

RLA:AR

November 17, 2006

Project No. E-787

FAYETTEVILLE

125 West Mountain Street

Fayetteville, Arkansas 72701

ATTN: Jesse Fulcher, Planning Division

RE: Amend Ordinance No. 4442 for VA 02-12.00 & 13.00

Greg House - relocation of storm sewer

Dear Jesse:

This correspondence is a request for a non-expiring time extension of the reference project.

MCO was retained by Mr. House to prepare construction plans for approval and thereafter construction implementation. Because of the expense of the new drainage system Mr. House has decided to combine it with the rest of the lot improvement construction as one project. It is undecided at this time when the project will be done.

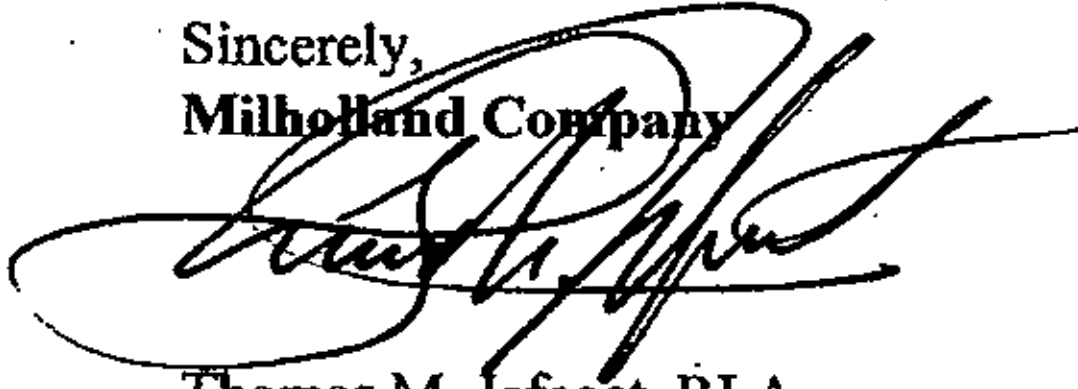
Because of the timeline uncertainty, we are requesting an extension for the drainage easement vacation with a non-expiring date.

Your support and approval of this request is greatly appreciated.

Should you have any questions or need of additional information, please advise. Thank you for your assistance.

Sincerely,

Milholland Company



Thomas M. Jefcoat, RLA
Senior Projects Manager

cc: Greg House

484

ORDINANCE NO. 4807

AN ORDINANCE APPROVING ADM 05-1848 FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF ST. CHARLES AVENUE AND WATSON STREET, VACATING A DRAINAGE EASEMENT AS INDICATED ON THE ATTACHED MAP AND LEGAL DESCRIPTION.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes.

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

Section 1: That the City of Fayetteville, Arkansas hereby vacates and abandons the following described drainage easement:

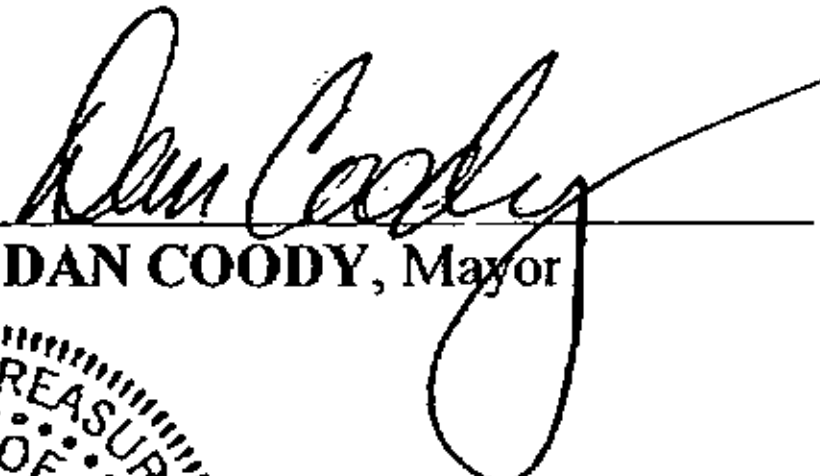
See Exhibit "A" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County once the requirements of Section 3 have been satisfied.

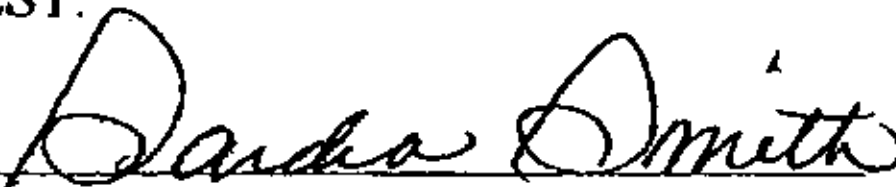
Section 3: That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 01, 2006, this vacation shall be null and void.

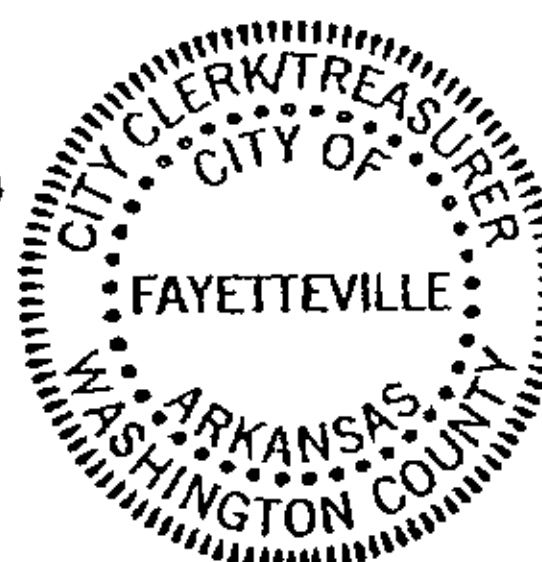
PASSED and APPROVED this 20th day of December, 2005.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



ORDINANCE NO. 4506

AN ORDINANCE AMENDING ORDINANCE NO. 4442 TO
EXTEND THE PERIOD OF TIME WITHIN WHICH THE
DEVELOPER MUST RELOCATE THE STORM SEWER.

**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 amends Ordinance No. 4442 to change the required completion date of
the storm sewer relocation from December 1, 2003 to December 1, 2005.

PASSED and APPROVED this 19th day of August, 2003.

APPROVED:

By: _____

Dan Coody
DAN COODY, Mayor

ATTEST:

By: _____

Sondra Smith
SONDRA SMITH, City Clerk



ORDINANCE NO. 4442

AN ORDINANCE APPROVING VA 02-12.00 and 13.00 TO VACATE AND ABANDON A SECTION OF DRAINAGE EASEMENTS LOCATED AT THE SOUTHWEST CORNER OF WATSON AND ST. CHARLES AVENUE, CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN ON THE ATTACHED MAP AND LEGAL DESCRIPTION

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes, and

WHEREAS, the City Council has determined that the following described drainage easements are not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, in and to the following described utility easement:

See Exhibit "A" attached hereto and made a part hereof.

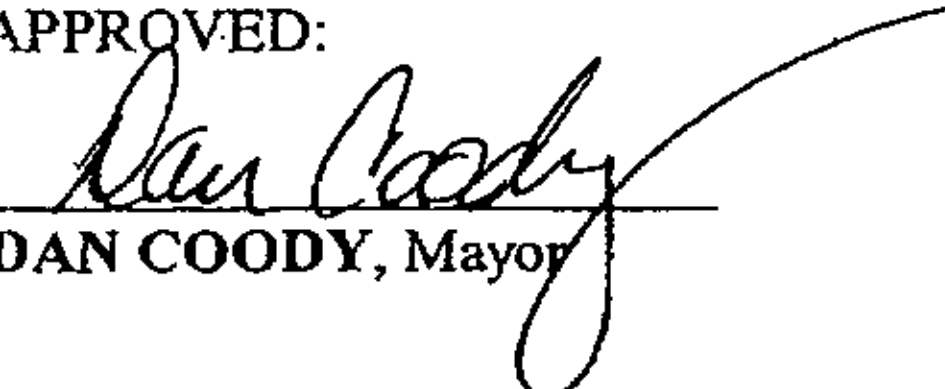
Section 2. That a copy of this Ordinance duly certified by the City Clerk shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County once the requirements of Section 3 have been satisfied.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby determines that this vacation shall not be effective until and unless the relocated storm sewer is installed and accepted by the City Engineer. If the relocated storm sewer is not completed by the applicant and accepted by the City Engineer by December 1, 2003, this vacation shall be null and void.

PASSED and APPROVED this the 3rd day of December, 2002.

APPROVED:

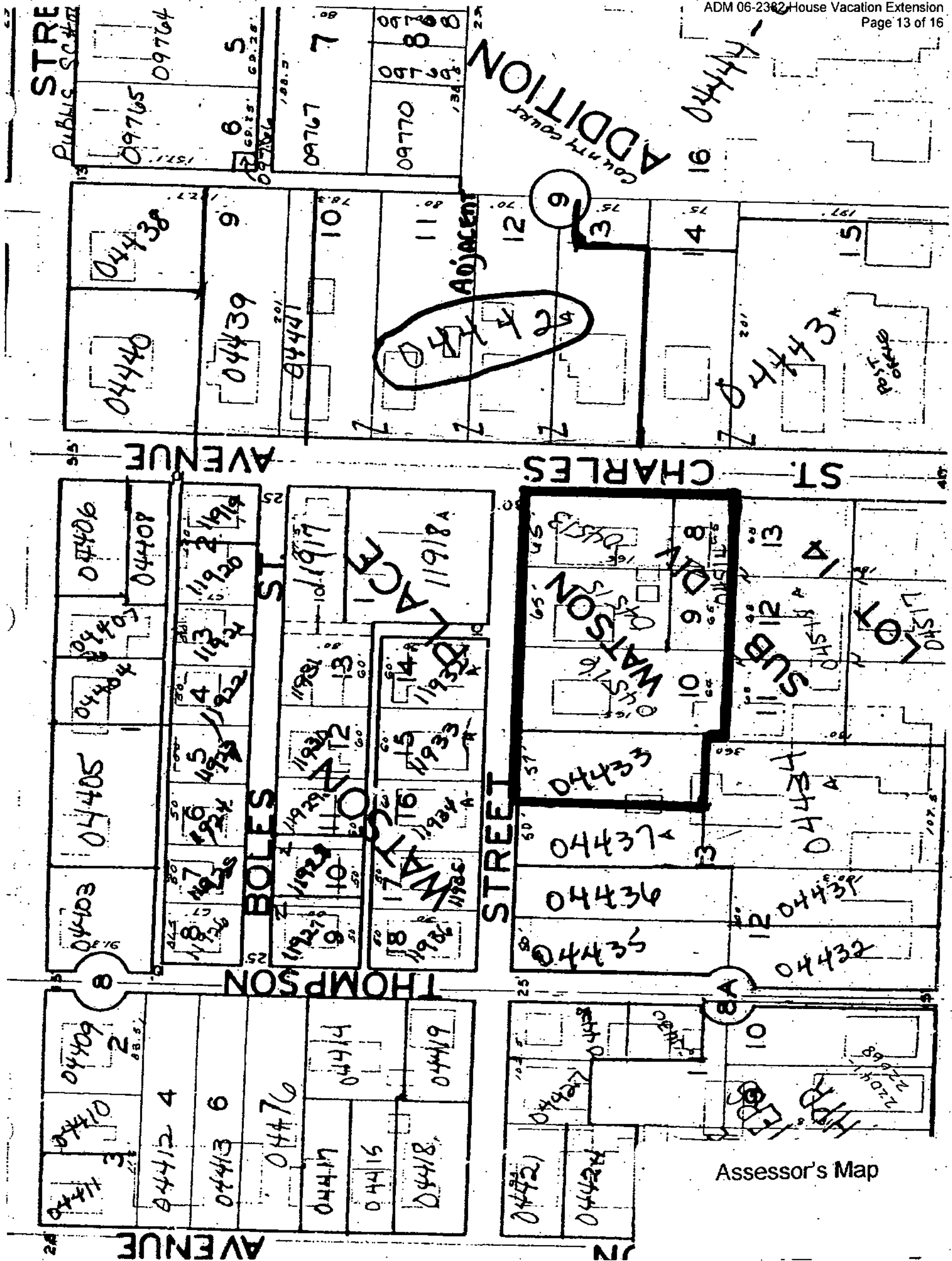
By:


DAN COODY, Mayor

ATTEST:

By:


Heather Woodruff, City Clerk





EB LandWorks, Inc.
758 Fowler Avenue
Fayetteville, Arkansas 72701
Voice 501.444.7769
Fax 501.444.7793

October 7, 2002

Mr. Tim Conklin, AICP
Director of Planning
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

RE: Request for Drainage Easement Vacations
Lots 8, 9, & 10 Located in Block 1 of Watson's Subdivision of Lot 14,
Block 8 of County Court Addition
Fayetteville, Arkansas

Dear Mr. Conklin:

The owners of the above referenced real estate wish to vacate existing drainage easements located within their property. The request meeting the City of Fayetteville requirements is attached in its entirety.

There are two easements of record that are attached for your review. It is believed by the petitioner, and concurred through discussions with you and the Assistant City Attorney, that the two documents represent only one easement, but that the easement across Lot 9 contains an error. The erroneous description starts the easement from the Northwest corner of Lot 8 of Watson's Subdivision, rather than the Northeast. When the easement is plotted properly as beginning from the Northeast corner of Lot 8, it encompasses the existing drainage infrastructure as was the purpose of the drainage easement.

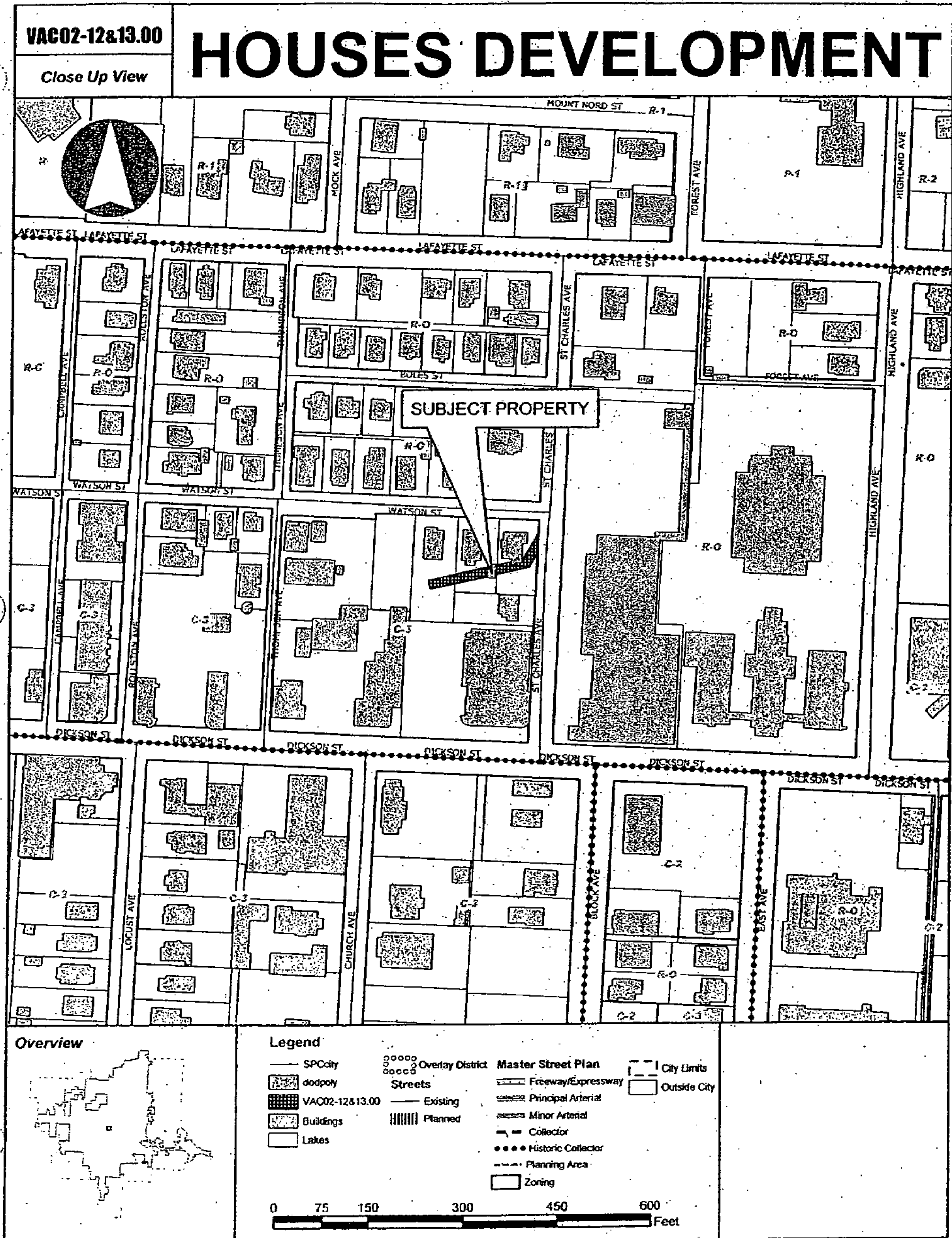
It is the intention of the petitioner to relocate the existing drainage to the approval of the City of Fayetteville Engineering Department and to dedicate easements to the City as necessary to accommodate the drainage and develop the property to its fullest extent allowed by the current zoning. The petitioner expects this request to be approved contingent to the these approvals.

Please do not hesitate to call me if you have any questions regarding this request.
Thank you for your consideration.

Best Regards:

A handwritten signature in cursive script, appearing to read 'Mandy R. Bunch'.

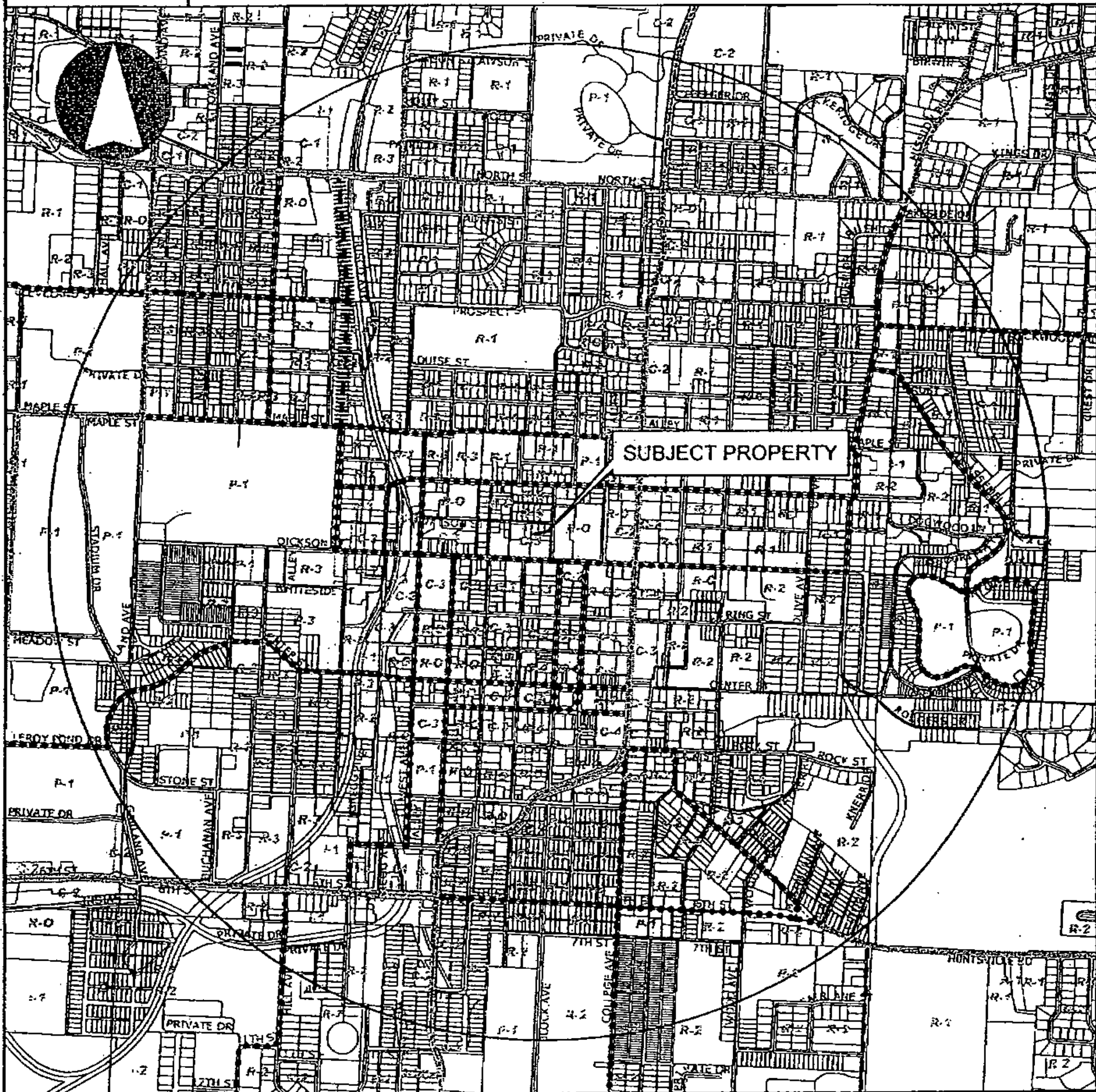
Mandy R. Bunch, PE



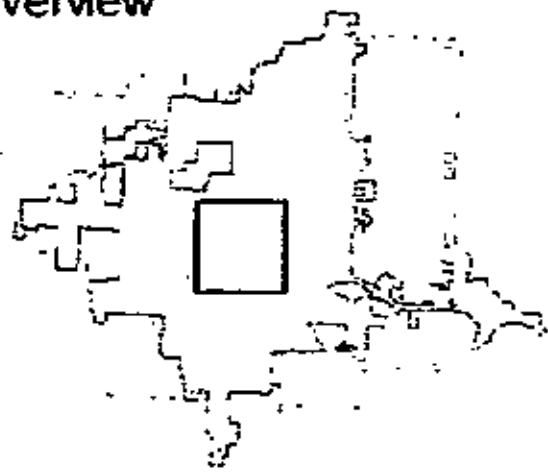
VAC02-12&13.00

One Mile View

HOUSES DEVELOPMENT



Overview



Legend

Subject Property

VAC02-12&13.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

**Finance & Internal Services
Department**

Received in Mayor's Office



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor and City Council

THRU: Paul Becker, Finance and Internal Services Director

FROM: Peggy Vice, Purchasing Manager *PVice*

DATE: November 30, 2006

SUBJECT: Sole Sourcing on contracts and purchases under \$20,000

Recommendation:

Staff recommends City Council approve an amendment to Chapter 34, Article II of the Fayetteville Code of Ordinances, Title III Administration, to allow sole source purchases on contract services and purchases under \$20,000 when it is not feasible, practical or possible to obtain quotes.

According to Chapter 34, Article II of the Fayetteville Code of Ordinances, Title III Administration, all purchases and contracts procured between \$1,000.00 and \$20,000.00 shall be made after obtaining quotes.

Discussion:

Purchases sometimes arise where staff cannot get a "comparable" quote from other vendors. It has been Purchasing staffs practice for many years to accept a "Sole Source Justification" from the division as a replacement for quotes. A copy of the "Sole Source Justification" form is attached for review.

Upon receipt of a sole source justification form, Purchasing staff reviews the reasonability of the sole or single source procurement based on the requestor's investigation, evaluation and documentation of alternate sources of supply and that the rejection of similar products is based solely on their failure to meet specific and necessary specifications and operational requirements. In cases where an alternate supplier for a similar product cannot be identified, the requester must document that a good faith effort has been made in seeking other sources.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND §34.23 OF THE FAYETTEVILLE CODE
PURCHASES AND CONTRACTS NOT IN EXCESS OF \$20,000.00
BY ENACTING A SOLE SOURCE SUBSECTION**

WHEREAS, the City Council is empowered by A.C.A. §14-58-303 (b) to provide the procedure for making all purchases which do not exceed \$20,000.00; and

WHEREAS, §34.23 of the Fayetteville Code authorizes such purchases after securing quotation bids and exempts cost share agreements with developers and governmental entities; and

WHEREAS, sometimes purchases must be from a sole source provider in order to be compatible with existing equipment or because the product has unique design or performance features.

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 amends §34.23 of the Fayetteville Code by enacting a new subsection (E) *Sole Source Provider* as shown below:

“(E) *Sole Source Provider*. Multiple quotation bids shall not be required if the Purchasing Manager approves the Sole Source Justification form signed by the requesting Division Head for an item that is uniquely compatible with existing equipment or has unique and essential design or performance features.”

PASSED and **APPROVED** this 19th day of December, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

expending, and auditing of all funds of the city.

- (B) The City Council shall also enact, by resolution, rules and regulations submitted by the mayor and the finance committee concerning budgeting, investment of funds, supplemental appropriation of unallocated funds and any other areas of fiscal control not specifically assigned to the Department of Finance.

(Code 1965, §2-53; Ord. No. 1382, 1-13-64; Code 1991, §34.07)

34.08-34.19 Reserved

**ARTICLE II
PURCHASE AND SALE OF
CITY PROPERTY; CONTRACT**

34.20 Definitions

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Duly authorized representative: Any city employee so designated by the mayor.

Lowest responsible bidder: The bidder, as determined by the mayor, or his duly authorized representative, after considering all the facts and circumstances in the best interests of the city.

(Code 1965, §2-64; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Code 1991, §34.20)

34.21 Compliance

In order to purchase supplies, apparatus, equipment, materials, and other things requisite for public purposes in and for the city, and to make all necessary contracts for work or labor to be done, or materials or other necessary things to be furnished for the benefit of the city, or in carrying out any work or undertaking of a public nature therein, the procedure to be followed shall be as set forth in this article; provided, however, that the City Council may waive the requirements of competitive bidding in exceptional situations where such procedures are deemed not feasible nor practical.

(Code 1965, §2-65; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Code 1991, §34.21)

34.22 Purchasing And Contracting Agent

The mayor, or his duly authorized representative, shall be the purchasing and contracting agent for the city. He/She shall purchase all supplies, apparatus, equipment, materials, and other things requisite for

public purposes in and for the city and may execute contracts to effect such purchases. The mayor shall also be the contracting agent for the city and shall enter into and execute all contracts for services, for the lease of land, the sale or exchange of personal property owned by the city, and for the construction of municipal improvements. All such purchases and contracts shall be subject to prior appropriations, in the budget approved by the City Council, or to other authorization of expenditures therefor, approved by the Council.

(Code 1965, §2-66; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Ord. No. 3453, 9-5-89; Code 1991, §34.22)

**34.23 Purchases And Contracts Not In
Excess Of \$20,000.00**

- (A) All such purchases not in excess of \$20,000.00 shall be made by the mayor, or his duly authorized representative, after the securing and recording of quotation bids therefor; provided quotation bids need not be secured for purchases under \$1,000.00.
- (B) Cost-share agreements with developers or governmental entities for the improvement of City infrastructure are expressly exempt from the requirements of this section. The City Council shall signify its approval of cost-share agreements by Resolution.
- (C) Contracts not in excess of \$20,000.00 shall be made and entered into by the mayor. The mayor shall have the authority to approve contract change orders up to the contingency amount, if any, as set forth in any approved contract even though such contingency amount may exceed \$20,000.00.
- (D) The hiring of engagement of professional services shall be conducted according to a professional hiring policy approved by the City Council.

(Code 1965, §2-67; Ord. No. 1215, 9-14-59; Ord. No. 1687, 7-21-69; Ord. No. 2259, 8-3-76; Ord. No. 3400, 1-3-89; Ord. No. 3453, 9-5-89; Ord. No. 3676, 2-17-93; Ord. No. 3719, 7-6-93; Code 1991, §34.23; Ord. No. 4722, 7-19-05; Ord. No. 4901, 7-18-06)

34.24 Repealed

34.25 Sales

- (A) The purchasing agent may sell or exchange any city-owned supplies, equipment, or materials if such have a fair market value of less than

EXAMPLES OF CURRENT SOLE SOURCING JUSTIFICATIONS:

1. Repairs of specialized equipment that has an integral repair part or accessory compatible with existing equipment such as Water/Sewer TV Van, Motorola radio equipment, Mobile Data equipment, salt brine sprayers, street sweepers, etc.
2. Special design or performance features such as: light fixtures and parts to match existing lights on trails, Dickson Street, etc.
3. Purchase or expansion of hardware and software packages that are protected by copyright or patent.
4. Purchase of chemicals and regents when extensive evaluation is required to make changes.
5. Equipment, products and/or service that staff have specialized training and/or extensive experience utilizing. Retraining would incur substantial cost and/or time and will not result in the most effective life-cycle net cost.
6. Repairs involving hidden damage requiring disassembly before a determination of needed repairs and cost can be made.
7. Standardized equipment purchases where an inventory of repair parts is kept to prevent downtime and prevent the need to keep repair parts, batteries, etc. for several different types, brands or manufacturers. Also allows interchangeability of parts from one piece of equipment to another when two are down for repair.

SOLE SOURCE JUSTIFICATION

PURPOSE:

This form, with one or more categories completed, must accompany purchase requisitions for the sole source procurement of equipment, services or supplies exceeding \$1000 (purchased from State Contract vendors excepted). The purpose of sole source justification is to show that competitive bidding is impractical because only one product or service provider can meet a specific need. Therefore, an equitable evaluation of comparable products or services must be made and documented by the requester who shows that rejection of other products or services is based solely on their failure to meet that need. In cases where no other comparable source can be identified, a technical description of the product requested and a listing of those companies which were considered as alternative sources must be provided. Quality can be a subjective evaluation based upon opinion. Municipal (public) procurement law requires price considerations be evaluated via competitive quoting or bidding.

While all sole source justifications are subject to review, sole source justified purchases of \$20,000.00 or more must be publicly bid or a bid waiver approved by Council. Justifications must contain clear, in-depth, and accurate information in order to avoid protests and the possibility of delaying the procurement.

INSTRUCTIONS:

1. Please type or print legible in ink.
2. Complete all categories and sections that apply.
3. Provide full explanation, complete descriptions, and/or list all relevant reasons where space has been provided. Sole Source Justification forms lacking sufficient detail cannot be approved.
4. Sign and date the form in the space provided for "signature".
5. Improperly completed, and/or unsigned forms will be returned to the sender.

TO: Purchasing Division Date: _____
FROM: _____ Dept: _____
SUBJECT: Names of Requisitioner and Dept. Head
Sole Source Justification
Purchase Requisition _____ (attached)
Proposed Vendor _____
Product Description _____

STATEMENT

I am aware that Fayetteville Code of Ordinances, Title III Administration, Chapter 34, Article II mandates that the procurement of services, materials, equipment and supplies be via competitive quotes whenever the amount is over \$1,000.00. However, I am requesting sole source procurement based on the following criteria. (Attach additional sheets as necessary):

1. The requested product is an integral repair part or accessory compatible with existing equipment. (please state the manufacturer and model number of existing equipment):

2. The requested product has special design/performance features which are essential to my needs.

Both A and B portions of this category must be completed.

- A. These features are:

- B. In addition to the product requested, I have contacted other suppliers and considered their product of similar capabilities. I find their product unacceptable for the following reasons (identify companies contacted, individuals contacted, model number and specific technical deficiency).

3. I have standardized the requested product/service; the use of another would require considerable time and money to evaluate.

Explain: _____

4. The requested product is one which I (or my staff) have specialized training and/or extensive experience. Retraining would incur substantial cost in money and/or time.

Explain: _____

5. Please consider sole source approval for this reason(s) (e.g. trade-in allowance; availability of services, parts and maintenance; product is a prototype; inventory of parts are maintained, etc.):

Authorization:

Full Name and Title of Requisitioner _____
(typed or printed in ink)

Signature _____ Date _____

Full Name of Division Head _____
(typed or printed in ink)

Signature _____ Date _____

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

19-Dec-06
City Council Meeting Date

David Wright/Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

An ordinance waiving the formal requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000 to provide public recreation services and facilities for the youth and citizens of Fayetteville for 2007.

\$250,000.00
Cost of this request
1010.6600.5718.00 - 25%
2250.9250.5718.00 - 75%
Account Number
n/a
Project Number

\$62,500
\$ 187,500.00
Category/Project Budget
\$ -
Funds Used to Date
\$62,500.00
\$ 187,500.00
Remaining Balance

Transfer to Boys and Girls Club
Program Category / Project Name
Parks Development Program
Program / Project Category Name
Parks Development Program
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 11-30-06
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 12/1/06
City Attorney Date

Original Contract Number: _____

Paul A. Buhner 12-1-06
Finance and Internal Service Director Date

Received in City Clerk's Office



[Signature] 12/3/06
Mayor Date

Received in Mayor's Office



Comments:

Boys and Girls Club
p. 1 of 2

City Council Meeting of December 19, 2006

CITY COUNCIL AGENDA MEMO

To: Mayor Coody and City Council

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

From: David Wright, Recreation Superintendent

Date: November 29, 2006

Subject: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and the Fayetteville Youth Center, Inc., in the amount of \$250,000 to provide public recreation services for the youth and citizens of Fayetteville for 2007.

RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends to approve the contract with Fayetteville Youth Center to provide public recreation services for the citizens of Fayetteville and waive competitive bid for services.

BACKGROUND

The City of Fayetteville has provided financial support for the Fayetteville Youth Center since 1967. In 1999, the Parks and Recreation Staff and the Youth Center Staff re-evaluated their operations to determine if each was meeting the needs of the Citizens of Fayetteville in the most efficient possible manner. The results of the meetings were the attached "Working Agreement" between Parks and Recreation and the Fayetteville Youth Center. It is the intent of both agencies to work together for the common good of the citizens by not providing public funding for multiple competing program offerings. If the Youth Center was not providing recreational services for our youth as well as citizens, the City of Fayetteville would need to assume the responsibility.

DISCUSSION

The 2006 budget includes a total of \$250,000 to be transferred to the Fayetteville Youth Center. Of this transfer, \$187,500 is allocated from the Parks and Recreation Division, Parks Development Program and \$62,500 comes from the General Government Department, Miscellaneous Division. A resolution of contractual services, as well as an ordinance to waive competitive bidding is required. The contract outlines the services the Fayetteville Youth Center is providing to the City and the citizens of Fayetteville. We are requesting a waiver of competitive bids to secure the continuity of services provided and because the Fayetteville Youth Center has adequately served our citizens since it was created.

The agreement for 2007 is similar to the 2006 agreement. As stated before, each organization wants to offer two distinctly different programs to our citizens. Although each organization offers a variety of summer camps for our youth, staff from each organization works together to provide a variety of topics and elements that best suit our citizens' needs.

BUDGET IMPACT

The 2007 budget includes a total of \$250,000 for the transfer to the Fayetteville Youth Center. This is same amount provided in 2006. This agreement is contingent upon City Council approving the 2007 Operational Budget.

If you have any questions regarding the Agenda Request or the Working Agreement, please call me at 444-3481, or email dwright@ci.fayetteville.ar.us.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT BETWEEN THE CITY OF FAYETTEVILLE, ARKANSAS AND THE FAYETTEVILLE YOUTH CENTER, INC. IN THE AMOUNT OF \$250,000.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR THE YOUTH AND CITIZENS OF FAYETTEVILLE FOR 2007.

WHEREAS, providing quality recreational opportunities to the youth and other citizens of our community is of mutual interest to the City of Fayetteville and the Fayetteville Youth Center, and;

WHEREAS, the Fayetteville Youth Center and the City of Fayetteville have had a close working relationship for many years, and;

WHEREAS, this relationship allows for a continuity of services vital to the efficient provision of recreational opportunities, and;

WHEREAS, were it not for the services offered by the Fayetteville Youth Center, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for youth recreational services.

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

Section 1. That the City Council for the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical and waives the requirements of formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Fayetteville Youth Center, Inc. in the amount of \$250,000.00 to provide public recreation services for the youth of Fayetteville for 2007. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

By:

DAN COODY, Mayor

TEST:

By:

SONDRA SMITH, City Clerk

CONTRACT

*Between The City of Fayetteville
And
Fayetteville Youth Center, Inc.*

WHEREAS, the City of Fayetteville has long been associated with and worked with the Fayetteville Youth Center, Inc. to provide public recreation to the citizens of Fayetteville; and

WHEREAS, the Fayetteville Youth Center, Inc. has long provided public recreation to the youth and citizens of Fayetteville; and

WHEREAS, it remains in the best interest of the City of Fayetteville and its citizens to provide operating, promotion and development revenues to the Fayetteville Youth Center, Inc. in consideration for the substantial recreational programs provided by the Fayetteville Youth Center, Inc. to the youth and citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of \$20,833.33 monthly to the Fayetteville Youth Center, Inc. throughout the year of 2007 in consideration of the following duties and obligations to be performed by the Fayetteville Youth Center, Inc.:

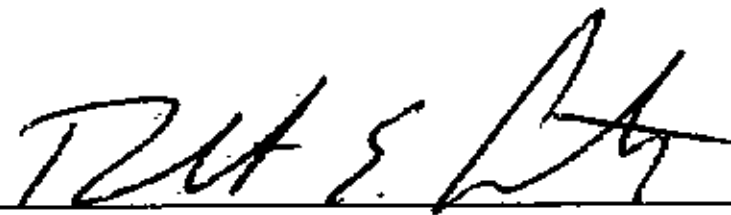
- A. The Fayetteville Youth Center, Inc. shall be jointly responsible with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the main facility of the Boys and Girls Club on Ruppel Road. The Fayetteville Youth Center, Inc. agrees to use funding from the City to pay for gymnasium supervisors and custodians at these sites.
- B. The Fayetteville Youth Center, Inc. shall make a substantial portion of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for needy youth. Although basic membership fees may be required for many Fayetteville residents, no needy youth wishing to participate at the Fayetteville Youth Center, Inc. facility shall be denied access solely because he or she does not have sufficient funds to pay for a regular membership. The Fayetteville Youth Center, Inc. shall report on a quarterly basis the approximate number of Fayetteville Citizens served by its programs and shall include the number of "scholarships" or free memberships provided to Fayetteville citizens.

- C. The Fayetteville Youth Center, Inc. shall continue to follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and The Fayetteville Youth Center, Inc. which is attached as Exhibit A, and made a part hereof.

CITY OF FAYETTEVILLE

BY: _____
DAN COODY, Mayor

FAYETTEVILLE YOUTH CENTER, INC.

BY: 
President
Title

ATTEST:

BY: _____
Sondra Smith, City Clerk

EXHIBIT A

RECREATION IN FAYETTEVILLE

**WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF
FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE
FAYETTEVILLE YOUTH CENTER, INC.**

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Fayetteville Youth Center, Inc., d/b/a Fayetteville Boys and Girls Club (hereinafter FYC).

WHEREAS, the parties are two of the providers of recreational programs for the citizens of Fayetteville and wish to define a working agreement which may be revised and modified each year upon mutual agreement between the Director of Parks and Recreation and the Executive Director of the Fayetteville Boys and Girls Club; and,

WHEREAS, it is the goal of both parties to work in cooperation to enhance the recreation facilities and programs offered by the parties and to act together in meeting the needs of the citizens of Fayetteville; and,

WHEREAS, increase communications and a new set of operating procedures will assist with the working relationship and will benefit both agencies and their operations; and,

WHEREAS, Parks and Recreation believes the goals of Parks and Recreation and FYC would best be accomplished by defining and streamlining responsibilities and procedures; and, is therefore recommending the merging of facility and program management for all recreation offerings, thereby providing administrative accountability for all services provided to the citizens.

NOW, THEREFORE, in order to define and improve the current working relationship between Parks and Recreation and FYC, the following set of detailed operating procedures and responsibilities are hereby established.

1. FYC shall be responsible for working with the Fayetteville School System to provide staffing, programming, maintenance, promotion and development for the following facilities: Asbell Gymnasium, Holcomb Gymnasium, Vandergriff Gymnasium and the Boys and Girls Club. FYC will be responsible for the hiring, evaluating, and supervising of gymnasium supervisors and custodians at Holcomb, Asbell, and Vandergriff Gymnasiums.

2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development for the city and school parks, including the following facilities which are utilized for sport programming; Asbell Soccer/Softball Complex, Lake Fayetteville Softball Complex, Gary Hampton Softball Complex, Lewis Street Soccer Complex, Walker Baseball/Soccer Complex, White River Baseball Complex, and the Wilson Park Softball Field. Parks and Recreation shall be responsible for outdoor facilities owned or leased by the City of Fayetteville, excluding the property leased to FYC pursuant to written agreements.
3. FYC shall be responsible for providing or approving the management, staffing and promotions and development of the following programs and activities. FYC shall coordinate with the Fayetteville School System for use of their facilities. FYC shall be responsible for the majority of sports and activities held at indoor recreation facilities, including but not limited to the following:
 - Basketball
 - Baton
 - Camps
 - Cheerleading
 - Dance
 - Fishing Rodeo
 - Flag Football (Youth)
 - Golf
 - Gymnastics
 - Karate
 - Ping Pong
 - School Kids Connection
 - Swim Lessons
 - Volleyball
 - Tackle Football
 - Track
 - Special Events
 - FYC shall not compete/duplicate with those services listed in paragraph 4.
4. Parks and Recreation shall be responsible for providing or approving the management, staffing and promotion and development of the following programs and activities. Parks and Recreation shall be responsible for the majority of sports and activities held at outdoor recreation facilities, including but not limited to the following:

- Baseball
- Softball
- Flag Football (Adult)
- Hobby Use Groups
- Sand Volleyball
- Soccer
- Special Events
- Swim Lessons
- Tennis
- Youth Activity Camps

5. FYC agrees not to establish a program that competes/duplicates with an established program provided by Parks and Recreation. Moreover, FYC agrees to provide Parks and Recreation with information relating to any of its program including roster of players, coaches, rules of the league and similar relevant data upon request by Parks and Recreation. It is the intent of both parties to work together for the common good of the citizens of Fayetteville by not providing public funding for duplicate program offerings. It is understood that FYC and Parks and Recreation both currently provide swim lessons and aquatic programs and that both parties agree to work together for the common good for both parties.
6. In the event the FYC wishes to offer programs which fall in the general description of paragraph 5 above, which does not believe competes with current Parks and Recreation program, FYC shall provide advance notice of intent to start the program to Parks and Recreation with time to determine whether it is a competing program or not. In the event that FYC offers a program that the Parks and Recreation believes is a duplicate program within the meaning of this document, Parks and Recreation Staff shall give FYC written notices of its assessment. FYC shall either cease operating such program within 30 days of such notice or shall provide a written response to Parks and Recreation that disputes whether such program is in fact a competing program. If FYC fails to cease such program or respond to the assessment from Parks and Recreation, the City may discontinue funding for FYC on the 31st day after such notice. If FYC files a dispute, the issue shall be resolved by City Council and finding of City Council shall be final and not subject to appeal. If FYC fails to cease operation of such a program within 30 days of a decision requiring such cessation by City Council, then the City may stop annual funding to FYC.
7. The FYC Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

8. It is understood and agreed that the City's annual purchase of services shall be negotiated on a yearly basis.
9. The FYC Board of Directors is responsible for the management and operation of the annual funding allocation to FYC from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 75 percent of the funding shall be expended for promotion and development of recreation.
10. As part of the annual funding, FYC agrees to make its facilities available to residents of the City of Fayetteville for a nominal daily fee without the need to purchase a membership to the club.
11. FYC shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director on or before July of each year. Such report shall detail FYC's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated below in number 13.
12. FYC shall comply with schedules and procedures established by the Budget and Research Division of the City of Fayetteville for annual funding requests.
13. Quarterly reports shall be submitted to the Parks and Recreation Director on the following dates: April 13, July 13, October 12, and January 11 (2008). These reports will detail the following performance measures:
 - A. Provide a minimum of 30 open recreation hours per week at the Donald W. Reynolds Boys and Girls club facilities.
 - B. Provide a minimum of 10 youth instructional/educational programs.
 - C. Provide a minimum of three youth sports programs.
 - D. Provide a minimum of two free community-wide events at the Donald W. Reynolds Boys and Girls club facilities.
 - E. Provide marketing materials to Fayetteville school children for major sport programs.
 - F. Implement three customer service surveys for Boys and Girls Club programs.
 - G. Apply for 10 grants/major corporate sponsorships to provide additional funding to operate the Fayetteville Boys and Girls Club facilities and programs.
 - H. Include Parks and Recreation logo to organizational web site and acknowledge the City of Fayetteville on sponsor wall located in the Donald W. Reynolds Boys and Girls Club.

14. The working procedures and responsibilities contained herein shall become effective January 1, 2007.

CITY OF FAYETTEVILLE

BY: _____
Dan Coody, Mayor

Attest:

BY: _____
Sondra Smith, City Clerk

FAYETTEVILLE YOUTH CENTER, INC.

BY: T. H. S. LA

Attest:

BY: _____

Hometown Development
1747 N. College Avenue
Fayetteville, AR 72703

November 21, 2006

Mrs. Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, Ark 72701

Dear Mrs. Smith

On Monday, November 13, 2006, the Fayetteville Planning Commission considered R-PZD 06-2196: Planned Zoning District (West Fork Place) 565/566. After considerable discussion, the commission by a vote of 5-3 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. In order to allow us to generate additional information, we are requesting that our appeal be heard at the council meeting of December 19, 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 at 841-8549.

Sincerely,



Mike McDonald
Hometown Development

RECEIVED
NOV 21 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 

Date: November 16, 2006

Subject: Residential Planned Zoning District for West Fork Place (R-PZD 06-2196)

RECOMMENDATION

The Planning Commission voted 5-3-0 to deny the subject Residential Planned Zoning District request, R-PZD 06-2196, West Fork Place.

Planning Staff recommends in favor of the request for an ordinance to create a Residential Planned Zoning District for West Fork Place. This action would establish a unique zoning district for a residential development with a maximum of 59 dwelling units on a 13.92-acre tract located south of Huntsville Road and Helen Street, a proposed density of 4.2 dwelling units per acre.

BACKGROUND

The subject property consists of approximately 13.92 acres located south of Huntsville Road and Helen Street, north of the West Fork of the White River. The site is zoned predominantly RSF-4, however there are portions of the property zoned C-2, I-2 and R-A. Much of the property is within the floodplain, as the West Fork of the White River bounds the southern part of the property. Ray Avenue and Jerry Avenue provide access from HWY 16E (Huntsville Road) through an existing subdivision with predominantly single-family homes, but with a mixture of RSF-4, RSF-7, RMF-24 and C-1 zoning. 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 November 13, 2006, the Planning Commission voted 5-3-0 to deny this request with commissioners Harris, Clark, Myres, Ostner and Anthes voting 'Yes'. The motion to deny passed and the applicant has appealed this request to City Council. The main issues of Planning Commission concern centered on density, ingress and egress within the existing subdivision, increased traffic and access onto Huntsville Road, connectivity and compatibility.

BUDGET IMPACT

None.

Hometown Development

**1747 N. College Avenue
Fayetteville, AR 72703**

November 21, 2006

Mrs. Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, Ark 72701

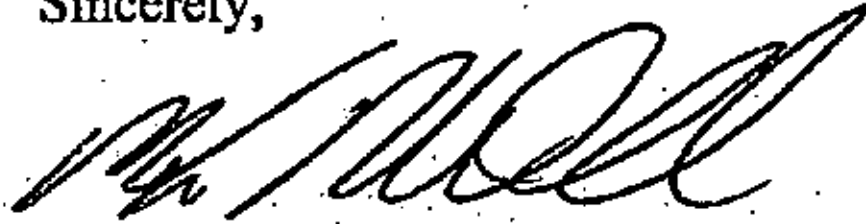
Dear Mrs. Smith

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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. In order to allow us to generate additional information, we are requesting that our appeal be heard at the council meeting of December 19, 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.

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Sincerely,



Mike McDonald
Hometown Development

RECEIVED
NOV 21 2006
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2196, WEST FORK PLACE, LOCATED AT THE END OF RAY AVENUE, SOUTH OF HUNTSVILLE ROAD; CONTAINING APPROXIMATELY 13.92 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 R-A, Residential Agriculture, RSF-4, Residential Single Family, 4 units per acre, C-2, Thoroughfare Commercial and I-2, General Industrial, to R-PZD 06-2196 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. Said Exhibit "C" shall be filed and available for view in the office of the City Clerk of the City of Fayetteville.

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 06-2196

LOT 9 IN BLOCK 4 IN WATSON ADDITION, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK 1 AT PAGE 220; ALSO PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4; ALSO PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4, ALL IN SECTION 23, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALL TOGETHER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE N02°39'35"E 879.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N02°39'35"E 260.95 FEET; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 4 AND THE WESTERLY PROLONGATION THEREOF S87°22'44"E 789.38 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE DEPARTING SAID SOUTH LINE N02°52'43"E 150.26 FEET TO A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID LOT 9; THENCE S87°19'05"E 91.92 FEET TO THE NORTHEAST CORNER OF SAID LOT 9; THENCE S02°51'50"W 150.16 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 4 AND THE EASTERLY PROLONGATION THEREOF S87°22'44"E 175.50 FEET; THENCE S05°48'12"E 282.61 FEET; THENCE S86°43'07"E 205.49 FEET TO A POINT ON THE CENTERLINE OF THE WHITE RIVER; THENCE ALONG SAID CENTERLINE THE FOLLOWING SIX COURSES: S18°18'13"W 143.01 FEET; THENCE S57°24'30"W 261.31 FEET; THENCE S89°14'54"W 209.81 FEET; THENCE S62°07'03"W 157.11 FEET; THENCE N84°09'20"W 158.79 FEET; THENCE S63°37'01"W 101.34 FEET; THENCE DEPARTING SAID CENTERLINE N30°11'12"W 73.53 FEET TO THE INTERSECTION OF THE CENTERLINE OF A CREEK WITH SAID WHITE RIVER; THENCE ALONG SAID CREEK CENTERLINE THE FOLLOWING 22 COURSES: N49°09'59"E 64.45 FEET; THENCE N46°25'21"W 57.75 FEET; THENCE N70°07'51"E 44.90 FEET; THENCE S86°37'52"E 26.45 FEET; THENCE S40°31'18"E 49.95 FEET; THENCE N00°37'26"E 10.33 FEET; THENCE N10°39'06"W 87.12 FEET; THENCE N69°00'12"W 107.55 FEET; THENCE N44°11'43"W 73.43 FEET; THENCE N66°15'31"W 32.28 FEET; THENCE N85°18'12"W 137.46 FEET; THENCE S27°17'38"W 12.61 FEET; THENCE N78°07'21"W 27.41 FEET; THENCE N09°32'40"E 23.16 FEET; THENCE N68°11'12"W 32.95 FEET; THENCE N08°49'55"E 39.49 FEET; THENCE N19°21'36"E 33.93 FEET; THENCE S89°45'33"W 13.32 FEET; THENCE N43°37'01"W 17.67 FEET; THENCE N78°17'20"W 12.59 FEET; THENCE N88°25'52"W 43.38 FEET; THENCE N82°07'12"W 11.12 FEET TO THE INTERSECTION OF SAID CREEK CENTERLINE WITH THE CENTERLINE OF A ROAD; THENCE DEPARTING SAID CREEK CENTERLINE N75°12'56"W 43.15 FEET TO THE POINT OF BEGINNING; CONTAINING 13.92 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

EXHIBIT "C"

R-PZD 06-2196

Page 1 of 4

CONDITIONS OF APPROVAL:

1. Planning Commission determination of street improvements.
 - a. *Staff recommends an asphalt overlay on Ray Avenue from the intersection of Huntsville Road to connect to the proposed interior street, which will be constructed to City standards. The overlay shall create, at minimum, a 24' wide paved street width. Engineering staff shall determine at the time of construction, the amount of improvement necessary (milling, depth of overlay, etc.).*
 - b. *The existing sidewalk on the west side of Ray Avenue shall be extended into the proposed development with a crossing at Ray Avenue to the proposed sidewalk.*
 - c. *Staff recommends that a 4' sidewalk be constructed on the north side of the public alley in Planning Area 1 and 2 as indicated in this site plan, to provide pedestrian access for the dwelling units in this area.*
 - d. *Street lights shall be installed every 300' along the public street, public alleys and at all intersections.*
 - e. *Staff recommends the applicant indicate a dashed, future sidewalk connection to the trail on the southwest side of the property, across the slope from the sidewalk shown to connect to the public alley (see exhibit in the staff report). This connection shall be permitted to occur at a future date, if desired by the City, with the construction of the trail.*
2. Planning Commission determination of waivers from street design standards. *The applicants request a waiver of the required street radius of 150' (request 100' radius). Staff recommends approval of the requested waiver, finding that the street design will not create a dangerous traffic situation for vehicles or pedestrians.*
3. The western street stub-out shall be constructed to city standards to the property line for a public residential street at the time of development. The exact location of the street stub-out shall be approved by the Engineering Division at the time of construction review. The developer shall install signs at all street stub-outs to indicate the future extension of this right-of-way prior to Building Permit (contact the Transportation Division for additional information). Clearly label the proposed stub-out on the plat for future reference.
4. Public streets and alleys interior to the project shall be constructed to City specifications for public streets. All sidewalks, in the right-of-way or access easements, shall be constructed to city standards. Any sidewalk that is proposed to be constructed outside of the public right-of-way shall be within an access easement, allowing general public usage. An access easement shall be provided for pedestrians to access the park and trail where parkland is not dedicated.
5. 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

EXHIBIT "C"
R-PZD 06-2196
Page 2 of 4

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. Staff is recommending approval of the submitted Tree Preservation Plan associated with RPZD 06-2196 with the following conditions of approval:
 - a. Tree canopy shared by land owners is found to be a high priority. All canopy along the northern property line should have every measure taken to ensure the health and longevity of the trees.
 - b. Mitigation will be required in the amount of 49 (2) inch caliper large species trees. The applicant will be utilizing the residential on-site mitigation option.
 - c. A 3-year maintenance and monitoring bond, letter of credit, or check will be due in the amount of \$12,250 for the mitigation trees before the last certificate of occupancy in this development or as each lot develops.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
8. One (1) large species tree shall be planted in between each of the multi-family driveways and shall be depicted on the landscape plan.
9. 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. Any portion of a structure which is visible from the right-of-way shall be articulated and contain features such as doors, windows and/or similar openings.
10. A deed for the 6.07 acres of park land is required prior to building permit(s). Based on the number of units, the developer is only required to dedicate 1.39 acres.
11. 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.
12. 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.

EXHIBIT "C"
R-PZD 06-2196
Page 3 of 4

13. Should the property ever be subdivided, it shall comply with the zoning criteria as established and approved herein. Future subdivision of the property would require Planning Commission and City Council approval for a modification to the Planned Zoning District zoning criteria, or a new Planned Zoning District.
14. All structures shall meet City of Fayetteville ordinances for floodplain development, including finish floor elevations, grading and erosion control and floodplain development permits.
15. Prior to building permit, a cost estimate for all required landscaping and sidewalks is to be submitted for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
16. Plat revisions that shall be completed prior to construction plan review:
 - i. The Solid Waste Division has approved the location of the two dumpster pads; which will be utilized by the residents in the multi-family units. However, the dumpster pads need to be increased to 12' wide by 15' deep. Appropriate screening shall be required and approved by the Planning Division.
 - ii. Remove/relocate the unit in Planning Area 1 (north of Ray Ave.) from the drainage area.
 - iii. Page 8 of the project booklet indicates that Use Unit 4, Cultural and Recreational Facilities will be allowed as a use by right, whereas the plats indicate Use Unit 4 as a conditional use. Make sure that Use Unit 4 is listed as a conditional use on all pages of the plat and booklet.
 - iv. Page 8 of the project booklet (Current Zoning vs. Proposed PZD): The information within this table has not been updated to reflect the most current numbers. This table shall be updated to reflect the current proposal.
 - v. By not providing lot width minimums at this time, the subject property may not be subdivided without first obtaining Planning Commission and City Council approval to modify an approved Planned Zoning District.
 - vi. Include the area between the public trail/alley access and Planning Area 5 within a 20' trail access easement for a future trail connection (direct extension of public trail/alley access, with bollards shown). Actual connection to be constructed by the City of Fayetteville.
 - vii. Include an extension (dashed, future) of the sidewalk on the southwest side of the project across the slope and connecting to the trail (to be constructed by the City with the trail, if desired).
 - viii. Show the extension of the sidewalk along the west side of Ray Ave. with a crossing to the new sidewalk. Show a sidewalk along the property frontage on Helen St. There are two places on Public Alley 1 where crossings are not shown. Extend the sidewalk at the southeast of the property to the public trail/alley access. Make sure that all sidewalk crossings align.

EXHIBIT "C"

R-PZD 06-2196

Page 4 of 4

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 and floodplain development 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.

PLANNING STAFF REPORT



Planning Commission Meeting
November 13, 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: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: November 7, 2006 Updated November 16, 2006

R-PZD 06-2196: Planned Zoning District (WEST FORK PLACE, 565/566): Submitted by PROJECT DESIGN CONSULTANTS for property located at THE END OF RAY AVENUE, S OF HUNTSVILLE ROAD, containing 13.92 acres. The request is for Zoning and Development review of a Residential Planned Zoning District with 59 single-family dwellings: 30 attached and 29 detached.

Planner: Jesse Fulcher

Findings:

Subdivision Committee Discussion August 31, 2006: The subject request was tabled by the Subdivision Committee on August 31, 2006, to allow the applicant time to respond to concerns from the Urban Forester and make revisions to the site plan and project booklet. Additionally, the Subdivision Committee requested information regarding the existing salvage yard located to the south of the subject property, specifically screening requirements between the industrial use and the proposed residential use.

Based on staff research a large scale development was approved in 1974, allowing for the development of an auto salvage/scrap metal yard. Based on information provided within the large scale file, the use was required to be enclosed by a 8' high fence. The subject development request is not responsible for screening a residential use from a nonresidential use. Therefore, staff will continue to investigate the current circumstances at the salvage yard to determine what, if any, screening requirements may still be valid.

Subdivision Committee Discussion September 14, 2006: The subject request was forwarded to the Planning Commission with a vote of 2-1-0. One of the committee members voted against the project, citing concerns with the use of a platted lot within the Watson's Addition for a street connection and the lack of connectivity for the project. All three commissioners discussed street connectivity, specifically to the west, given that connectivity to south and east is limited due to floodplain.

Planning Commissioners comments September 25, 2006: The subject request was tabled by the Planning Commission on September 25, 2006 to allow the applicant time to respond to concerns from the Planning Commission and surrounding property owners. The following are itemized comments/concerns from the Planning Commission meeting:

- Increased traffic congestion on Huntsville Road and a lack of improvements provided by this development.
- The use of an existing platted lot for a street connection. Would prefer that the access be restricted to pedestrian and fire access.
- Too many multi-family units.
- Too much land for a Property Owners Association to maintain over a long period of time.
- Recommended removing the single-family home next to the street connection through the platted lot.
- Provide a stronger connection between the older residential neighborhood and the proposed development.
- The homes along the river should face the river, as it is an amenity to the development.
- Density and compatibility between the proposed development and the largely single-family neighborhood to the north.
- Too much grading.
- Show the stub-out to the west on the plat, so that future residents are aware of potential for street connection.

Overview of changes since Planning Commission review on September 25, 2006:

- The street connection through the platted lot (Lot 9 Watson Addition) has been replaced with a 20' public alley for fire access, pedestrian usage and reduced POA maintenance. Break-away bollards are proposed at each end to prohibit vehicular use, except for emergency vehicles.
- A right-of-way stub-out to the west has been indicated on the site plan to provide future connectivity to Happy Hollow Road.
- The public street and the public alleys have been realigned to create a 4-way intersection. Accordingly, the two multi-family buildings were repositioned.
- A 4' sidewalk is proposed along the south side of the multi-family units. Additionally, a second trail connection has been indicated, which will provide a direct connection for area residents to the main trail system to be constructed by the City.
- The 8-unit building proposed for Planning Area 2 has been replaced with two 4-unit buildings.
- Additional guest parking areas have been provided along the public alleys.

Planning Commission October 23, 2006: The subject development was tabled at the request of the applicants to allow additional time to work with the adjacent property owners.

Planning Commissioners comments/concerns September 25, 2006:

- Maintenance of common areas by Property Owners Association
- Density
- Limited access-One point of ingress/egress
- Traffic through existing neighborhood
- Connectivity
- Compatibility

Property Description: The subject property consists of approximately 13.92 acres located south of Huntsville Road and Helen Street, north of the West Fork of the White River. The site is zoned predominantly RSF-4, however there are portions of the property zoned C-2, I-2 and R-A. Much of the property is within the floodplain, as the west fork of the White River bounds the southern part of the property. Ray Avenue and Jerry Avenue provide access from HWY 16E (Huntsville Road), through the subdivision with predominantly single-family homes, but with a mixture of RSF-4, RSF-7, RMF-24 and C-1 zoning.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single and Two-family	RSF-4, Residential Single Family, 4 Units/Acre
South	Undeveloped	White River/R-A, Residential Agriculture
East	Undeveloped	White River/R-A, Residential Agriculture
West	Industrial/Commercial	C-2, Thoroughfare Commercial; I-2 General Industrial

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 29 single-family units and 30 two-family/multi-family units in buildings of 2, 4, and 6 units combined, for a maximum density of 4.24 units per acre. All of the residential units will be located in Planning Areas 1-3, Planning Area 4 will be utilized for community green space and Planning Area 5 will be dedicated park land. This proposal does not subdivide the property; rather, all units will be located on commonly held property, maintained by a Property Owner's Association.

The project is to utilize a public street (extension of Ray Avenue), two public alleys and a 20' wide public alley for fire and pedestrian access only. Providing two points of ingress and egress to the development is important for emergency vehicles.

The potential for providing connectivity to the east or south is very limited given the terrain and amount of floodplain/floodway. The west fork of the White River bounds the southern property line and then curves to the north along the east property line, creating a difficult, if possible future connection to the east. Redevelopment of properties along Happy Hollow Road could allow for a future connection between Ray Avenue and Happy Hollow Road, for Ray Avenue right-of-way is accessible to properties along its entire length south of Huntsville Road. The applicant proposes a street stub-out to the west, which will be clearly indicated on the site plan and constructed on-site.

The Watson Addition, which includes the existing, developed lots on Helen Street, Ray Avenue, Jerry Avenue and Lee Street, was platted in the early 1960's. Even at the time, the potential for developing the subject property was indicated by the right-of-way extensions of Ray Avenue and Jerry Avenue to the south. However, in 1996 the City Council, at the request of the adjacent property owners, vacated the platted right-of-way for Jerry Avenue into the subject property. Had this not occurred, the proposed development would have two existing rights-of-way to utilize for ingress and egress purposes. Unfortunately, only the Ray Avenue right-of-way provides existing street right-of-way to the subject development.

Access and Parking: Access to the site is provided from the extension of Ray Avenue with limited access provided for emergency vehicles by way of a 20' public alley. Streets within the existing subdivision appear to be in good condition, and are generally as wide or wider than our current ordinances require, though curb and gutter is primarily absent.

One property owner, in particular, has objected to the use of the platted lot as a street connection to Helen Street. Additionally, the Planning Commission has voiced concerns regarding the use of a residentially platted lot for use as a public street. In response to this, the applicants have replaced the public street extension with a controlled access alley, which will only allow for emergency vehicle use and pedestrian access. In staff's initial evaluation of this project, it was recommended that a secondary point of ingress/egress be established, for both safety and ease of traffic movement. It is ultimately the Planning Commission and City Council's decision regarding using this lot, which is proposed to contain a single-family home and the street connection, as an out-lot. Without the ability to connect to other streets, staff has asked the applicant to present this option to the Planning Commission for consideration.

Both individual and shared driveways will be used for accessing the individual units, which contain a mixture of garages, carports and uncovered parking areas. Parking has been provided in conformance with ordinance requirements, totaling 122 parking spaces, both in garages and provided driveways of units

Phasing: The applicant proposes to construct this development in one phase, under the typical one-year requirement for large scale developments, with a one-year extension request available, pursuant to Chapter 166 of the Unified Development Code.

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: Ray Avenue (Local Street)
Helen Street (Local Street)

Street Improvements: Staff recommends an asphalt overlay on Ray Avenue from the intersection of Huntsville Road to the proposed interior street, which will be constructed to City standards. This will provide an improved access directly to Huntsville Road, a major arterial. A visual evaluation of Ray Avenue indicates a street that is paved, but has been poorly patched, is cracking and less than 22' in width in some locations. The existing sidewalk on the west side of Ray Avenue shall be extended to the property with a crossing over the extension of Ray Avenue, along with the improvements interior to the site as indicated or recommended.

Parks: On July 10, 2006 the Park and Recreation Advisory Board recommended accepting land dedication in the amount of 1.39 acres to satisfy the park land dedication ordinance. The applicants are proposing to dedicate 6.07 acres, in excess of that required to provide a greenway corridor in which a public trail is to be constructed by the City as part of our Master Trails Plan to connect Lake Sequoyah to Combs Park and further west.

Tree Preservation:

Existing Canopy:	8.29%
Preserved Canopy:	3.06%
Required Canopy:	8.29%
Mitigation:	Required

Public Comment: Staff has received written comments from adjacent property owners objecting to the project, citing such issues as increased traffic, noise, decrease in property value, utilization of a platted lot for a street connection and the addition of apartments.

PUBLIC COMMENTS FROM 9/25/06 PC MEETNG: THREE NEIGHBORING RESIDENTS SPOKE IN OPPOSITION TO THE PROJECT CITING SUCH ISSUES AS COMPATIBILITY, DENSITY, ACCESS THROUGH A PLATTED LOT, DRAINAGE, UNIMPROVED STREETS, VISIBILITY AT THE INTERSECTION OF JERRY AND HUNTSVILLE, PEDESTRIAN SAFETY, SCHOOL TRAFFIC AND PROVIDING A CONNECTION TO HAPPY HOLOW ROAD.

PUBLIC COMMENTS FROM 9/25/06 PC MEETNG: TRAFFIC AT THE INTERSECTION OF HUNTSVILLE AND RAY, DENSITY, UPKEEP OF COMMON AREA BY POA, RESTRICTED ALLEY IS VISUALLY SIMILAR TO FULL ACCESS STREET.

Recommendation: Staff recommends forwarding R-PZD 06-2196 to the City Council with a recommendation for approval with the following conditions of approval:

Conditions of approval:

1. Planning Commission determination of street improvements.
 - a. *Staff recommends an asphalt overlay on Ray Avenue from the intersection of Huntsville Road to connect to the proposed interior street, which will be constructed to City standards. The overlay shall create, at minimum, a 24' wide paved street width. Engineering staff shall determine at the time of construction, the amount of improvement necessary (milling, depth of overlay, etc.).*
 - b. *The existing sidewalk on the west side of Ray Avenue shall be extended into the proposed development with a crossing at Ray Avenue to the proposed sidewalk.*
 - c. *Staff recommends that a 4' sidewalk be constructed on the north side of the public alley in Planning Area 1 and 2 as indicated in this site plan, to provide pedestrian access for the dwelling units in this area.*
 - d. *Street lights shall be installed every 300' along the public street, public alleys and at all intersections.*
 - e. *Staff recommends the applicant indicate a dashed, future sidewalk connection to the trail on the southwest side of the property, across the slope from the sidewalk*

shown to connect to the public alley (see exhibit in the staff report). This connection shall be permitted to occur at a future date, if desired by the City, with the construction of the trail.

9/14/06 - THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS "a", "b", "c", and "d". Recommendation "e" has been added since the Planning Commission review on 9/25/06.

2. Planning Commission determination of waivers from street design standards. *The applicants request a waiver of the required street radius of 150' (request 100' radius). Staff recommends approval of the requested waiver, finding that the street design will not create a dangerous traffic situation for vehicles or pedestrians.*

9/14/06 - THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE REQUESTED WAIVER.

3. The western street stub-out shall be constructed to city standards to the property line or floodplain for a public residential street at the time of development. The exact location of the street stub-out shall be approved by the Engineering Division at the time of construction drawing review. The developer shall install signs at all street stub-outs to indicate the future extension of this right-of-way prior to Building Permit (contact the Transportation Division for additional information). Clearly label the proposed stub-out on the plat for future reference.
4. Public streets and alleys interior to the project shall be constructed to City specifications for public streets. All sidewalks, in the right-of-way or access easements, shall be constructed to city standards. Any sidewalk that is proposed to be constructed outside of the public right-of-way shall be within an access easement, allowing general public usage. An access easement shall be provided for pedestrians to access the park and trail where parkland is not dedicated.
5. 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. Staff is recommending approval of the submitted Tree Preservation Plan associated with RPZD 06-2196 with the following conditions of approval:

- a. Tree canopy shared by land owners is found to be a high priority. All canopy along the northern property line should have every measure taken to ensure the health and longevity of the trees.
 - b. Mitigation will be required in the amount of 49 (2) inch caliper large species trees. The applicant will be utilizing the residential on-site mitigation option.
 - c. A 3-year maintenance and monitoring bond, letter of credit, or check will be due in the amount of \$12,250 for the mitigation trees before the last certificate of occupancy in this development or as each lot develops.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
8. One (1) large species tree shall be planted in between each of the multi-family driveways and shall be depicted on the landscape plan.
9. 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. Any portion of a structure which is visible from the right-of-way shall be articulated and contain features such as doors, windows and/or similar openings.
10. A deed for the 6.07 acres of park land is required prior to building permit(s). Based on the number of units, the developer is only required to dedicate 1.39 acres.
11. 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.
12. 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.
11. Should the property ever be subdivided, it shall comply with the zoning criteria as established and approved herein. Future subdivision of the property would require Planning Commission and City Council approval for a modification to the Planned Zoning District zoning criteria, or a new Planned Zoning District.
12. All structures shall meet City of Fayetteville ordinances for floodplain development, including finish floor elevations, grading and erosion control and floodplain development permits.
13. Prior to building permit, a cost estimate for all required landscaping and sidewalks is to be submitted for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

14. Plat revisions to be completed prior to City Council submittal:

- i. The Solid Waste Division has approved the location of the two dumpster pads, which will be utilized by the residents in the multi-family units. However, the dumpster pads need to be increased to 12' wide by 15' deep. Appropriate screening shall be required and approved by the Planning Division.
- ii. Remove/relocate the unit in Planning Area 1 (north of Ray Ave.) from the drainage area.
- iii. Page 8 of the project booklet indicates that Use Unit 4, Cultural and Recreational Facilities will be allowed as a use by right, whereas the plats indicate Use Unit 4 as a conditional use. Make sure that Use Unit 4 is listed as a conditional use on all pages of the plat and booklet.
- iv. Page 8 of the project booklet (Current Zoning vs. Proposed PZD): The information within this table has not been updated to reflect the most current numbers. This table shall be updated to reflect the current proposal.
- v. By not providing lot width minimums at this time, the subject property may not be subdivided without first obtaining Planning Commission and City Council approval to modify an approved Planned Zoning District.
- vi. Include the area between the public trail/alley access and Planning Area 5 within a 20' trail access easement for a future trail connection (direct extension of public trail/alley access, with bollards shown). Actual connection to be constructed by the City of Fayetteville.
- vii. Include an extension (dashed, future) of the sidewalk on the southwest side of the project across the slope and connecting to the trail (to be constructed by the City with the trail, if desired).
- viii. Show the extension of the sidewalk along the west side of Ray Ave. with a crossing to the new sidewalk. Show a sidewalk along the property frontage on Helen St. There are two places on Public Alley 1 where crossings are not shown. Extend the sidewalk at the southeast of the property to the public trail/alley access. Make sure that all sidewalk crossings line up.

Standard Conditions of Approval:

15. 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).
16. 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.
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private),

sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

18. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
19. 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.
20. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits and floodplain development 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: ☐ Approved ☒ Denied ☐ Forwarded to C.C.
Motion: Clark (Motion to deny)
Second: Ostner
Vote: 5-3-0(Motion to deny passed)

Meeting Date: November 13, 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

List of Report Appendices:

Appendix A	Aerial photograph and photographs of Ray Avenue
Appendix B	Waiver request from applicant
Appendix C	Correspondence and maps of Jerry Avenue vacation
Appendix D	Written public comment
Appendix E	Vicinity Maps

Findings associated with MDP R-PZD 06-2196 (West Fork Place)

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 does not designate this specific area as a growth area. Rezoning this property to R-PZD 06-2196 with single- and multi- family dwelling units and a density that is compatible to surrounding properties (4.24 units per acre) is consistent with the land use plan and compatible with surrounding land uses.

- (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 single- and multi- family residential uses and a mix of density. The proposed zoning criteria would provide for 29 single-family dwellings and 30 two/multi-family dwellings, resulting in a density of approximately 4.24 units/acre. Based on the overall density proposed and the location of the single-family dwellings in relation to the existing single-family and two-family dwellings within the Watson Addition, staff finds that the proposal is very compatible in both use and density. As noted in the General Plan 2025, residential areas should contain a mix of different densities, housing types and lot sizes.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The design takes the floodplain and floodway into account, by preserving over 6 acres adjacent to the White River, both to serve as parkland for area residents and as a natural buffer/riparian zone between developed land and environmentally sensitive waterways. Specific conditions from the Urban Forester have been included within the staff report. The greenspace adjacent to the White River will be utilized as a greenway corridor with a public, multi-use trail to be installed. This trail will eventually connect east to Lake Sequoyah and west to Combs Park.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended land use, exclusively residential, will impact the existing traffic conditions. With the elimination of the public street through Lot 9 of the Watson Addition, only one point of ingress/egress remains for public traffic. However, a public alley will provide emergency and pedestrian access to Helen Street and a street stub-out to the west has been provided. With future development of properties located to the west of the proposed development, a connection could be made to Happy Hollow Road. Ray Avenue and Jerry Avenue via Helen Street, which serve as the two points of ingress and egress for the residents of the Watson Addition and the future residents of West Fork Place, are both local streets with a design service volume of no more than 4,000 vehicle trips per day. Although neither streets are constructed to full street standards, both have an average pavement width of 24'. There are currently 48-50 dwelling units served by these two streets, which produce approximately 500 vehicle trips per day. An additional 59 dwelling units would create a total of approximately 1,000 vehicle trips per day, including the existing homes.

- (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 West Fork Place PZD provides for a transition between an existing single family residential neighborhood and a unique single-family/multi-family residential development that enhances this growing neighborhood. The transition is accomplished by locating only single-family dwellings adjacent to the existing single-family dwellings. The majority of the multi-family and two-family dwellings are placed further to the south, away from the existing dwellings on Helen Street. The White River waterway is being protected from the impacts of this development by preserving a 6-acre tract of park land, which will also act as a buffer, reducing polluted run-off and sedimentation from entering the waterway. Additionally, the project will provide sidewalks and public access points, connecting area residents to the parkland, which will border the southern portion of the project site.

- (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 proposed, as no large surface parking areas are indicated. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are proposed.

- (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 public street, which extends into the development and intersects a series of public alleys. The public street will provide access to the majority of the single-family homes, while the public alleys will provide access to the remainder of the residences. The potential for connectivity to the east and south is inhibited because of the floodplain/floodway of the White River. However, since the extension of Ray Avenue is adjacent to the western property line, future redevelopment of property to the west would allow for a connection to Happy Hollow Road. The revised site plan indicates the location of the proposed stub-out, which will be constructed to city standards along with other infrastructure improvements.

- (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.

- (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: Public, four-foot sidewalks are to be constructed along the extension of Ray Avenue and along the north side of the public alley. The applicant has also indicated that a 4' sidewalk is to be constructed along the southern portion of Planning Area 2, north of the parkland. Any sidewalk located outside of a public right-of-way shall be within an access easement, so to permit public access, but are to be owned and maintained by the POA. Staff is recommending the plat also indicate a dashed, future sidewalk connection across the slope from the public alley sidewalk to the trail, to allow the City to construct this pedestrian connection is desired, at the time the trail is constructed.

(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. All public and private streets/drives shall conform to city standards, which have been indicated in the submitted statement of commitments. 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: 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, as has the likelihood of longevity of health. 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: The applicant has proposed design standards for residential structures. Bulk and area requirements have been set forth for any nonresidential facilities within Planning Area 4-Greenspace.

- (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 heights of structures proposed are 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 many of the parameters of the General Plan 2020 and City Plan 2025, as well as the above ten criteria, including flexibility in density, compatibility and transition of land use, provision of a variety of housing types, common open spaces, and enhancement of existing natural features. 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.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.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 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 potential accessory structures within the community greenspace area(s).

(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 entirely residential to the north with commercial and industrial developments to the west. Development under the current zoning (R-A and RSF-4) is not appropriate for this area, as the city's future land use goals, infrastructure for this area and unique characteristics of this particular site supports a more creative arrangement of uses and a mixture of housing types.

- (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 width minimums have not been provided and setbacks are varied on this

project, as it provides for a small footprint type of unit with a mixed unit type and mixed density. 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 slightly higher, due to the provision of common greenspace and parkland dedication, which is above the requirement for the number of units proposed.

***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 06-2190, with the associated Master Development Plan, allows this future land use to vary somewhat, 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 City Plan 2025 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 the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Areas this proposal meets. Rezoning the property will accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens.

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 R-A, RSF-4, I-1 and C-2, which allows for a variety of uses. This site is not suited for commercial or industrial uses, as it is bounded by residences to the north and the White River to the south. The proposed density is similar to what is allowed under the RSF-4 zoning district, however the land use, including setbacks and lot sizes would not be permitted under the current zoning. Rezoning the property to R-PZD 06-2196 is appropriate as the proposal is compatible with surrounding land uses and provides for a flexible and unique development, while preserving greenspace and natural features.

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

Finding: The proposed zoning will certainly result in an increase in vehicle trips, due to the change in use from vacant property to 59 dwelling units. It is necessary that street improvements occur as a result, to be installed with development of the project. Staff finds this proposal will not create or appreciably increase traffic danger and congestion, with the street improvements recommended.

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 from that what 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 adjacent to the site. There is a 6" waterline to the north of the subject property. Water service will need to be extended within the property and through the development at the time of development.

Sanitary sewer is available on the site. There is an 6" sewer main to the north of the subject 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.

The site has access to Ray Avenue and Jerry Avenue via Helen Street. Both streets have sufficient pavement width, however are not improved to Local Street standards, other than a sidewalk along Ray Ave. and a partial sidewalk along Jerry Ave. Current recommendations include an asphalt

overlay of Ray Avenue and extending the sidewalk along Ray Avenue into the subject property.

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

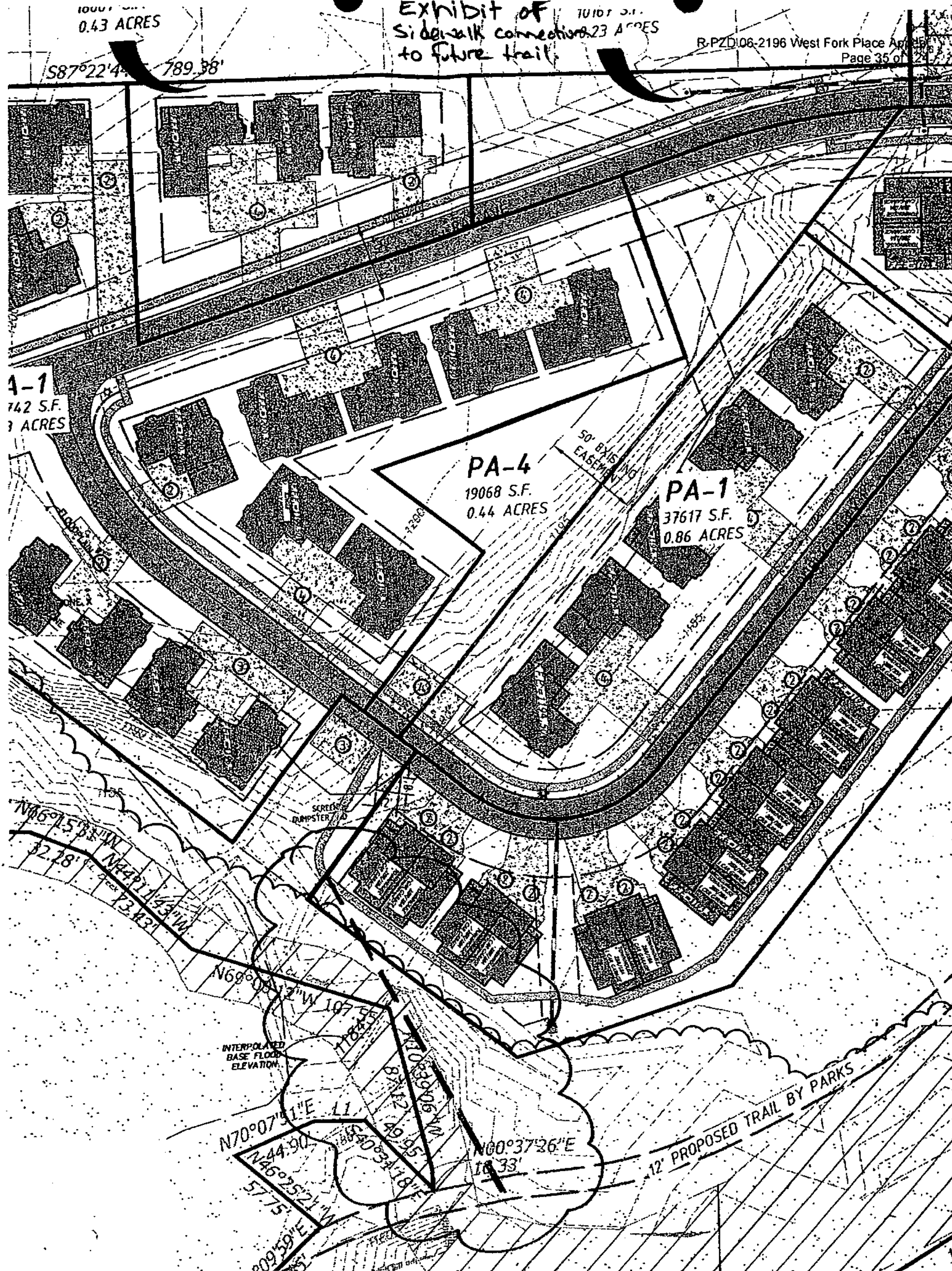
Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services.

Fire: The subject property is located approximately 1.7 miles from Fire Station #5, with an expected response time of approximately 4 minutes. After the new Fire Station #3 opens at Happy Hollow Road and Huntsville Road, the distance will be reduced to 0.5 miles with an expected response time of 2 minutes. No adverse impacts on call volume, or response time is 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) 444-3416
mmihalevich@ci.fayetteville.ar.us

ENGINEERING DIVISION - TRAILS CORRESPONDENCE

To: Project Design Consultants

From: Matt Mihalevich, Trails Coordinator

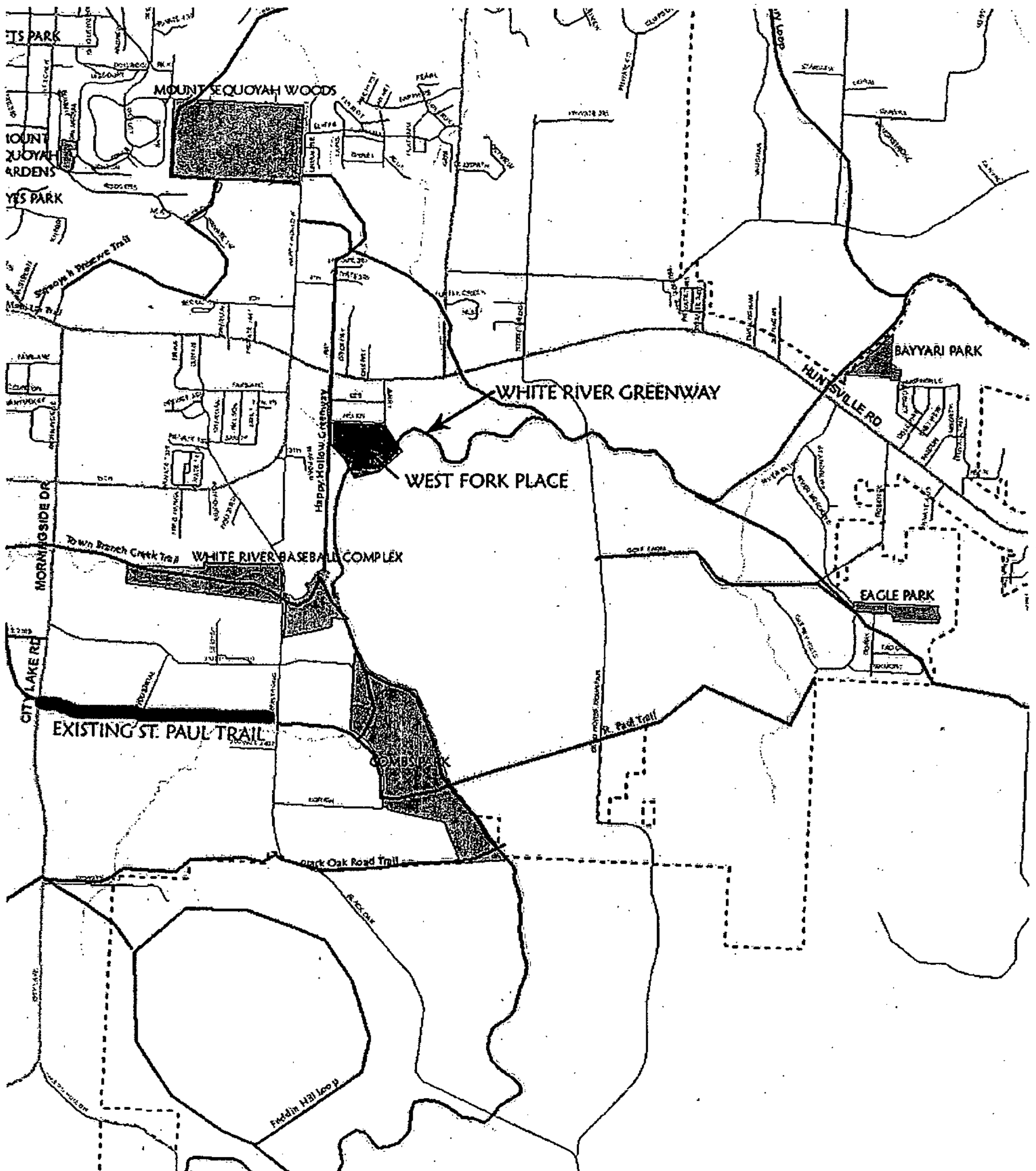
Date: September 20, 2006

Subject: Planning Commission Comments

ITEM #: R-PZD 06-2196: West Fork Place

TRAIL COMMENTS

1. White River Greenway Trail is shown on the Fayetteville Alternative Transportation and Trails Master Plan following the west fork of the White River from extreme south Fayetteville northeast to the Nolan Wastewater Treatment Plant. This important trail and greenway corridor connect several parks including Lake Wilson, Combs Park, White River Baseball Complex, Bayarri Park, and Lake Sequoyah. In keeping with the City Plan goal of enduring green networks, this developer has agreed to dedicate 1.39 acres and donate an additional 5.09 acres of park land providing a total of 6.48 acres to be preserved as a greenway corridor. A multi-use trail will be constructed on this land by the City of Fayetteville once additional land or easements are acquired to the south and east.
2. With proximity of West Fork Place to Combs Park and White River Baseball Complex, this additional 6.48 acres will add to the creation of a connected greenway corridor in this part of town.





PC Meeting of October 23, 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: October 17, 2006

ITEM # RPZD 06-2196: Residential Planned Zoning District (West Fork Place)

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	7.84
square feet	341,510
Existing Tree Canopy	
acres	0.65
square feet	28,202
percent of site area	8.29 %
Existing Tree Canopy Preserved	
acres	0.27
square feet	11,764
percent of total site area	3.44 %
Percent Minimum Canopy Required	8.29%

FINDINGS:

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

- **This site is in a wet floodplain area with minimal tree canopy. Most**

species on the site are ash, willow, elm, and red oak. 4 of the trees are found to be significant by City standards. Natural features such as the riparian buffer along the White River has been preserved and designed around.

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 the north.**

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 egress and ingress did.**

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.

- **Many of the trees marked for preservation are found along the property line to the north. Utilities should not affect these. There is however canopy to the east that will have to be removed. The wooded floodplain area will be dedicated to the city for future trail connectivity. This applicant is going above the requirements set forth in by the park land ordinance and dedicating 6 acres of protective riparian buffer to the City.**

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

- **There is a large portion of canopy that will be affected by the installation of utilities.**

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

- **Roads have not been routed to avoid damage to existing canopy. Connectivity does reduce the flexibility of this layout.**

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.**

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 associated with RPZD 06-2196 with the following conditions of approval.**

Conditions of Approval:

1. **Tree canopy shared by land owners is found to be a high priority. All canopy along the northern property line should have every measure taken to insure the health and longevity of the tree.**
2. **Mitigation will be required in the amount of 49 (2) inch caliper large species trees. The applicant will be utilizing the residential on-site mitigation option.**
3. **A 3-year maintenance and monitoring bond, letter of credit, or check will be due in the amount of \$12,250 for the mitigation trees before the last certificate of occupancy in this development or as each lot develops.**



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

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Jesse Fulcher, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: August 28, 2006
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: August 31, 2006
Item: R-PZD 06-2196 (West Fork Place, 565/566)
Park District: SE
Zoned: R-PZD
Billing Name & Address: Hometown Properties, Inc. 1747 N. College Fayetteville, AR 72702

	<u>Current 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	@ \$680 per unit = \$ _____
Lot Split Single Family		@ \$960 per unit = \$ _____
Lot Split Single Family		@ \$680 per unit = \$ _____

COMMENTS:

- On July 10, 2006 PRAB reviewed this project and recommended accepting a land dedication to satisfy the park land dedication ordinance.
- This decision was based on the need for park land in this area. A future park across Happy Hollow Rd is planned, however Happy Hollow is a busy road and creates a barrier for pedestrians. Additionally, the White River Trail Corridor traverses this land.
- The developer is providing approximately 6.48 acres of park land. The requirement for 58 single family units is 1.39 acres. No request for banking has been made.
- A deed for the park land must be submitted to the Land Agents for review. Once it is reviewed, the deed must be filed at the Washington County Courthouse and a copy of the filed deed must be given to Parks and Recreation prior to signing final plat or receiving building permits.
- Park boundary signs will need to be posted. Please coordinate with Parks and Recreation Staff to pick up signs, posts and hardware.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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 the word "Sincerely,".

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: September 11, 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.

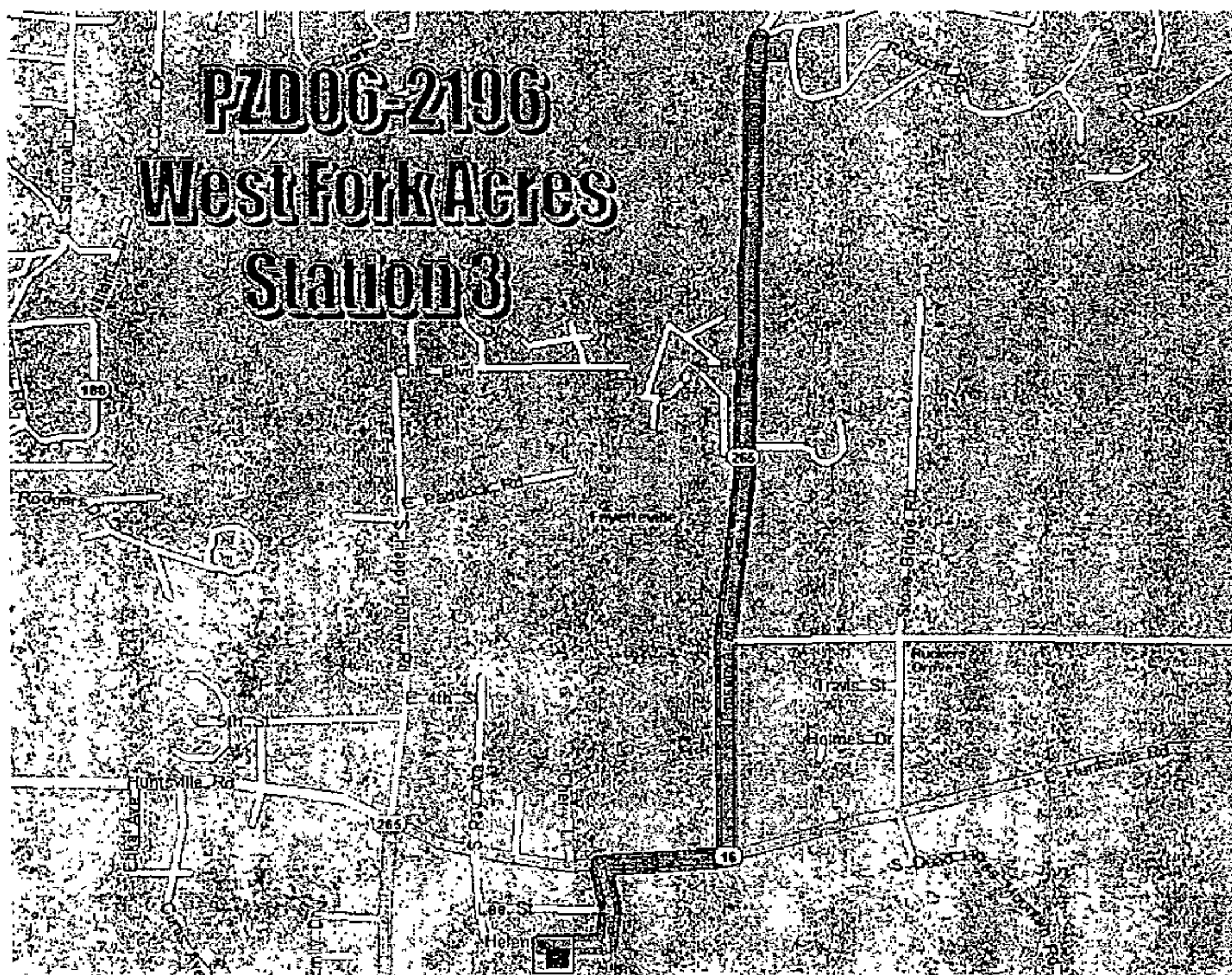
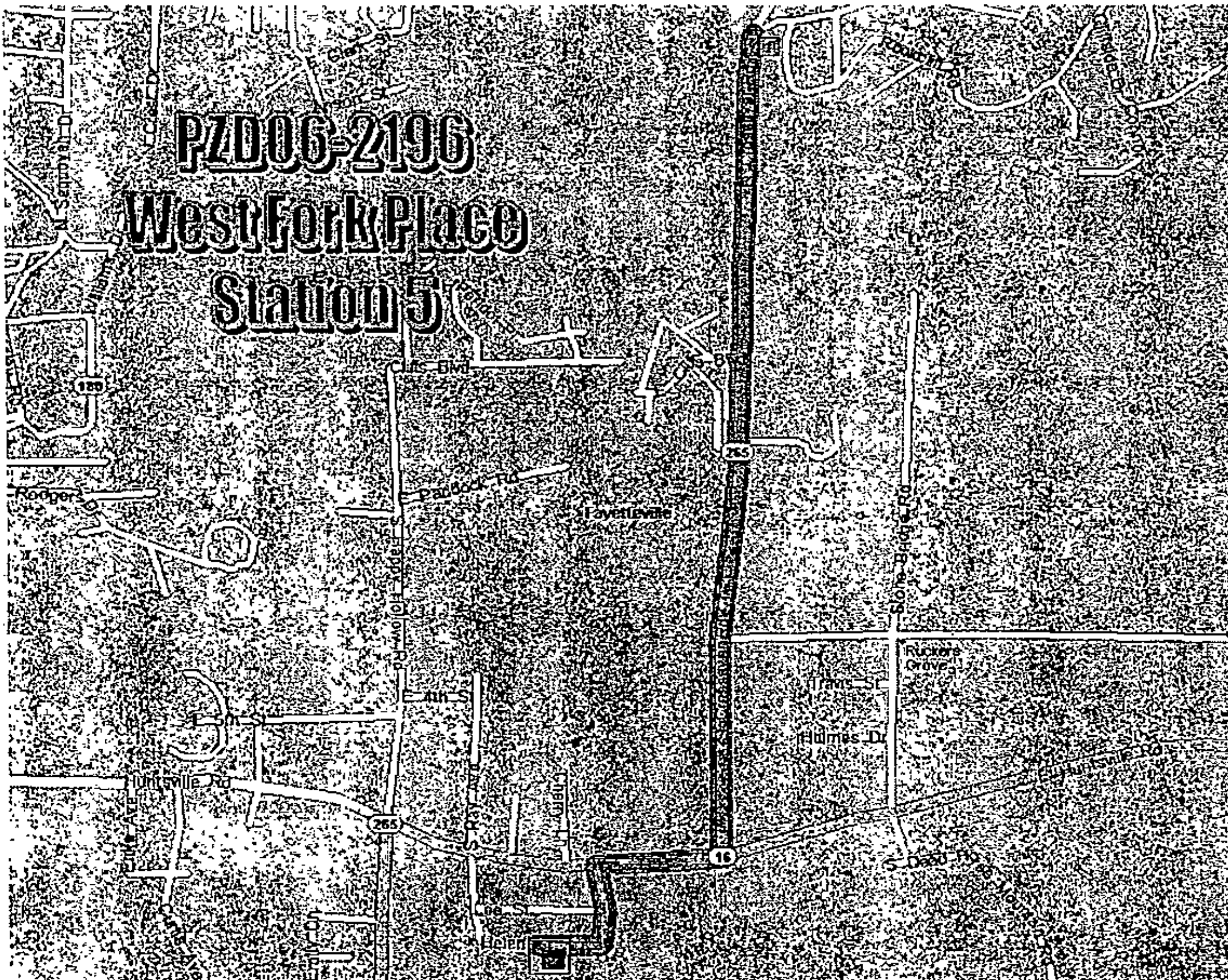
There is no recorded measured hydrant flow for this area.

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



Fayetteville Fire Department

Office of the Fire Marshal

To: Jesse Fulcher
Through: Fire Marshal David Williams
From: Assistant Fire Marshal Dale Riggins
Subject: West Fork Place PZD

Concerning the West Fork Place Development, where there is both multiple-family development and one or two family residential development, it is the determination by the Fire Marshal that we use the most stringent code for these type developments.

If you have any questions concerning any comments regarding this development, please contact the Fire Marshal's office.

Fire Marshal.....479-718-7639
Asst Fire Marshal.....479-444-3448 or 479-444-3449

Dale Riggins
Assistant Fire Marshal
Fayetteville Fire Department

D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 20 feet (6096 mm).
2. Gates shall be of the swinging or sliding type.
3. Construction of gates shall be of materials that allow manual operation by one person.
4. Gate components shall be maintained in an operative condition at all times and replaced or repaired when defective.
5. Electric gates shall be equipped with a means of opening the gate by fire department personnel for emergency access. Emergency opening devices shall be approved by the code official.
6. Manual opening gates shall not be locked with a padlock or chain and padlock unless they are capable of being opened by means of forcible entry tools and
7. Locking device specifications shall be submitted for approval by the code official.

D103.6 Signs. Where required by the code official, fire apparatus access roads shall be marked with permanent NO PARKING—FIRE LANE signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the fire apparatus road as required by Section D103.6.1 or D103.6.2.

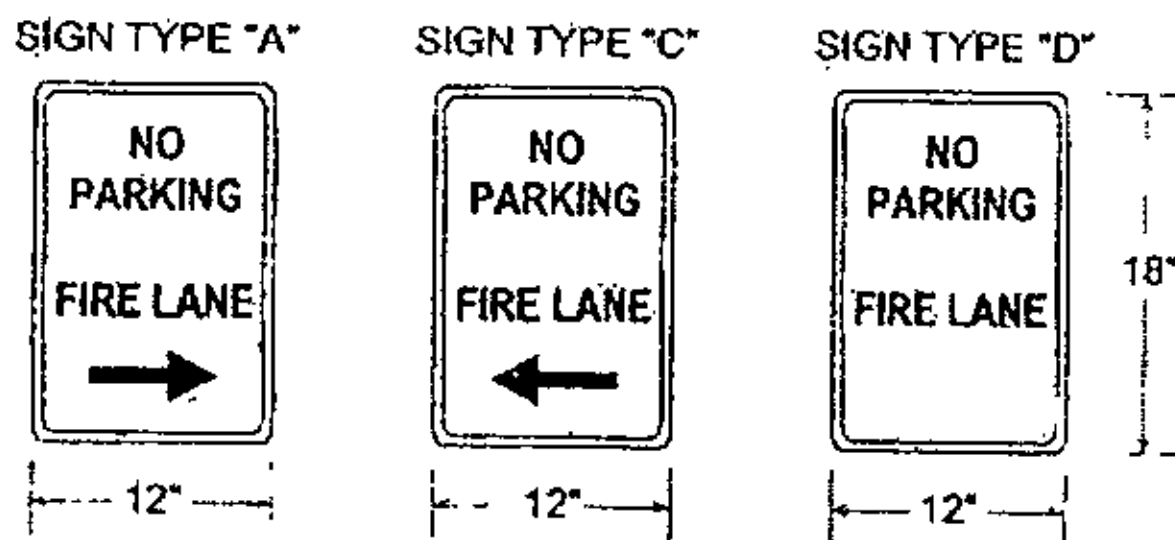


FIGURE D103.6
FIRE LANE SIGNS

D103.6.1 Roads 20 to 26 feet in width. Fire apparatus access roads 20 to 26 feet wide (6096 to 7925 mm) shall be posted on both sides as a fire lane.

D103.6.2 Roads more than 26 feet in width. Fire apparatus access roads more than 26 feet wide (7925 mm) to 32 feet wide (9754 mm) shall be posted on one side of the road as a fire lane.

SECTION D104 COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

D104.1 Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or

three stories in height shall have at least three means of fire apparatus access for each structure.

D104.2 Buildings exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m²) shall be provided with two separate and approved fire apparatus access roads.

Exception: Projects having a gross building area of up to 124,000 square feet (11 520 m²) having a single approved fire apparatus access road when all buildings are equipped throughout with approved automatic sprinkler systems.

D104.3 Remoteness. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.

SECTION D105 AERIAL FIRE APPARATUS ACCESS ROADS

D105.1 Where required. Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

D105.2 Width. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.

D105.3 Proximity to building. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building.

SECTION D106 MULTIPLE-FAMILY RESIDENTIAL DEVELOPMENTS

D106.1 Projects having more than 100 dwelling units. Multiple-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads.

Exception: Projects having up to 200 dwelling units may have a single approved fire apparatus access road when all buildings, including nonresidential occupancies, are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the *International Fire Code*.

D106.2 Projects having more than 200 dwelling units. Multiple-family residential projects having more than 200 dwelling units shall be provided with two separate and approved fire apparatus access roads regardless of whether they are equipped with an approved automatic sprinkler system.

FIRE APPARATUS ACCESS ROADS

APPENDIX D

**SECTION D107
ONE- OR TWO-FAMILY RESIDENTIAL
DEVELOPMENTS**

D107.1 One- or two-family dwelling residential developments. Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads, and shall meet the requirements of Section D104.3.

Exceptions:

1. Where there are 30 or fewer dwelling units on a single public or private access way and all dwelling units are protected by approved residential sprinkler systems, access from two directions shall not be required.
2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the code official.

**PLANNING COMMISSION MINUTES
NOVEMBER 13, 2006**

R-PZD 06-2196: PLANNED ZONING DISTRICT (WEST FORK PLACE, 565/566):
SUBMITTED BY PROJECT DESIGN CONSULTANTS, INC FOR PROPERTY
LOCATED AT THE END OF RAY AVENUE, S OF HUNTSVILLE ROAD. THE
PROPERTY IS ZONED RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND CONTAINS
APPROXIMATELY 13.92 ACRES.

Fulcher: The request is for a Master Development Plan of a Residential Planned Zoning District with 59 single-family dwellings: 30 attached and 29 detached. West Fork Place Residential Planned Zoning District that has been heard by Subdivision Committee and Planning Commission, and was tabled at the previous Planning Commission hearing. It has been brought forward tonight. The overall development is for 29 single family units and 30 multi-family units resulting in an overall density of 4.24 units per acre. All of the residential units will be located in Planning Areas 1-3; Planning Area 4 will be utilized for community greenspace maintained by the property owners association. Planning Area 5 will be dedicated park land. This request will not subdivide the property. It is a large scale development and all the commonly held property would be maintained by the POA. Since we have looked at this project a few times, I thought it best just to go over the major changes since Planning Commission review back on September 25. This was based on comments received by the public and by the Planning Commissioners. The applicants have gone back and made these changes. One of the larger comments that were made was the proposed street connection thru the platted lot of the Watson Addition. That has been removed with a revised plats and that is going to be replaced with 20 foot public alley for fire access and pedestrian usage. Break-away bollards would be utilized at the north and south end, which would prohibit vehicular use but allow emergency vehicles to access the property, in case of emergency. Another point of concern was connectivity. The south and east were quite prohibitive because of the existing flood plain of the White River. They have indicated a stub out to the west which would be constructed at the time of the development and would also be labeled on the plat so future residence would understand that connectivity could potentially take place with redevelopment to the west of this property. The public street and public alleys have been realigned to create a four-way intersection, somewhat of a change from the previous plats. A four-foot sidewalk has been added along the south side of the multi-family units, providing a second connection to the future trail, which would be constructed within planning area five, the park land. An eight-unit building which was located on the south property has been split into (2) four unit complexes and additional guest parking has been provided along the alleys, in addition to the on street parking and driveway parking. Finally, I believe that some of the public had some questions regarding the park land

development and how that would occur if this project were to be approved. When the Parks and Recreation Advisory Board met and discussed this project, they voted and accepted a park land dedication based on the units that required a dedication of 1.4 acres approximately. The applicants are dedicating approximately 6 acres. If this were to be approved, at the time the deed was submitted to the parks division, then they would schedule the development of this park area. The purpose is to create a time frame so that the current area residents that would utilize the park land area as well as the residents that would move into this development would be able to provide input to that development of the parks. Therefore, the actual development time frame would be based on the build-out of this development to allow both future and current residents to help determine the outcome of that park area. If you have any additional questions please ask.

Anthes: Mr. Fulcher, before you sit down, we were asked to reserve our plats from October 2, 2006 and I see you have a list on page 2 of our staff report of all the changes that have been made. Are all of those reflected in those drawing we have?

Fulcher: Yes.

Anthes: Ok, Thank You. Would any member of the public like to speak to this R-PZD 06-2196 West Fork Place? Please come forward.

Madison: I'm Bernard Madison, my wife and I own property that is butted on this development on two sides. On the south and east side. The lot just next door to the proposed street that using, now not a street, it's called a, not sure if it's not a semi-street or something like that, with bollards.

Anthes: It's a platted alley.

Madison: Pardon?

Anthes: Is that correct Mr. Pate? A platted alley?

Pate: Yes, it's being called out on your plans. Just for future reference, it's a public trail and fire access.

Madison: I've seen those things and I don't think it's an improvement actually. I think it's a down grade actually from a street because it occupies the land and looks temporary, it is temporary and so I don't think that's any particular improvement. There are several, several issues here. Many of

which were addressed by this Planning Commission on September 25, which we finally got your minutes today, on that particular thing, so we can look at them. First of all, the access to this division uses a lot, platted lot that we all depend on as what it's going to be used for. Now it's going to be used for this semi-street; that of course seems to me a violation of the public trust. The other access is along Ray Avenue; Ray Avenue is the avenue that as you cross Huntsville Road is the avenue that goes up to the Happy Hollow School. It's a very busy intersection, in fact I just came past there, you would never turn right there, you never turn left there, at this time of day. There are several hours of day you never turn left there. You might be able to turn right. So the access to this particular planned development is going to be very, very difficult. You must understand that this is the southern bypass of Fayetteville and part of the eastern bypass of Fayetteville feeds into this area. 6th street and 15th street come together and run right past this division. So there is a reason for significant traffic there, unless there is some relief from this traffic, there should be no further development that will double the number of cars. Actually, more than double the number of cars coming out of Ray Street and possibly Jerry Street. Although this semi-street seems to mediate that some what. Jerry Street is a very difficult street because the sight lines are very difficult there in to addition to the fact that there is a lot of traffic. So, access is a major, major issue to this area. The density is incompatible with density in this area. That's partly because of your so-called PZD's, because PZD's allow you to make decisions that the residents have not counted on. In fact, the residences in that area would be a certain density and because of the PZD option you can decide the density on the south part of this is going to be twice the density. In fact, almost three times the density of the adjoining property owners. So, the density, although the density sounds ok when you say its on thirteen acres, but the density is actually concentrated on about half of that. The other half of it, which is unbuildable, is being dedicated for parks. Now, of course we don't know what parks means because, let me go back a bit, tolerate me for just a moment, because some years ago, I stood here before at a different Planning Commission and we were concerned about so called nature trails that was built in Highland Park. Where we and many others had homes. The nature trails were used there as substitute for sidewalks. The developer, who was Jim Lindsey, said we want to build this nature trail instead of building new sidewalks. Somehow it got past everybody, and the nature trails of course turned out to be cross ties with gravel between them and they were never used. It was an enormous waste of money and there are no sidewalks now. When we came to the City on that, the City said we don't have any standards for nature trails. Now, what I want to know is do you have standards for parks? Can we depend on the City to have particular kind of park there, or

are we buying a pig in a poke, when we say we would use six acres of this land for parks. There is supposedly a trail along that park, but the trail seems to go nowhere on the east and nowhere on the west and so I can't imagine the trail being used by anybody outside this particular subdivision. If in fact, its ever developed. The major issue here is the upkeep of this development. It's proposed to be done by a POA and that of course takes the City's responsibility away from it and of course takes any protection that the residents have. Except, for going to court away from that. We don't know whether, we have been told that maybe the streets are public streets. We don't know if they're private or public streets but we do know that they are still proposed to be private owner, community ownership of the land. Now, we know what community ownership of land can be, it can be very good or it can be very bad. If it's very bad, then we have no recourse, the property owners of that area unless we go to court and try to get some damages without the City's protection. So, what the City is asking us to do is to accept a park that we don't know what it will be, and to accept a POA, which we don't know what it will be. So, in essence this is a total pig in a poke for any access to this. By the way, this was on your agenda; this has been on your agenda for three out of your four last meetings. The residents are working people, we can't continue to come here every two weeks and talk about this and because eventually you will wear us down. Eventually, we will be worn down and eventually something else will happen. The last time it was tabled was so that the developers, according to your minutes, could talk to the homeowners in the area. My wife and I met with Mr. McDonald and Hugh Earnest and we talked about this. We made our concerns clear. First of all, they said they were going to remove that house that was next door to our house. We noticed that it hasn't been removed. We told them what our concerns were and none of those concerns have been addressed. In fact, we objected to this bollard kind of semi-street and that of course is still there. They said they had access on another way and they would explore that. But there have been zero changes in conversations with us. We don't see that anything has changed from September 25. Your commission, your staff listed several things here and the only one of those that has any significant so whatever, is a stub out to the west that said there might be a street there someday but the City is not committed to this. We are seriously interested in the City making some commitments to protect this neighborhood and to help us to protect our property from the developers. The developers are not going to destroy our property, but the City may destroy our property because you may not build the park, you may not improve access and traffic on Huntsville Road. It will just get worse. We ask you not to do that to this neighborhood of people who have lived there for many, many years and who are some of the original residents of Fayetteville. We ask

you to consider the objections that you made on September 25 and note that almost none of those objections are met.

Anthes: Thank you Mr. Madison, would any other member of the public like to address this?

Madison: I'm Sue Madison and this will surprise a lot of people that occasionally I have need to add to what my husband said. I will be very brief though. I just want to be sure you all understand that the lack of attendance by neighbors here tonight does no way reflect on their diminished opposition at this project. We have one lady that has been seriously ill, one lady that just got out of the hospital, and when I called some people today, none of them knew that this was scheduled tonight. I guess there might have been a sign out, but I haven't driven by there lately. But their opposition remains for these reasons that my husband has gone over. I just wanted you to understand why they are not here tonight. Thank you.

Anthes: Thank you Mrs. Madison, would any other member of the public like to address this PZD West Fork Place? Seeing none, I will close the floor to public comment. Would the applicant like to make a presentation?

McDonald: I will try to be brief and address just the items that have changed significantly since the last time I stood before you. I might mention that we did meet with Mr. and Mrs. Madison and at that time, we advised them that we were going to table it, for the meeting that immediately proceeded that and they had a trip to Little Rock planned and we let them know that it had been tabled for the evening. We did not do that without trying to let the neighbors know. They advised us, at that time, that they would call the neighbors that were most interested. We didn't table it as some surprise tactic; we did that, to try to make some of these changes.

Anthes: Can I go ahead and get you to introduce yourself.

McDonald: Sure, I'm Mike McDonald with Hometown Development. We did, in addition to meeting with the Madisons, met at Brenda Thiel's request with the Ward One residents and three projects were presented at that Ward One meeting that night. Oddly enough, the project that went before us, was not a PZD and it was apartments that were down on 15th Street as was presented that night. As the presenter before me finished, Mrs. Thiel's commented to the audience that they might like our project much better because it would present something that they at least knew what they were getting because it was a PZD and it was a little more residential as opposed to apartments, that they objects too, so much. We did meet with those

residents and like Mr. and Mrs. Madison have said, we met with them, and we do believe we addressed some of the concerns. We obviously didn't go down and meet every single item that they discussed. As far as the common ownership of land which was one of the big things that the Madison's and we discussed. We really believe we have a three fold line of protection for someone taking care of this property. First off, as we mentioned to you last time, we plan on targeting first time home buyers. We won't spend a lot of time on that, but we do plan on having a housing fair and try and make these units affordable for people that would own the property as opposed to someone who might buy it to rent it out. Secondly, we will have POA. I know that is not a cure for all ills and you all don't like POA's in their entirety, but in addition to that, we would not be objectionable to a condition of approval similar to what we have received on other projects which would allow the City to have the authority, but not the responsibility, to impose ad valorem taxes to pay for any problems with the property. If there is an upkeep issue, the City can come in at their choosing, not at their responsibility, but at their authority, and correct that. I assure you, that the POA would act once they started being taxed for the actions of few of the residence if that did occur. We believe that it would help to address the concerns of about the common ownership of land. The Madison's also mentioned that there were concerns about exactly what the Parks Department would do with that land. We took the Parks Department on a tour of this property a long time ago. They seemed to be very excited and I realize we can't build the entire trail around the City with one project, but you do have to do it one project at a time. I realize the trail looks as if it doesn't go anywhere now, but if we said that on every piece of property, we would never have trail around the City. We believe, in talking with the Parks Department that they're sincere about putting the trail there and putting these upgrades there and we in fact asked them to send an email to Jesse and Jeremy today confirming what I'm sure Jesse mentioned to you earlier. In addition, we did add the stub in to the west tie in. Recall that it was talked about last time. Obviously, we don't own the property all the way out to Happy Hollow Road but we have shown that stub out to the west property line. We did not provided the fire and pedestrian access or change our full driveway access on the eastside because of the Madison's comment, but more the comments that we got from this committee last time we meet before you. We are amendable to making that a full access for cars and traffic or making it for fire and pedestrians. We have shown a more direct trail access there on that end and made that a four way stop that was mentioned earlier. We believe these changes will make it more amenable. I won't try to list all the items that Jesse went through. With regard to the fire access only that's going through the lot that is on the east end of our property: There is a utility and vehicle access easement on the

property that is on the end of Jerry, that is to the favor of our property. We did not use that easement, and don't intend too. We intend to use the lot, and that is what before you now. We do believe that that easement came into play when the right-of-way was vacated for Jerry and therefore presented some sort of flag that some day this property wasn't going to stay an island that could never have anything done to it. That there was access to that property. Even though we didn't use that particular access, it was there. We made other minor adjustments to try to break up the town homes a little bit. We do, like the last time I spoke to you, we believe this project meets many of the goals of the 2025 Plan and we think it's a good project and hope you'll consider it strongly.

Anthes: Thank you Mr. McDonald. Let's get staff to clarify some of the issues brought up by the neighbors before we start our discussion. First of all, I don't know if Mr. Fulcher or Mr. Pate would like to answer, but regarding the appearance and the use of the connection through the lot. Can you clarify that?

Pate: Sure, that would be built to our public alley standards, being able to withstand 75,000 pounds for fire access, fire apparatus access, what ever they require so that it will be a paved fully permanent surface that would tie into the curb and gutter, that is required along the east-west street, so that would be a permanent access.

Anthes: Can you call out where a similar access exists in Fayetteville, so we can understand what that looks like?

Pate: The alleys that are newly constructed in Ruppel Row are very similar. They are all paved and actually provide two-way access to homes that are located along that area.

Anthes: Ok, and the issue of traffic, can you talk about the capacity of the existing streets and when Huntsville Road might meet warrants for additional improvements.

Pate: In terms of additional streets, and as we discussed several meets ago, we did some quick numbers and looked at the traffic generated by the existing homes that access Jerry, Ray, Lee, Helen, and other streets that are within the existing neighborhood, in addition to the 59 homes that are proposed with this development. Most of those streets are developed without curb and gutter. I believe the street to the west, Ray Avenue, has curb and gutter on the west side and there is an overlay that's being required with this project to improve that street, which would be the primary point of

ingress/egress. All of those streets meet our minimum standards in terms of width and actually may exceed those. So they would easily in terms of capacity carry well over what is proposed here. In terms of Huntsville Road, the improvements, just looking at the bond program sheet that I gave you all last time, the improvements are stated as project nine, listed there, in our bond program. That is a highway department project and it would carry the improvements from the existing improved intersection along the Tyson facility, east to Stonebridge. But that is one of the projects that we would work in tandem with the highway department for that portion of street.

Anthes: Ok, and as far as the amount of upkeep that is allotted to the POA on this PZD, can you compare that to the amount of up keep on other PZD's?

Pate: Sure, I think it varies dramatically, the one that comes in mind, most notability, four weeks ago you all approved a planned zoning district for [Woodbury], which was on Zion Road, that was mostly private streets. There was one public street, I believe. All the rest were private and none of the property was subdivided. It was a very similar situation; a POA maintained all components of that particular piece of property. Residential subdivisions obviously, there are typically POA's. They maintain minor things, like private drives if there are some, signage, landscaping, irrigation, and things like that. A lot of times their dues will take care of that. However, in projects that are not subdivisions that are more large scale developments oriented those are very typical. A POA would maintain or a developer would maintain through dues the grounds and any other improvements. In response to some of the Commissioners concerns about that in the last meeting, they redesigned the streets in this project to meet public street standards so all streets that are within this project would be public and dedicated to the City. So, they would have to meet public street standards.

Anthes: Ok. Can you, for just our information; maybe Mr. Williams, does the City have the authority to assess for improvements if something falls into disarray as Mr. McDonald suggested?

Williams: Yes, we have enforcement powers in the code; specifically it states that to further mutual interest of the residence, occupants, and owners of the PZD Master Development Plan and of the public, in the preservation and integrity of the plan. Provisions as planned (inaudible) to the use of the land, statement of commitments to development architectural standards and the location of common open space shall run in favor of The City of Fayetteville and shall be enforceable at all times by the City, without

limitation of any power regulation or otherwise granted by law. There is another provision further on in the PZD ordinance, as you are aware, that says that if a street needs to be repaired, private street, of course here, we don't have I guess private streets, but if there were private streets that need to be repaired the City can in fact repaired that if it so chooses and then assess all the properties on their taxes to pay the cost of repairing the street. So, the PZD ordinance was written in an attempt to give the City those kinds of enforcement powers.

Anthes: And that runs with any development plan and does not need a separate condition of approval?

Pate: That's correct, we typically try and it's a hold-over, actually, the condition that Mr. McDonald mentioned is number five in your staff reports, simply because when this was drafted, we were still unsure if they were, actually when this came before you, they were still private streets. We try to remind the Commission of that by putting it specifically in here, but you are right, it's not necessary because it's within the ordinance. Whether we put it as a condition or not, it has to be abided by.

Anthes: Ok, can you speak to the parks board decision to accept this land and the trail construction?

Pate: Sure. The original parks recommendation when they met with this property owner was for land dedication to satisfy what is on our Parks and Alternative Trails and Transportation Plan, which is a trail corridor multi-use, paved asphalt and concrete trail that in this case will run along the White River. There's a memo from the trails coordinator that's been in your packet for several agendas. And it states where that connection occurs. The trail once fully constructed connects west to Combs Park and would tie into The Town Branch Creek Trail. That's the area where the Crown Apartments has a trail constructed in that area and Razorback Road. To the east, it would connect to Eagle Park, Bayyari Park, and then ultimately to both Lake Sequoyah and the Wastewater Treatment Plant. There's a map also in your staff report showing those trail connections and how they all work together. The over-all six acres is proposed by the developer to allow for additional use of land as it will become a trail head or other uses such as smaller uses that would not be structures located within the flood plain. Most likely benches and other things of that nature.

Anthes: And the last question has staff calculated the density within the developable parcels?

Pate: Specifically, no. There's obviously a density here of 4.24 units per acre overall. They have clustered the development outside of the flood plain for the most part and most of the development lies outside of that area. It would be very easy to take 13.92 acres minus 6.07, but a lot of that 6.07 is actually developable, it's just in the floodplain. It could be developed, obviously the floodway could not, but a lot of that property could be developed if it were above the finished floor elevation. That specifically, if you took that out, would be about 7.5 units per acre, but again, a lot of that property is also developable.

Anthes: Thank you Mr. Pate, Commissioners?

Ostner: I have a question for staff or the city attorney; in this situation. I wasn't on the panel that night that we talked about this project at Zion. When you compared the POA responsibilities. If this passed tonight and we're faced with this situation and the POA, which is a private non-profit, is struggling, having trouble getting people to pay dues, not having quite enough money to pay for mowing. A few people start mowing their own yards, a few people aren't, waiting on the POA to do it. Then the City comes out and mows a few people's yards and assesses everyone. That sounds like it could happen and it's not planned, but it is a solution. That seems like a real problem to me. It almost seems like people are rewarded for not trying to keep up with their yards if the POA were in a financial crises, which they frequently get in trouble. Is that a fair assessment of how things could go? When you mix a simple non-profit almost a club in with municipal responsibilities.

Williams: We've had POAs not only in Fayetteville but through out the country. It's a very common way for a neighborhood to be able to monitor itself and to insure that common areas are taken care of. I think that the city needs to be very active in making sure that they do comply with what they are supposed to do. And I think generally POAs can be successful and should be successful. A lot of the POAs were established a long time ago before we had the planned zoning district ordinance. We did not have enforcement powers by the City in some of these early POA's, like we do now with the Planned Zoning District. So I think that the problems that might have been in some areas in the past especially, with detention ponds and things like that. I think that hopefully that will not be reoccurring in any of the new PZD's that do require POAs as part of the ordinance. It gives the City actually enforcement powers. I think that even though, obviously there can be problems with any organization. I think there are a lot of remedies available to assess the homeowners. The POA's are democratically governed by their own property owners, to some extent. What they can not

do is undo the City's rights to enforce the common ground requirements that have been presented by the developers and accepted by you, and later the City Council. I think there are sufficient enforcement procedures now, to ensure that the POAs will live up to the statements of conditions that would be placed upon them. Hopefully, some of the earlier problems that we've had which when POAs were established. The only thing that they could do then is sue each other to some extent, because often times the City was not a party, had no enforcement powers on that, and so that made it much more difficult to enforce anything. Because then you have property owners that had to go to court themselves. That should not be the case now with POA that is adopted thru the Plan Zoning District ordinance. That gives specific powers to the City to enforce those.

Ostner: So, the City could assess one homeowner for not mowing his yard or the City would have to assess the entire West Fork Place evenly?

Williams: I would think that in this POA situation that is across the board assessment. I would think that the POA's would realize their own neighbors there. Either they all going to do it or none of them are going to do it. I think that if the City hadn't come in to enforce it, the City is going to use the POA system itself, and that one of prorate application of the taxes to pay whatever the City had to do. It's up to POA itself, if they don't like that, they have some problem with it, a lot of times they have their own enforcement procedures. They have other restricted covenants that the City won't have anything to do with that they can probably use that to assess their own members. That would require private action on them. If the City goes in, I think the City is going to probably assess everybody equally.

Ostner: I guess that's my concern is if the City is assessing everyone equally to attempt to assist the POA, which is an improvement, that POA's were on their own. Part of the homeowners who weren't dropping the ball are somewhat punished somewhat, and it's a smoother path to quite trying, because the City is going to come in. Normally, these common lands are a separate piece of dirt: detention pond, a common small part or landscape area. For that to be kept up or the City coming in and taking over or assessing to take care of its maintenance instead of the POA, I can see that. We're talking front yards, backyards, people's homes right up to their front steps. That just doesn't seem like it would succeed to me. It just seems like a large area of land that one should own and maintain and in my mind it almost works better as a apartment situation. This is not an apartment situation, I'm just trying to understand maintaining these areas and keeping up with homeowners' yards if they were to drop the ball. I'll let that stand.

Anthes: Commissioner Clark.

Clark: My question is for Jesse or Jeremy. The last time I saw this development was actually in Subdivision, because I missed the September meeting where we heard it and tabled it, yet again. All I have in front of me are the plats that we had then. Could you come to the podium and show us the changes that are outlined on page two actually fall on this plat? Cause I'm very curious about where the right-of-way stub out is and the street connection were we are going to put the bollards on and even where the eight units turning into 2 four units. I'm trying to figure it out, but I'm really into visual aides.

Anthes: Is this where we can get this on camera? Maybe you can put it against the (inaudible) and grab a microphone, if you would.

Clark: Don't break the microphone. There you go.

Fulcher: This was where the street was going to connect through the undeveloped plat of the Watson Subdivision. Although visually it may not look different, this been reduced from a residential street section to the alley section, 20' wide. Obviously, you can't see where the bollards should be located. The bollards should be located on north and south end.

Clark: So there are two sets?

Fulcher: Yes, there would be one at either end to prohibit vehicle traffic from leaving the subdivision and also entering the subdivision.

Clark: Ok, so really the only entrance and exit we have then becomes on the east?

Fulcher: The original extension of Ray Avenue where it terminates here currently would be picked up and brought in to City standards and through the development and loop through. The stub out has been shown here and would be constructed. That's the one to the west for potential redevelopment. This is where the units were split off. This was the eight-unit building at this point. It has been split into two four-unit buildings. This is the intersection that we referred to that has been brought into a "T". It used to be somewhat of cul-de-sac that came further down in here. The units were located on the north and east side of that. Those have been repositioned around that public trail and alley access. Again, this has a sidewalk connection and the proposed trail connection here from this sidewalk. That has been duplicated at this point where there is a public sidewalk coming off of the public alley and we have indicated as condition

of approval to show another trail connection going down these contours and going down to the proposed trail here again. So, we would have two public connections for the residence to the trail to be constructed by the Parks division. The additional parking, I believe is mentioned also in there, is in these places here and also here for guest parking. I believe this is the one unit that has been discussed as far as for removal that is shown by the applicants.

Clark: So, it's going where?

Fulcher: It's remained on there, that is one that has been mentioned by the public that may be removed, but the plans we have shown have that on there. That's counting the 29 detached single family units.

Clark: So, we are going to have two connections to the trail? Two pedestrian connections, but only one way to get in and out for vehicular traffic?

Fulcher: Yes, ma'am.

Clark: And those are the changes?

Fulcher: Those are the major changes.

Clark: I just wanted to make sure that I was up to speed on what was changed because I had concerns with this development for many reasons. I know that infill is difficult, especially when you're talking about infill of this nature. But, complicated to me doesn't mean to me that we are forced to compromise some of the things that we insisted upon. I'm very concerned about the vehicular movement within this subdivision. Parking, people are going to get to the trails easier than then they are going to get to in and out of this development. The traffic on Huntsville, unless people cut across whatever that middle street is, to Ray to try and get out is murderous. You can not turn left on Huntsville, most of the day now. Even with that traffic light which has provided a wonderful cut through down Huntsville, might I add. It's a wonderful improvement but still you are hoping and praying. A lot of people do turn right, go down to the service station, or go down to the doctor's office and turn around to come back. I've seen it happen, I've done it myself. I commend the developers for trying infill of this nature because we do need affordable housing but I'm very concerned, I don't know what anyone else has to say, I'm very concerned about the inherent limitations structurally of this particular piece of property. Lots of floodway here, lots of floodplain. I think the density is way higher than 4.24 when you actually do the math which, I don't even deal with, on what

is build-able verses what is plotted. The Parks land and Commissioner Anthes just reminded me, a lot of parks land is in flood plain, which I find very ironic. The floodplain is extensive on this piece of property. I'm still withholding judgment cause I need to be caught up to speed on some of this discuss that happened when I missed Planning Commission, but I still have some very big concerns. Especially about access, density, and the floodplain. The emergency vehicles are Ok with all these turning radii's and the fact that there are not two outlets here?

Fulcher: Yes, that was one of the purposes of maintaining that second point of ingress/egress for emergency vehicles so that they would have two points of egress.

Clark: Yes, we have bollards there. Have we ever had an instance - since I've been on this Planning Commission we've done two or three with the second access - has a bollard, which is kind of cheating to me, have we ever had a situation where emergency vehicles actually had to utilize that system?

Pate: We would have to ask the fire department, I'm not for sure.

Clark: I think it's kind of a recent compromise that we've hammered out and some places I can understand it. We did one over on Rockwood Trail. We did that one. But those are much larger houses, it's not heavy density. This being such heavy density concerns me in terms of emergency vehicular traffic as well. So, I'm going to listen what to all you all have to say, because I still have my same reservations, and thank you for putting all the changes.

Anthes: Commissioner Myres

Myres: You can tell I want to speak, even without me asking. I probably, I am going to vote against this, not because I'm not in favor of affordable housing, I think we need hundred times the amount of housing that is truly obtainable for most people in this place, in this town. Bu, for exactly the reasons that Commissioner Clark just mentioned. I have real problems with a neighborhood with this much density, having only one way in and one way out. I think it's a recipe for disaster. Also, even if you get out of the subdivision, by the time you get to Huntsville Road, you can't get out and I said this several weeks ago. I'm ready to stop approving anything until the infrastructure is brought up to the level that can support the traffic and additional wear and tear. It's not that I have anything against the development per say, I think it's a good use of the land and I really would like to a lot more housing for sale that's obtainable by an average person,

unlike what is out there today, but I'm going to vote against it strictly because of the transportation issues.

Anthes: Is there further discussion? Commissioner Lack?

Lack: I have expressed on the two times that I've seen this project that I felt like it was viable and workable project. I would like to say while I understand the concerns of my fellow Commissioners and have some pause in its one means of ingress/egress and was actually originally in favor of using the vacant lot for other means of full ingress/egress. I still think that this is a viable, good project and I would like to mention a few things that I think are good and of quality and value to the City in this project. I like that the density is accumulated so that we can enjoy some green space. I like that it will be serviced by trail. I like that the density, the most dense portion of the property is placed adjacent to the park so we don't have people who live in a more dense situation being shoved to the center and big houses put on the perimeter on the amenities where they can usually generally get more money for it. That amenity is offered to the smaller, more densely compacted residence. I think that is an appropriate response. I like that this density would be adjacent to that trail and a mode of transportation that would be suitable for all of Fayetteville but certainly provide other options. I think that the POA is a means of control that people would have, the contract between neighbors that would allow them to police themselves and I know within most POA's that I'm familiar with, the POA itself has the ability itself to charge or to tag a certain land owner with a infraction. If three land owners were not mowing the lawn and the City had to come in and take that into account and charge the POA, which I would assume they would have to do because the POA would own the land in this development, then the POA should have and I would expect them to have the ability to recoup that or to charge that particular land owner or homeowner. I really wish we could get an eastern stub out. I would really, that is the one thing that I think would make this more palatable. I have accepted the idea in this exception from staff that the terrain there is infeasible. But, it is something I still would really preferred to have. Beyond that, I would still say that I think it's a viable project that meets the intent of the ordinance and meets the intent of development and plan to vote for it.

Anthes: Thank you Commissioner Lack, Commissioner Clark.

Clark: I think I have a question for the developer, will you tell me a little about the plans for this park area. Do you have anything on board? Or, are you going to let it drain and call it a park?

Ernest: Commissioner Clark, I'm Hugh Ernest, I've had a brief discussion with Connie Edmondson and discussed today the situation with Alison Jumper, who is one of the Senior Park Planners. I can tell you factually, that while we don't have any definitive plan to offer, there's a great deal of interest from the Parks Board and from key City staff on the Parks department to develop that. We've had dreamy conversation if you will, about fishing docks. I've had a conversation with the representative [inaudible] society to develop a community garden and there's discussion to put a small playground in that area. So, and by the way, if you step back and visualize for a minute what Mr. Pate was talking about on the Master Trail Plan, you can envision someone working for the City of Fayetteville in 2015 say, and getting on that trail and walking directly to the very large [inaudible] and Happy Hollow. Because, sooner or later, the principal impediment to that, that junk yard will be gone. Once the junk yard is gone, then there's no stopping of the trail situation to get up and down the river right there. I'm digressing from what you asked about the parks plan, but at least one of the key parts from my perspective is the Master Trail Plan and what it would offer for a connection up and down that river.

Clark: Thank you sir.

Pate: If I might add to that as well, it's usually our Parks and Recreational Board that meets with Park staff and come up with those types of recommendations with those improvements. They also meet with that neighborhood, so it would be both the existing neighborhood and the ones that are moving in to this area to provide the park amenities just as soon as they can.

Clark: Thank you, Jeremy.

Anthes: I have a couple of more questions. Mr. Pate, were you able to research whether any screening requirements are still valid for the 8 ft. fence from the large scale of the junk yard that was approved in 1974?

Pate: That is still an on going project that we're working through. As you mentioned, it was approved in the 1970's. Conditions are scarce about the screening requirements for that. We have been looking at old aerial photographs to determine if the actual project has expanded beyond the limits of what it was originally approved for. We are working in tandem with Code Compliance on that project.

Anthes: Ok, has the PZD booklet have been updated to reflect the City Plan 2025 instead of General Plan 2020?

Pate: I don't know, because this project actually came in when we were under the City Plan 2020, so we would have to look through that and find out.

Anthes: Ok, and has staff identified the construction traffic routes?

Pate: I would assume it would have to be primarily Ray Avenue, simply because this particular street as discussed at the Planning Commission, most of the Commissioners were not support of a secondary means of ingress/egress for this particular subdivision. The applicant was given the direction to find an alternative, which is what they came back with, to not have a secondary full point of ingress/egress, and instead proposed the emergency access. I would assume that it would be from Ray Avenue, primarily.

Anthes: Could I have the applicant address the construction traffic and what is the limitations on that, if any?

McDonald: I know we discussed using Ray as we were talking about the condition of approval that you all placed on to overlay Ray Avenue. We would be agreeable to use Jerry and the temporary at least the pedestrian access there, up to some point in time. If that is what you wish to direct us to do, but I think unless you tell us to do something else, we would probably be using Ray Avenue. We would be agreeable with either one.

Anthes: And a question to Engineering, have you reviewed the grading plan and do you have any particular concerns about the grading along the southern limits of construction?

Newman: It's to my understanding we have reviewed that, and they have complied with all our requests at this time. Initially, like we said, we've seen this numerous times, they have adjusted the grading plan to make it more feasible for the project. But, we have no concerns that I'm aware of, at this time.

Anthes: Ok, what about the stub-out to the west, I see that it looks like more like a dedication, instead of constructed stub out? Has Engineering discussed that, or Mr. Pate?

Pate: We have actually included a condition of approval that we are recommending that is new from the last time, number 3, we are proposing that the western street stub out be constructed to City standards to the

property line or the floodplain per a public residential street at time of development. As opposed to right-of-way that is simply shown currently.

Anthes: Has staff evaluated the possibility of an eastern stub-out located on the northern most road, just extending straight out to the east?

Pate: We did look at that and it's probably sheet number "F" in your packets, the easiest way to see the significant grade change between those two is (inaudible) you can see that those grades are all tying in. The darker lines are all tying into an existing drop in elevation that continues on to the north. That's really the biggest impediment at this point in time to construct the street stub out there. I would not say that it is impossible, but as we discussed with other projects recently, Planned Zoning Districts, it may or may not be probable to actually construct that when that property to the east develops.

Anthes: Ok, it looks like on that sheet you referred to, there is a line that looks like maybe a platted easement or easement that would be left open for the future connection there. I can't tell what those dotted lines are. Is that what that is?

Pate: Those are utility easements.

Anthes: So, that is utility easements?

Pate: I believe so. I believe that's an existing easement that actually travels through this entire property as well as where the public street is located.

Anthes: Ok. Commissioners, I guess we can start by talking about condition of approval number one, determination of street improvements.

Clark: This is a question for Engineering, on sheet "F" of our stuff, it looks like their building this property up a lot? How much are they going to build it up? How much higher will it sit at completion at the level it is right now?

Newman: If you give me a second to review the grading plan, and I'll answer that.

Clark: Sheet "F"

Newman: The head of the Engineering Department was the one that did the thorough review of these plans and he is unavailable.

McDonald: I'm not sure what the new rules are, but can I come back up.

Clark: Go right ahead.

McDonald: Art Scott, our engineer is here, and basically at the back of the property there's some portions where we raising it about 8 feet. Just along a limited portion of the back of the property. Most of the rest of the property is staying pretty close to grade.

Anthes: Thank you Mr. McDonald.

Clark: Thank you, the reason I asked is because I'm still concerned about the screening that we can't get an answer to because the salvage yard was done so long ago. Thank You.

Anthes: Let's work through condition of approval number one, determination of street improvements, any Commissioners have any comments? Commissioner Clark?

Clark: Yes, I do. I don't think we're requiring enough for a development that only has one entrance and exit. I'd like to look at what Helen and Lee Streets are like. Because you are going to get an ordinate amount of cut through once people get out and they don't want to go to Huntsville and Ray Avenue. Do we have any idea what those two streets are like?

Pate: The pavement sections look good and we did take some photographs that are in your packets. I believe.

Clark: They're black dots, so talk to me about it.

Pate: The widths are fine, they would meet our standards for width primarily. I think probably only thing they would be lacking are the curb, gutter, and sidewalks at this point in time, and storm drains. These were originally, I believe, developed in a subdivision. We had one property owner here that gave us a history lesson on how it was developed with gravel roads and the homeowners all chipped in over time and paved them. They're all paved at this point in time. Most of them, I believe, and we reference in our staff report, are actually wider.

Clark: Did you look at those for potential improvement, Jeremy? Because, when I usually look at just the immediate streets...

Pate: We did, we looked at the entire subdivision actually and considered where traffic primarily goes, with 59 dwelling units that's not an abnormal

amount of dwelling units for a project. The amount of improvements that are necessary, one can not ask for the entire subdivision for instance to be improved. We looked at what primary access would be. Originally, we were looking at two points of ingress/egress as well, that would distribute traffic, but then again the Planning Commission did not feel that it was appropriate, at least, several members of the Planning Commission did not feel that the location here as shown, was appropriate. So, it's all been pushed to Ray Avenue as far as public access. That is where we felt the primary improvement should go, and that would be an entire overlay over the street to provide, I believe it says a 28-foot wide street width, 24' I'm sorry.

Clark: That would be great, but it's just going to get you someplace you're going to sit and wait for a very long time. Ok, thank you.

Anthes: Is there any reason that we're not requesting curb, gutter, and sidewalk in this area where we're asking for the overlay?

Pate: There is already curb and gutter on the west side and sidewalk that this project would actually tie into. There's a sidewalk adjacent to street on the west side of Ray Avenue. Off the top of my head, I don't remember if there's curb and gutter on the east side.

Anthes: I don't remember there being any when we drove out there, but it been sometime ago. Glen, would there be a reason Engineering wouldn't be looking for curb and gutter on the other side of the street, where it's missing?

Newman: On the east side of the roadway? During the evaluation process I do not know any reasons at that time. Choices of curb and gutter on that side, I believe it was assessed previously at the roadway width and based on number of units and volumes that was determined would be adequate at that time.

Pate: Commissioner, if you can refer to page, begins on page 39, the photographs following the road sections that staff took. I think you can see those pretty clearly. The condition of the street at that point is well over 24 feet in width, however, it does need an overlay because of numerous patches and cracks in that area. So, that is what we are recommending. You can see on page 41, that's where the sidewalk ends currently, so that would tie in to the existing sidewalk. This overall subdivision storm drainage is comprised primarily of ditches and culverts. So, adding curb and gutter

without an overall drainage plan could actually exacerbate a problem without looking at the overall subdivision.

Clark: So, staff is recommending that we just allow the sidewalk on the west side? I remember this sidewalk; it's got telephone poles in the middle of it.

Pate: It would be to tie into that.

Clark: If the Commissioners would want to look at page 44 of 82, that's what we call an impediment. It looks pretty clear that Helen and the other one, Lee, have no improvements along. Which that makes sense, if the citizens had to pave it themselves. That still concerns me, it's not very pedestrian friendly, and I don't think we're helping it at all.

Anthes: Is there further discussion on conditional of approval number one? Commissioner Ostner?

Ostner: This is a question for staff, has staff evaluated whether a stub out to the west would be appropriate? I know you mentioned there are grade issues, it's not perfect.

Pate: To the west?

Ostner: To the west, near the sort of creek area, I suppose.

Pate: Yes, as we drove out there, actually we've been out there a few times now, the location that they have shown stubbed out to the west is feasible. It would take a small crossing there. There is a very small drainage area that drains into the river. It would take a small crossing. The property, further to the west, is commercially zoned and developed and it's being utilized right now. However, there is much of the rear of the property that's not developed, so it does have that potential. I believe it is just one parcel that goes all the way out to 15th Street, so with a future development of that commercial property there is a potential to have a cross access to get out to 15th Street, Happy Hollow Road in that location.

Clark: So, we are getting a real stub out there? Well, it's a condition of (inaudible) says we are.

Ostner: It's simply not drawn in yet. I thought it was the eastern? Ok, so.

Clark: It's going to be built in.

- Ostner: That stub out will be built, but the creek crossing will not.
- Pate: Correct, it would be built to the property line.
- Ostner: So, if the next guy on the west side can't be convinced to cross the creek either, we won't have connectivity?
- Pate: That would be something for the Planning Commission to look at.
- Ostner: Ok.
- Pate: They could not cross there currently, without either purchasing the property or getting that property owner to allow them to do that.
- Ostner: Ok.
- Clark: Should we be assessing for a bridge? Or are we just going to leave it up to who ever in the west has to carry the whole bag? Doesn't seem fair.
- Pate: At this point in time, it's not a large crossing as I mentioned. The scale of the plan.
- Clark: It's a little crossing.
- Pate: It's probably 30 feet or less between us, I'm just scaling it out. What's called out there is flood way. It would not likely be a bridge crossing actually; it would probably be a culvert system that would just cross that.
- Antes: Moving on to condition of approval number two, Planning Commission determination of waivers from street design standards. Is there any comment?
- Clark: If two vehicles are cool with a 100' radius?
- Pate: Yes.
- Anthes: Is there any other comments on any other condition of approval? Any further discussions or motions? Commissioner Ostner?
- Ostner: There are things about this that are good. The density is helpful to the City. We need infill and it needs to be higher than 4 units per acre, which this is. I believe developed actually developed land is about 7.5 units per acre. My reservations are that Ray Street, I believe, is going to handle more traffic

than is fair. When we are talking about rezoning, we are basically talking about, how the new project gets along with its neighbors. I don't think it's fair. I don't think it fits with what's already there. I still have a lot of reservation about planning a subdivision where no one has to take care of their yards. I don't think that's right. When the City or the County is going to step in and assess, that can be years. It can be years for anyone to get their money. That's a very, very slow process. You don't just knock on their door and get paid. When the County or the City has to ask a homeowner for a special assessment, there are rules and they can wait for the next year's tax assessment. That person might not pay on time, they have a grace period. They might pay the next year. The 3rd year, their house might go on the chopping block for a two hundred dollar fee. They finally pay it. I don't think it's a good working system. I think the connectivity is a problem. The second connection that is now being called out with bollards, the second connection I think is important. Now, where it was drawn is not a solution, so in essence this place has one way in and one way out to the regular daily driver. I don't think that works. I'm probably going to vote against it.

Clark: To follow up with staff really quickly on that, the original recommendation was for a full public access street through that lot?

Pate: Yes.

Clark: Would you remind us how we got to this compromise?

Pate: After quite a bit of discussion concerning the utilization of a formerly platted lot, which is part of this property now, that was one of the concerns of the Planning Commission, was that utilizing that lot permanently as access would be paramount to be utilization of it as a residential lot which it was originally was platted to be utilized as. As we discussed this project and for the benefit of Commissioner Clark, there was a platted right-of-way to the east of this property, you may remember this at Subdivision Committee, that was vacated in 1996. It did stub out to this property much as Ray Avenue now does. I believe it's called Jerry, to the east. That was vacated and the house was built basically in that little notch there, to the north east of the property. Were that the situation, had it not been vacated, we probably wouldn't have a lot of that discussion now because there would be two points of ingress/egress readily available to the property. However, that's not the case, so we're left with what we have which is a property that really only has frontage onto Helen there, with a lot frontage, and then access to the stub out. A lot of discussion from the Planning Commission revolved around utilization of some other type of design to

provide access to the subdivision but limit that one, because it was not intended for a public street. That's where the applicants came up with the idea of utilizing it as an emergency access only type of access. Where it would still allow pedestrians to utilize it and be ready accessible to the trail and emergency access when they needed it. But it wouldn't allow traffic movements.

Clark: Jeremy, since [inaudible] the multi family units, how long is the block length now? Do you have any idea?

Pate: That's actually not very long because it's broken up, it's considered broken where those alleys are.

Clark: Ok, the alleys break it up, never mind.

Pate: It is a street that sort of just loops around with an alley now. It did loop back on to Helen.

Clark: Ok, well I have posed many questions and I still have a lot that have not been satisfactory answered and I think my biggest issue is access and the traffic flow and again I think infill is needed. It needs to be dense, I just don't think this piece of property affords itself to that type of development and be a good neighbor to what is already there. I think it's going to be very intrusive, especially since you're forcing everybody out and in one way. I know a lot of kids walk home from school from Happy Hollow, right across that street, down the sidewalk that has telephone poles in the middle of it. Right now, the traffic is not extreme but I think it will certainly kick up a notch with this development. So, I will commend the developers for their insight and desire to build affordable housing. I applaud that but I don't think we have to sacrifice everything else that we want to see in a development to get attainable housing. Especially connectivity and we have a lot of connections for pedestrians and I commend that. But, I think people trying to get back and forth to work and get their kids to school and get them to the places they need are going to be using cars far more than feet. So, for that, I will reluctantly, but feeling very secure in my reasoning, vote against this proposal.

Anthes: Is there further discussion? Commissioner Harris.

Harris: This has been just a tough project. Commissioner Clark and Myres, I believe were all on the original Subdivision Committee when it came through at that time. Generally the conversation was what Commissioner Clark just said that we want attainable housing and yet we do not feel as

though we can sacrifice every other principle that we have. Like Commissioner Lack and Ostner, I certainly applaud infill. We're going to have several contact zones in this City that is sort of the ideology of single family dwelling with suburban lot sizes next door to sort of dense infill and that's never going to be an easy, seamless transition. While I understand the neighborhood on that level, I have to think in a slightly different way, giving that I have City Plan 2025 in front of me. I'm also very sensitive to the fact that the developer has come back to us with the pedestrian and emergency access because we were concerned about putting a public street through what had been a plotted lot. I recognize that a series of compromises has lead us to this moment in which we have to decided whether this compromise is one that can hold. I have to say that with a great deal of reluctance, I too, am not able to vote for this tonight, for the reasons that have already been aptly stated, I think, by Commissioner Clark.

Anthes:

Thank you, Commissioner Harris. Any further discussion? Any motions? Well, I'll just say a couple of things. I agree with a lot of what Commissioner Lack said. I think he makes very good points about what is good about this subdivision. I agree with every single one of them. I remain, as he does, desirous of eastern stub out and I understand that we just have a topographical challenge that's probably to difficult to be met. I would like to revisit the idea of the house in the vacant lot on planning area three, I think that we had talked about the possibility of removing that one house and that might be better for the neighbors but I don't know if we discussed it fully. I don't want to repeat anything Commissioner Lack said, but so much of what this development does is right and then I keep coming back to the 59 units with one point of access. We do that a lot in the City but with ample provisions for stub-outs that are likely to happen. I'm just questioning how likely these other connections are, or connection is to ever be constructed and under what time frame. Then, I'm also looking at the infrastructure that this is connecting to and often when we have a subdivision of this kind of density with one way in and one way out we're dumping directly onto a well-maintained state highway or some sort of road that is in good condition and well-maintained and I'm afraid we have a pretty big gap between this property line and where we get to a street section that has been maintained and contains a proper cross section and the right pedestrian egress and access and that sort of thing. So, I really struggle with it because I want to support this project for all the reasons Commissioner Lack stated, and yet I question that it may be just too dense for the infrastructure, for the concurrency of the development of the infrastructure or the non concurrency of the development of the infrastructure to support. Commissioner Clark?

Motion:

Clark: I will move that we will deny R-PZD 06-2196 for the reasons stated.

Ostner: Second.

Anthes: I have a motion to deny by Commissioner Clark with the second by Commissioner Ostner. Is there further discussion? Yes, Commissioner Trumbo?

Trumbo: I'm going to vote against that motion. I agree with a lot of the things that have been said on both sides. The 2025 map clearly showed that were not going to allow much development out on the out-skirts of the City and also within the planning boundaries, so we are saying it's gotta go here. Although there is a big traffic problem on Huntsville Road, it's going to be five lanes very shortly and I'm seeing and when I mean shortly, it's been funded in a program, in engineering now, it's going to have a light on Happy Hollow Road and to deny a project that's going to be so close to a bypass, a southern bypass, doesn't make a whole lot of sense to me. It's tough, a very tough issue and I certainly understand the neighbors but I think we all are going to have to make room if the 2025 Plan is what we're going to go with. It's saying we're going here and it's inside the City. So, it's kind of like we're dodging it now, but it's going to be an big issue for us coming up, so I'm going to go ahead and vote for this.

Harris: Commissioner Anthes, can I ask Commissioner Trumbo? I'm thankful for to you for bring up City Plan 2025 and the particular way that you just did. That it doesn't envision a lot of developments on the perimeter and so it's coming back in. Would you mind discussing your thinking about the sort of, what kind of good neighborhood this development would be in terms of the neighborhood that already exists given that there is one point of ingress/egress?

Trumbo: Well, that Ray Avenue, I guess is the one point you are talking about. They can still; people can still come through and go to the other eastern access to Huntsville Road. It's going to be added traffic, there is no doubt about that. It's going to be inconvenient for the people there. I don't think its going to be a safety hazard. That would cause me to vote against it. It's going to be inconvenient and that's what we are at in the City right now.

Anthes: Commissioner Clark?

Clark: I'll play devil's advocate on this one.

Anthes: Ok.

Clark: I think that Commissioner Trumbo has some solid reasoning but when you start mentioning cut through of the other streets to get to Jerry, to get out on Huntsville, I think that's exacerbating the issue. If Huntsville Road were improved as it is on the boards to do, I'd probably vote this. Because it would be five lanes and it would have signalization. Traffic would flow much better. But that improvement is number nine on a list that's taking a whole bunch of money and I'll vote for it when it happens. I hate to take that position, but being a cynic is something that I'm growing into even more, these days and cynically speaking, we're going to approve development that does - can be built within a year. Streets are not going to be there then. I don't think Huntsville is going to be improved to the point that I can vote for this and think these folks are going to be safe. I think we will cause a lot of cut-through onto smaller streets that don't have sidewalk, curb, gutter, nothing. These people built these themselves. You will be forcing people still to sit at Huntsville for a long time and still probably turn right and go down and turn back around to come into the City. Because the streets are not improved. Now, the light at Huntsville and Happy Hollow has made a world of difference. It's nice, but I have also noticed a heck of a lot more traffic on it, because it is nice and you can get to where you want to go a lot faster. So, that's my devils advocacy to, I know infill has to happen, it does, I don't think we're prohibiting large development in the outlying areas of the City, although the map indicates future use is not going to be over favorable, that's a recommendation. People are going to build and we're going to hear it coming through, infill will be here too, but I really think infill must be done wisely and smoothly and above all with consideration of the people who are there now. Because, they are the ones that built it and they are the ones who live there and have their futures tied to it. I really want to look at that. If this neighborhood had been for this excitedly, I might be singing a different tune, because they are saying that they could live with something. I think their concerns are pretty real and reasonable.

Anthes: Commissioner Trumbo?

Trumbo: I would just like to point out, it's ironic, because one person's connectivity, is another person's cut through.

(Laughter)

Trumbo: And to the point about the map, just from my experience, if staff is not going to recommend it, it's an uphill battle to get something approved in Fayetteville without staff's blessing and recommendation. The way I interpreted the colors on the map, and I asked pointedly, what is going to be staff's recommendation for a subdivision out in these areas that want to be on the step and it's going to be no. That's great, if that's where we want to go, but I understand your points and it's very difficult.

Anthes: Commissioner Ostner?

Ostner: I think there is a certain degree of polarization that is sort of happening and I don't think it's helpful. For me to vote no on this, does not mean, I don't think this piece of property should be developed. It means, the layout is inappropriate to me. That is why I'm going to vote against it. I'm for development in this neighborhood. I'm for something of a similar density, there. I'm not against infill. I'm not against higher density. I'm not against what this project is trying to do. The particularities of the way this is drawn in my mind, don't work, with what I'm charged to decide. I don't think it works well with the neighbors. Another drawing would work better. The developer says I'm sorry, that's impossible; I can't acquire the land over there to do another connection. Well, that's what would work, in my mind. I'm saying that as an example. Everybody owning land that they are not really supposed to maintain is a big problem to me. These are the details that I think makes this project not to my standards that I would vote for for my decision. Since it's a rezoning decision. So, I don't think it's as black and white as yes and no, as the big map. Can't develop out here, you'll have to develop in here, vote yes. That's not a fair assessment of a "No" vote tonight. There are a lot of things that we've been down the list eight different ways. People have a lot of concerns about details. They could be drawn different, to make my vote turn to yes. So, I wanted to say that, I would be in favor of a project in this place, not this one.

Anthes: Commissioner Lack?

Lack: If I could request of the developer, it seems that the second point of ingress/egress is one of the major issues. The originally proposed second point is through a platted lot which is unpalatable and certainly not a good condition and I'm sure that you would agree. Did you look at purchasing the property at the corner where the original right-of-way came through?

McDonald: We have not talked to that property owner. We do understand from actually one of the neighbors, that property might be for sale. We have not talked with that property owner. I'm sure you understand that we would

prefer not to put in the limited access entry, we would rather put it in as a full access entry. We would certainly be amenable to that. I hope you understand that. We do believe there is an easement to the favor of this property on that property at the end of Jerry. Obviously, it doesn't go through the house, it goes through the west side of his property which would be just to the east of us. We believe we could use that as an easement. Now, that would put less than a 150 ft jog in the street, which would require a variance. If your interest is simply having two points of access, we could move it there, but it does put a jog in Jerry, if you will, coming into our property that is shorter than the 150 ft. We're amenable to either one of those, but we have not talked to the neighbor. We think we have an access across this property and wouldn't need to buy it, unless we're going to tear his house down. So, that's where we stand with that.

Lack: I certainly not in a position to tell you that you need to, but I think that using a easement there would probably be seen much like using the vacant lot. I don't know that there would be a distinction from the Planning Commission overall. I would be amenable to the idea of using that vacant lot, even though I think it's not a good condition. I still was not necessarily in favor of making a controlled access. I would still see that as an option, but if I count votes correctly, I would wonder if you had asked if that was an avenue that you could pursue.

McDonald: Of buying that lot?

Lack: Well, just something that to throw out. If I count votes correctly, then it may be necessary to look for other options.

McDonald: At this point in time, yeah I believe, and Jeremy, you may correct me if you think I'm blatantly wrong here, I believe I have access across that lot now. I mean, we have an access easement in favor of our property that we can use that's on the books now. We think it got put on when Jerry's right-of-way was vacated and we would be agreeable to put our access point there and reconfiguring the east end of our property. But, I don't think that's a lot different in your eyes than putting it where we have it now. If it is, we are agreeable to doing that. That's all I have.

Anthes: Any further discussion? I have a motion to deny by Commissioner Clark with a second by Commissioner Ostner, will you call the roll

Roll Call: The R-PZD 06-2196 for West Fork Place was denied by a vote of 5-3-0.

Clark: Now, Jeremy, the applicants have the right to appeal to the Council?

Pate: Yes, within ten business days.

Clark: Will neighbors be notified?

Pate: There's no notification required to go to City Council.

Clark: Ok, that's a big one for the neighbors, there's no notification if this is appealed to City Council.

Ostner: Mr. Pate, when approximately would this issue first go to City Council?

Pate: That, I don't know. It all depends on if and when the applicant appeals, it could be with in two months.

Ostner: I mean approximately, six weeks, four weeks.

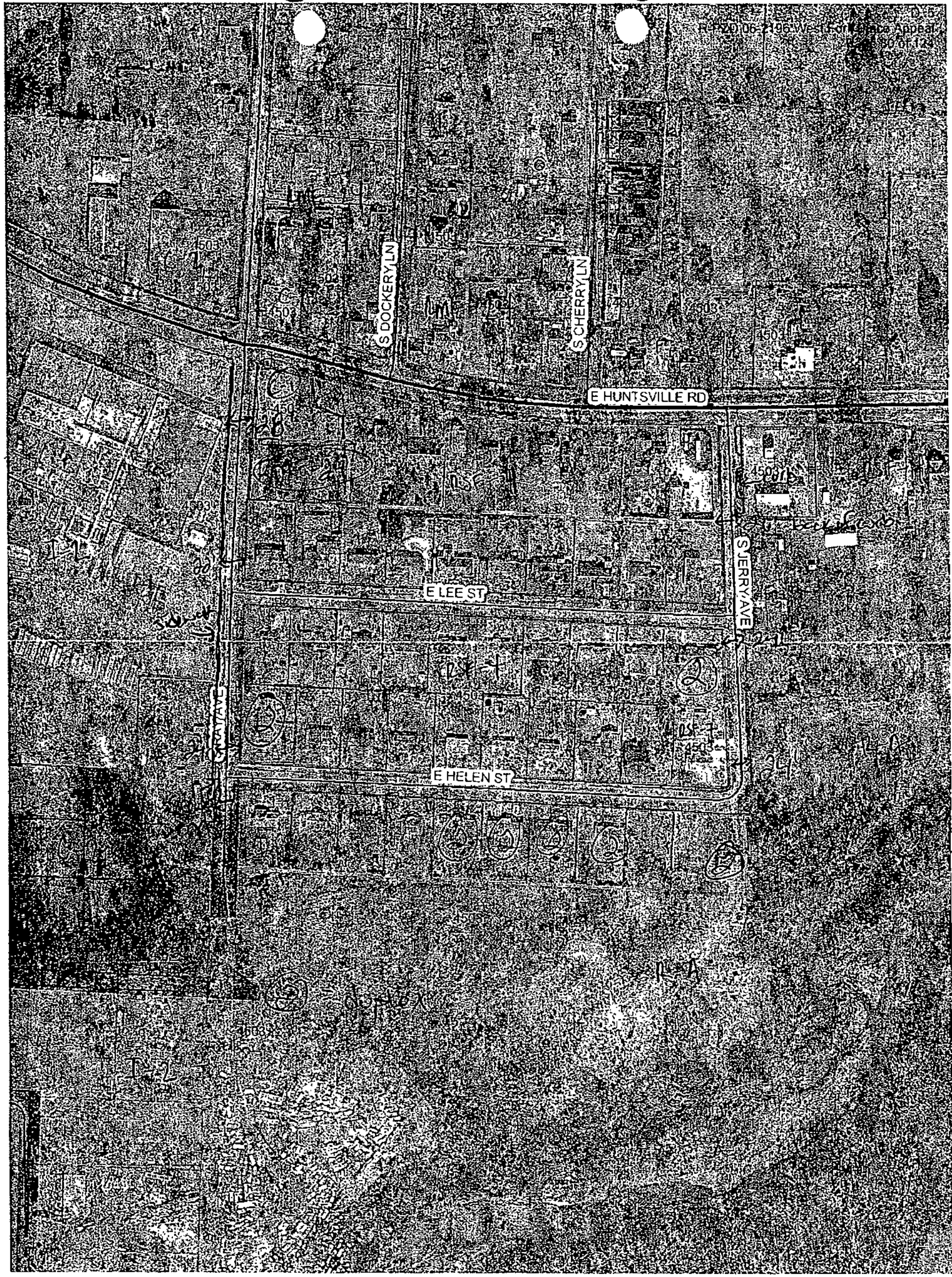
Pate: I would say approximately, if it were appealed on next agenda, it could be placed on as early as four weeks probably more in keeping with four to six.

Ostner: Roughly, thank you.

DRAFT

ATTACHMENT A

Aerial photograph and photographs of Ray Avenue





HELEN (RAY) - LOOKING NORTH (EAST SIDE)



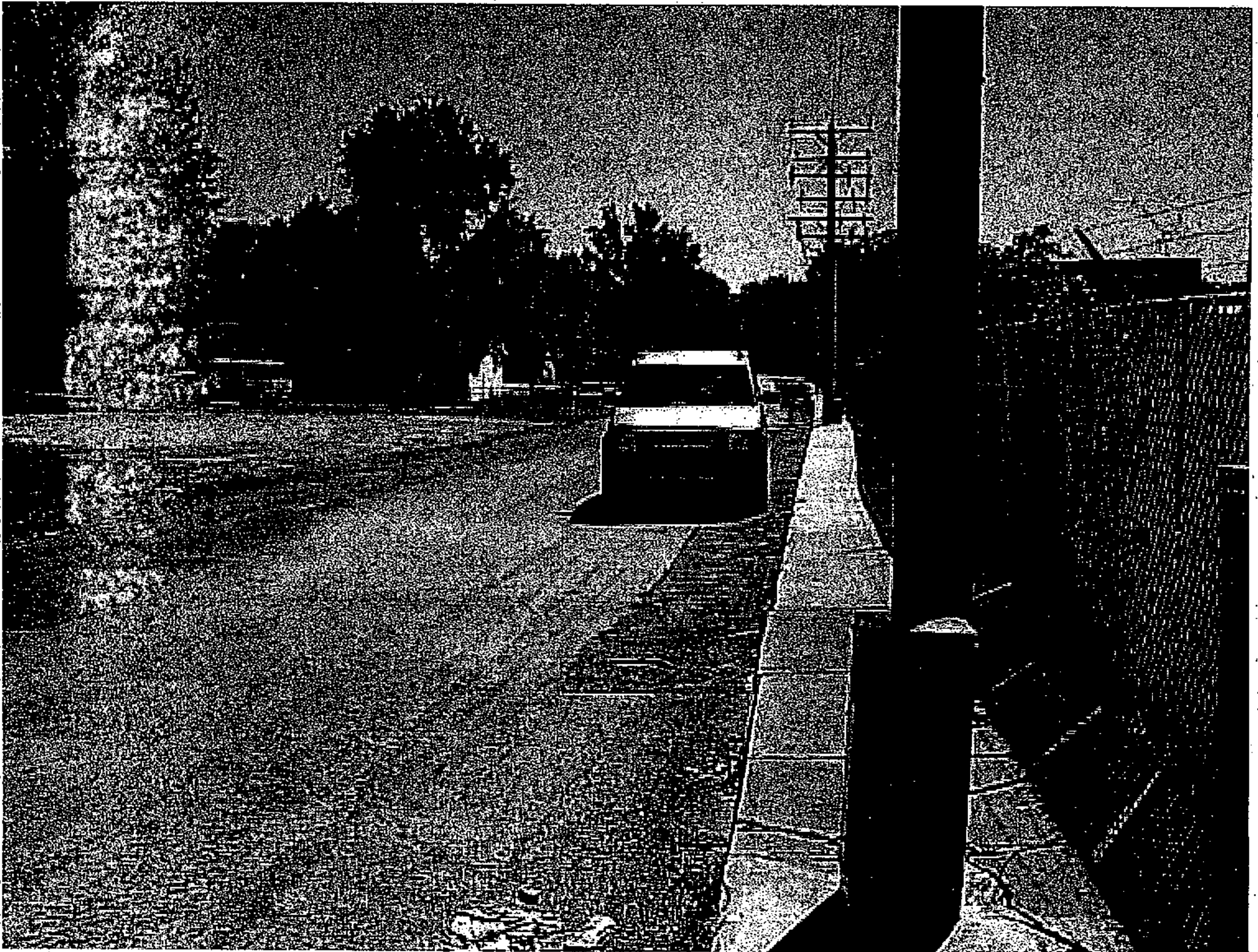
HELEN/RAY - LOOKING NORTH (WEST SIDE)



LEE/RAY - LOOKING NORTH (EAST SIDE)



LEE/RAY - LOOKING SOUTH



RD4, SOUTH OF HUNTSVILLE - LOOKING SOUTH



RAY, SOUTH OF HUNTSVILLE -LOOKING NORTH

ATTACHMENT B

• **Waiver request from applicant**

PROJECT DESIGN CONSULTANTS, INC.

September 19, 2006

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125 West Mountain
Fayetteville, AR 72703

**RE: Request for Waivers of Minimum Street Standards
West Fork Place R-PZD # 00-2196**

Dear Jesse:

This letter serves as a request for waivers of the following minimum street standards due to existing gas line appurtenance within an existing gas line easement

1. Waiver of the minimum residential street radius of 150 feet. Request a minimum 100 feet radius on the extension of Ray Avenue to the south between Stations 9+00 and 11+00 to avoid existing gas appurtenances.
2. ~~Waiver of the minimum street offset of 150 feet. Request a minimum of 147 feet between Jerry Avenue and the proposed connection of Ray Avenue and Helen Street. The actual offset proposed is 147.38 feet from centerline of Jerry Avenue to the centerline of proposed Ray Avenue intersection with Helen Street placing it within a lot owned by the developer per city street standards.~~

Sincerely,



Bruce Kemmet, P.E.
Senior Project Manager

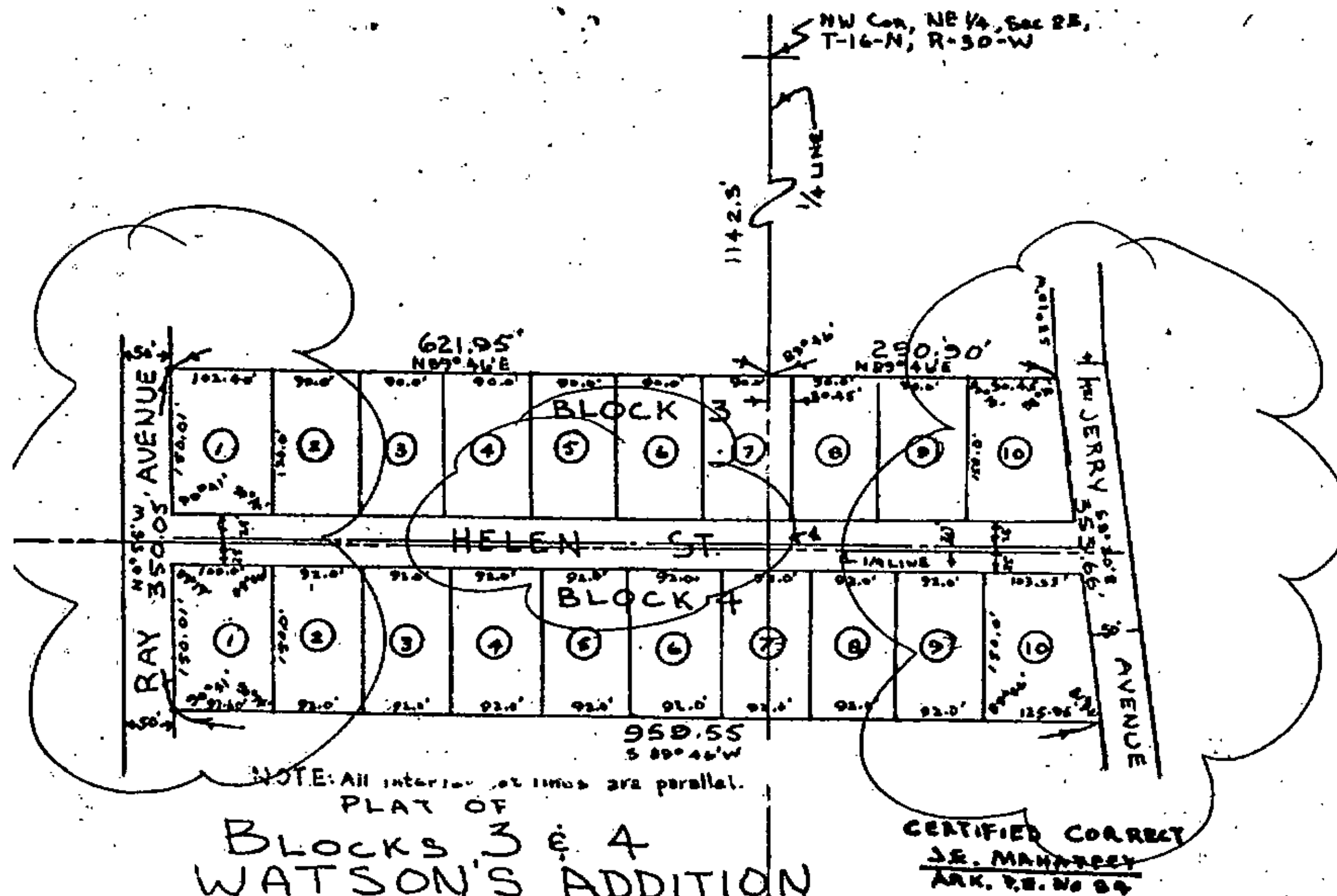
ATTACHMENT C

Correspondence and maps of Jerry Avenue vacation

LEGAL DESCRIPTION

A tract of land being a part of the $W\frac{1}{2}$ of the $NE\frac{1}{4}$ and part of the $E\frac{1}{2}$ of the $NW\frac{1}{4}$, both of Section 23, Township 16 North, Range 30 West of the 5th Principal Meridian, and being located in the County of Washington, State of Arkansas; more particularly described as follows:

Beginning at a point 1142.3 feet South of the Northwest Corner of above described $NE\frac{1}{4}$; thence $N 89^{\circ} 46' E$, 290.90 feet; thence $S 8^{\circ} 30' E$, 353.66 feet; thence $S 89^{\circ} 46' E$, 959.55 feet; thence $N 0^{\circ} 55' W$, 350.05 feet; thence $N 89^{\circ} 46' E$, 621.95 feet to the point of beginning and containing 7.52 Acres, more or less.



OWNER'S CERTIFICATE & DEDICATION

We, the undersigned, hereby certify that we are the sole owners of the above platted land, and hereby dedicate the streets as shown for the use of the public.

Ottis Watson

Helen Watson

Subscribed and sworn to before me this 3 Day of September 1963.

Filed for Record: Sept. 4 1963, 10:00 AM (Seal)

PLAT BOOK 1, PAGE 20

Thelma Culwell
Notary Public

Arthur Martin
County Judge

RECEIVED

770 PP 566
R-PZD 06-2196 West Fork Place Appeal
C Meeting of 8 Jan 96 Page 91 of 124

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

501-575-8206

TO: Fayetteville Planning Commission Members
THRU: Aleth S. Little, City Planner
Don Bunn, P.E., City Engineer
FROM: Jim Beavers, P.E. */B*
DATE: 3 January 1996

REQUEST: Support of a Vacation of all street right-of-way of "Jerry Avenue" south of Helen Street as requested by Greg Foster, Jerry L. Rogers and Jerry Watson. The proposed area is approximately 151.57 ft. in length and 50 ft. in width as platted as the Watson Addition in 1963.

RECOMMENDED MOTION: Support of the requested street right-of-way vacation subject to the following conditions.

CONDITIONS OF APPROVAL:

1. Any right-of-way vacation shall be approved subject to the petitioner and adjacent property owners furnishing to the City easements for the existing gravity and sanitary sewers for lot no. 10 and the referenced Jerry Avenue ROW. The minimum width for any easement for the existing sewer lines shall be 20 feet each line.
2. Further, the petitioner and property owners shall furnish any needed utility line easements for any other existing utilities, in particular the existing Arkansas Western Gas line.

BACKGROUND:

The petitioner, Greg Foster, has requested the ROW vacation in order to provide enough buildable area on lot no. 10 (Helen Street). The petitioner has also requested a conditional use to allow a duplex. The conditional use request is addressed separately.

There were no objections raised by any utility of staff representative. The comments were to maintain any needed utility and sewer line easements.

INFRASTRUCTURE:

N/A

9.02

Planning Commission Minutes
January 8, 1996
Page 21

**VA96-2 - JERRY & ELIZABETH WATSON
S OF HUNTSVILLE, E OF HAPPY HOLLOW ON JERRY AVENUE**

The next item on the agenda was the street vacation requested submitted by Jerry & Elizabeth Watson for property located south of Huntsville Road, east of Happy Hollow Road on Jerry Avenue. The request is to vacate the portion of Jerry Avenue which lies south of Helen Street.

Staff recommended approval subject to the following.

1. Dedication to the City of Fayetteville of a 20' easement for the existing gravity and sanitary sewer for lot 10.
2. 20' easement dedication to other utility lines in the subject area.

→ Mr. Beavers explained there was an area of flood plain to the south which would not be developable and therefore construction of the street would not be necessary.

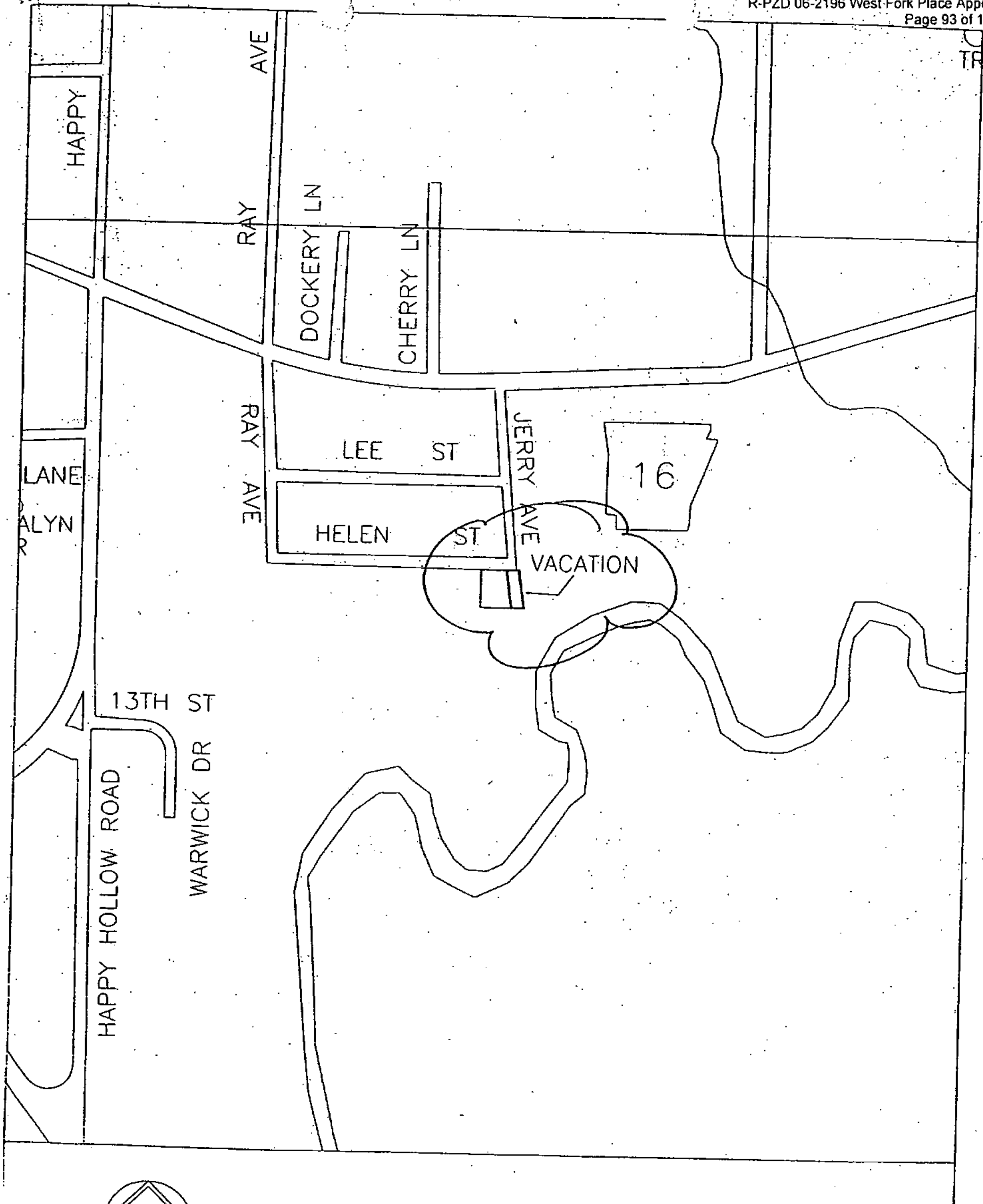
Mr. Foster, representing the applicant, stated he would comply with the conditions of approval.

MOTION

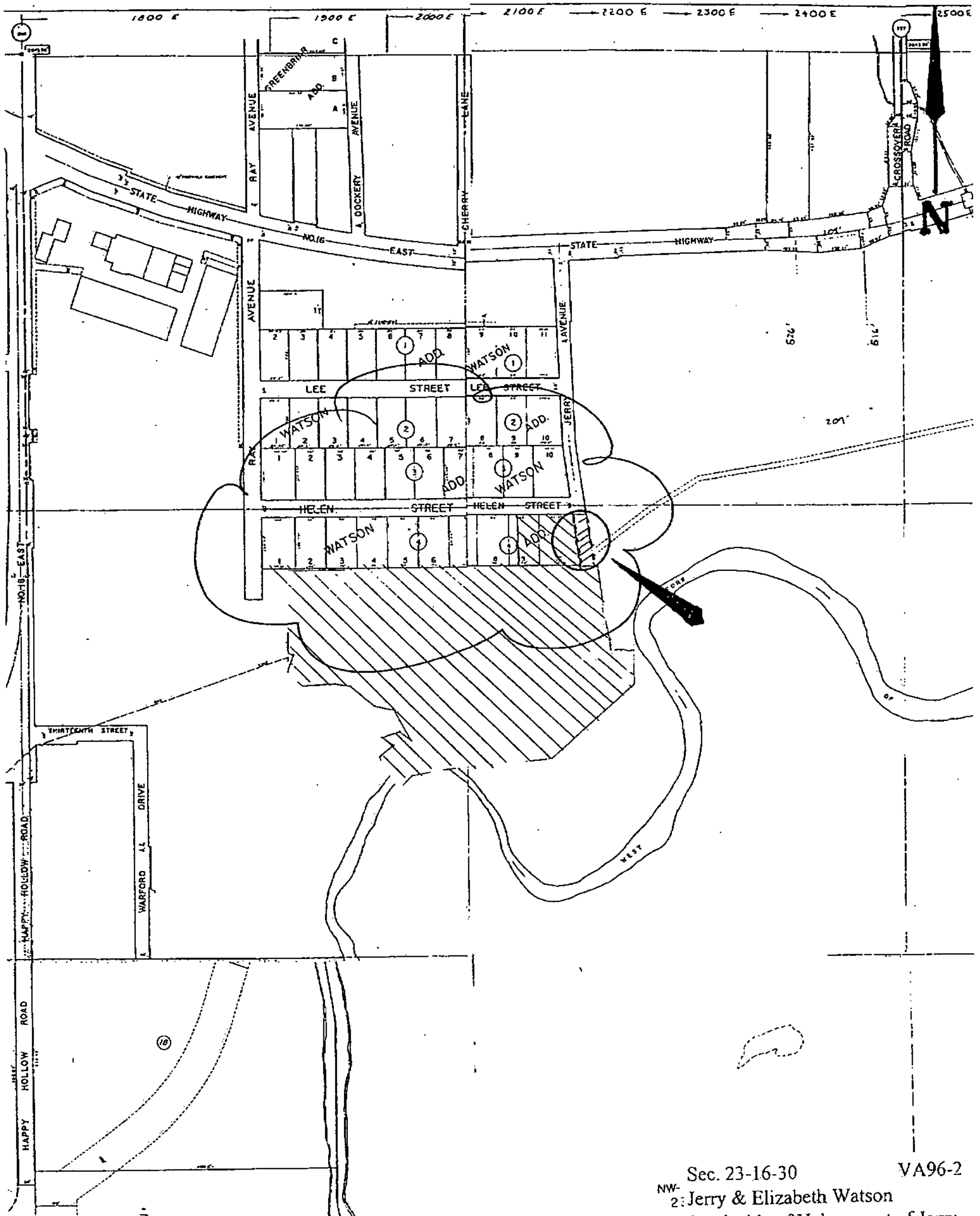
Mr. Reynolds made a motion to approve the street right of way vacation subject to the conditions of approval as set forth above.

Mr. Odom seconded the motion.

Upon roll call, the motion passed with a unanimous vote of 6-1-0. Britton voted against the motion.



Sec. 23-16-30 VA96-2
Jerry & Elizabeth Watson
South side of Helen, west of Jerry
Vacation of Right-of-Way
D.C. 1/8/06



Sec. 23-16-30 VA96-2
NW-2: Jerry & Elizabeth Watson
South side of Helen west of Jerry

FOR

103.42

PP# 566

WATSON
RENTS

RENT
R-15

ADDD

745-11915-000

705-1910-000

765-15186-000

RECEIVED

'96 FEB 23 PM 2 10

ORDINANCE NO. 3949

WASHINGTON CO AR
K. HARNESS

AN ORDINANCE VACATING AND ABANDONING THAT
PORTION OF JERRY AVENUE WHICH LIES SOUTH OF
HELEN STREET LOCATED SOUTH OF HUNTSVILLE
ROAD, EAST OF HAPPY HOLLOW ROAD AS REQUESTED
BY GREG FOSTER ON BEHALF OF JERRY AND
ELIZABETH WATSON.

MICROFILMED

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate portions of streets which are not required for corporate purposes; and

→ WHEREAS, the City Council has determined that the following described portion of the street right-of-way of Jerry Avenue is a platted but unopened street which is not required for corporate purposes.

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

Section 1. That the City of Fayetteville, Arkansas hereby vacates and abandons all of its rights together with the rights of the public generally, subject to the reservation of a utility easement in and to the following described property located in Washington County, Arkansas:

See Exhibit "A" attached hereto and made a part hereof.

→ Section 2. The City of Fayetteville hereby reserves an easement on, over, across and under the above described street right-of-way to construct, lay, remove, relay, enlarge, and maintain public utility lines.

Section 3. Said utility easement shall be for the benefit of the electric power companies, telephone companies, gas companies, cable companies and the City of Fayetteville, Arkansas.

Section 4. A copy of this Ordinance duly certified by the City Clerk shall be filed in the Office of the Recorder of the County and recorded in the Deed Records of the County.

PASSED AND APPROVED this 20th day of February, 1996.

APPROVED:

By: Fred Hanna
Fred Hanna, Mayor

ATTEST:
By: Traci Paul
Traci Paul, City Clerk



96010637



EXHIBIT "A"

Description of Utility Easement to be Retained:

Beginning at the NE Corner of Lot 10, Block 4, of the Watson Addition to the City of Fayetteville for a Point of Beginning; thence East 40.44', thence S $8^{\circ}29'36''$ E 151.67', thence West 20.00', thence N $8^{\circ}29'36''$ W 146.67', thence West 20.44', thence N $8^{\circ}29'36''$ W 5.00' to the POB, containing 3101.23 Sq. Ft.

96010638

ATTACHMENT D

Written public comment

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 9, 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 THE END OF RAY AVENUE, S OF HUNTSVILLE ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 13.92 acres. The request is for a Master Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30 detached.

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.

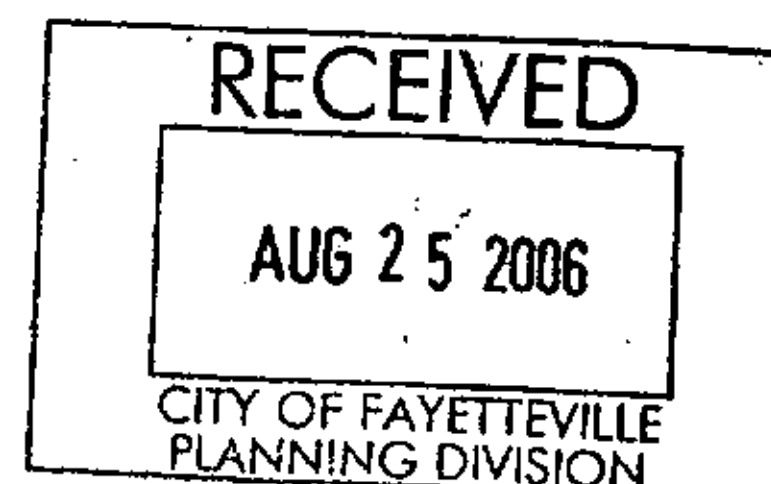
☐ I do not object to the project described above.

☒ I do object to the project described above because:

*too much traffic
we can't get on 16 Hwy
now.*

Lena M. Martin
Name of Property Owner (Printed)

Lena M. Martin
Signature of Property Owner



**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

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(479) 575-8267

PROJECT DESCRIPTION:

Property located at THE [REDACTED] The property is zoned RSF-4,
SINGLE FAMILY 1/4 UNITS/ACRE and contains approximately 13.92 acres. The request is for a Master
Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30
detached.

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:

WE ARE OVER BUILDING AN OUR ZONING STRUCTURE
NEEDS TIME TO CATCH UP
MARK R. ARYOR

Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

WF Place

Today's Date August 9, 2006

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PROJECT DESCRIPTION:

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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:

Rodney Gray
Name of Property Owner (Printed)

Rodney Gray
Signature of Property Owner

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

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PROJECT DESCRIPTION:

Property located at THE [REDACTED] The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 13.92 acres. The request is for a Master Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30 detached.

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

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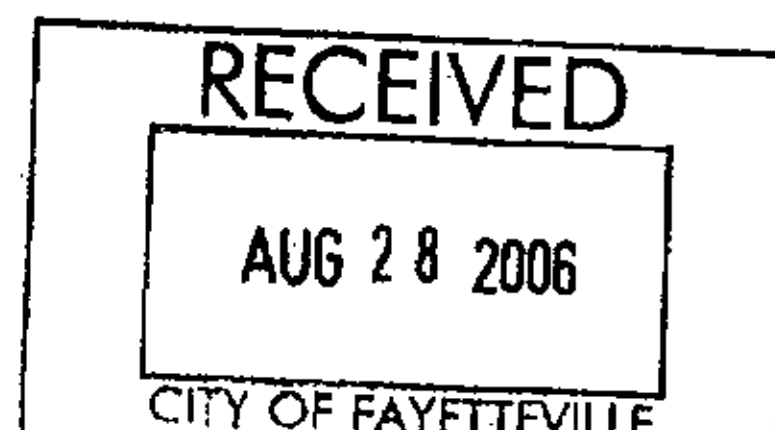
☐ I do not object to the project described above.

☒ I do object to the project described above because:

JUDY RITCHIE
Name of Property Owner (Printed)

Judy Ritchie
Signature of Property Owner

The road cannot handle the traffic. We have to go to the stop light at the doctor's office to turn around so we can turn left on 16 Highway. The new flood also
Judy Ritchie



**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

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PROJECT DESCRIPTION:

Property located at THE END [REDACTED] SINGLE FAMILY [REDACTED] ACRES and contains approximately 13.92 acres. The property is zoned RSF-4, The request is for a Master Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30 detached.

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

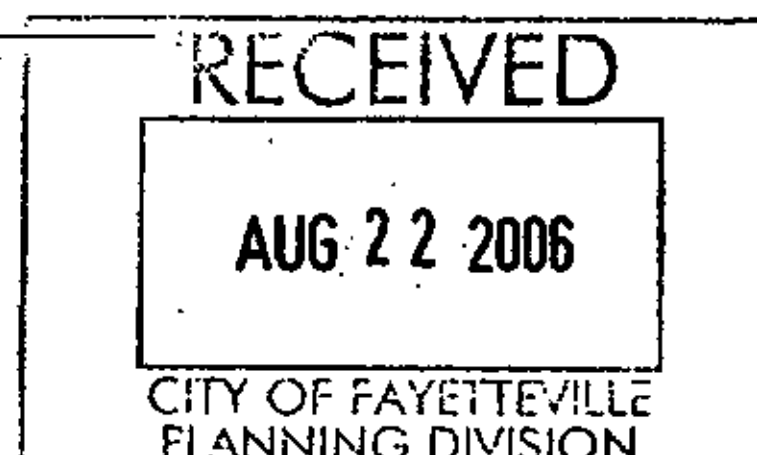
☒ I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

☒ I do object to the project described above because: *Traffic, noise, reduced Property Value. Too many apartments already.*

IMOGENE KELLAR
Name of Property Owner (Printed)

Imogene Kellar
Signature of Property Owner



**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

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Property located at THE END OF RAY AVENUE, S OF HUNTSVILLE ROAD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 13.92 acres. The request is for a Master Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30 detached.

RECEIVED

AUG 16 2006

PLANNING DIV.

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:

A. Bourquin
Name of Property Owner (Printed)

A. G. Bourquin
Signature of Property Owner

*would like info on how
Project will affect my Property
and surroundings as per drainage
& flooding possibilities*

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 9, 2006

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Project Design Consultants, Inc.
4285 N. Shiloh Drive, Suite 104
Fayetteville, AR 72703

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ADJOINING PROPERTY OWNERS COMMENTS

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☒ I do not object to the project described above.
☐ I do object to the project described above because:

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AUG 16 2006

PLANNING DIV.

NANCY DAVIDSON DALTON
Name of Property Owner (Printed)

Nancy Davidson Dalton
Signature of Property Owner

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 9, 2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Drive, Suite 104
Fayetteville, AR 72703

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PROJECT DESCRIPTION:

Property located [REDACTED] The property is zoned RSF-4,
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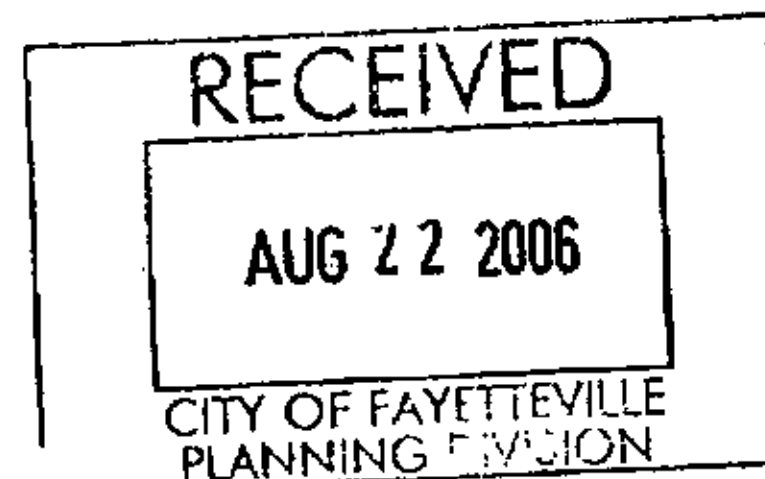
ADJOINING PROPERTY OWNERS COMMENTS

(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:

Cathy Cobb
Name of Property Owner (Printed)

Cathy Cobb
Signature of Property Owner



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:

MARION TICHENOR
Name of Property Owner (Printed)

Marion Tichenor
Signature of Property Owner

RECEIVED

AUG 15 2006

PLANNING DIV.

West Fork Place

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 9, 2006

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PROJECT DESCRIPTION:

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Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30
detached.

RECEIVED
AUG 15 2006
PLANNING DIV.

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:

Tenny P. Watkins
Name of Property Owner (Printed)

Tenny P. Watkins
Signature of Property Owner

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date August 9, 2006

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Project Design Consultants, Inc.
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RECEIVED
AUG 15 2006
PLANNING DIV.

PROJECT DESCRIPTION:

Property located at [REDACTED]. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 13.92 acres. The request is for a Master Development Plan of a Residential Planned Zoning District with 58 single family dwellings: 28 attached and 30 detached.

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: ALL THE ADDITIONAL TRAFFIC THAT WILL BE TRYING TO GET ON HUNTSVILLE RD. BOTH JERRY AND RAY STS WON'T HANDLE THE ADDITIONAL TRAFFIC.

GARY L. NIELSEN
Name of Property Owner (Printed)

Gary L. Nielsen
Signature of Property Owner

WILL THERE BE ANOTHER ROAD WEST TO HAPPY HOLLOW RD. ACROSS THE OLD TYSON PARKING LOT?

Madison Assets, LLC
573 Rock Cliff Rd.
Fayetteville, AR 72701
479-442-2997 (home)
479-283-4256 (Sue, cell); 479-283-4255 (Bernie, cell)

August 30, 2006

Subdivision Committee of the Fayetteville Planning Commission
Fayetteville, AR

Dear Commissioners,

We strongly object to the proposed plat for West Fork Place. Our objections are listed below:

1. A platted residential lot in an established neighborhood should not become a street. There has been no warning to residents who always assumed this lot would house a home consistent with the zoning in the neighborhood.
2. The proposed street accessing Helen does not line up with Jerry, creating a jog that is inconsistent with the City's goals for street alignments.
3. The density is greater than the zoning allows.
4. The density on the lots closest to existing dwellings is extremely dense due to the unsuitable-for-building land to the south.
5. There are no stub-outs for future street connections to the east or west. For instance, the lot 5 cul-de-sac could be stubbed out to the east where there is undeveloped property.

We also have some questions:

1. Considering the impact this development will have on Helen St. isn't there "rational nexus" to require improvements to Helen? Helen St. has open ditches and no curb, gutter or sidewalk. With greatly increased traffic this street should better distinguish between walkers and drivers.
2. Regarding the proposed "park land" to the south, where is the access for those living on Helen St. or in the proposed subdivision for that matter?
3. Will there be sidewalks in this subdivision? The plat does not show them.
4. Who will provide the grounds maintenance since "owners" will not actually own the land? How can we be assured this maintenance will be provided?
5. What grading changes are contemplated? Will the new subdivision drain to the south or north? How much fill will be added to the residential lot that the developer proposes to construct as a street?
6. The name "West Fork Place" is misleading; this is not in the city of West Fork and it is unusual to name places after branches of rivers. Is there a more suitable name?

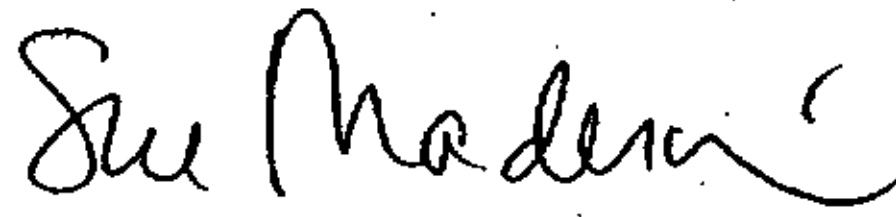
We understand the city's efforts toward "connectivity" of streets; however, this "looping" makes a farce out of connectivity. Both Ray St. and Jerry St. access Huntsville Rd. a few hundred yards apart. There should be some connection to Happy Hollow Road to the west for this neighborhood; that would provide connectivity for this neighborhood. Looping is not connectivity.

While we applaud the effort to build "affordable housing", the proposed plat fails to give these future homeowners any real ownership of the land; this is not much better than high-rise condominiums.

Our schedules may preclude us from attending this important meeting; but we hope you will consider our objections. Please call either one of us if we can provide more information.



Bernard L. Madison



Sue Madison

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

FLYING MONKEY, LLC, c/o Project Design Consultants, Inc. Contact: Art Scott
4825 N. SHILOH, FAYETTEVILLE, AR 72703. Phone: 479-521-5405

Planning Commission Meeting

Monday October 23, 2006 5:30pm
Fayetteville Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION: 06;2196: Planned Zoning District (06;2196) Submitted by Project Design Consultants, for property located at the end of Ray Avenue, South of Huntsville Rd. containing 13.92 acres. The request is for Zoning and Development review of a Residential Planned Zoning District with 59 single family dwellings: 30 attached and 19 detached.
Planner: Jesse Fulcher

Property Owner:

Parcel: 765-15223-000 Owner Name: **ACJ ENTERPRISES, LLC**

Parcel: 765-15191-000 : Owner Name: **FLYING MONKEY, LLC**

Parcel: 765-11915-000 **FLYING MONKEY**

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:

Nancy Davidson Dalton
Name of Property Owner (Printed)

Nancy Davidson Dalton
Signature of Property Owner

HELEN STREET 2006014- 06-2196

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

FLYING MONKEY, LLC, c/o Project Design Consultants, Inc. Contact: Art Scott
4825 N. SHILOH, FAYETTEVILLE, AR 72703. Phone: 479-521-5405

Planning Commission Meeting

Monday October 23, 2006 5:30pm
Fayetteville Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION: R-PZD 06;2196: Planned Zoning District(West Fork Place, 565/566)Submitted by Project Design Consultants, for property located at the end of Ray Avenue, South of Huntsville Rd. containing 13.92 acres. The request is for Zoning and Development review of a Residential Planned Zoning District with 59 single family dwellings: 30 attached and 19 detached.
Planner: Jesse Fulcher

Property Owner:

Parcel: 765-15223-000 Owner Name: ACJ ENTERPRISES, LLC

Parcel: 765-15191-000 : Owner Name: FLYING MONKEY, LLC

Parcel: 765-11915-000 FLYING MONKEY

ADJOINING PROPERTY OWNERS COMMENTS

(Return Comments to City of Fayetteville Planning Division In Stamped Enclosed Envelope)

RMT I have been notified of the above meetings for the described project.
UNKNOWN AT THIS TIME

UNKNOWN AT THIS TIME I do not object to the project described above.

UNKNOWN AT THIS TIME I do object to the project described above because:

RUTH MARION TICHENOR
Name of Property Owner (Printed)

Ruth Marion Tichenor
Signature of Property Owner

HELEN STREET 2006014- 06-2196

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

FLYING MONKEY, LLC, c/o Project Design Consultants, Inc. Contact: Art Scott
4825 N. SHILOH, FAYETTEVILLE, AR 72703. Phone: 479-521-5405

Planning Commission Meeting

Monday October 23, 2006 5:30pm
Fayetteville Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION: R-PZD 06;2196: Planned Zoning Dist. [REDACTED]
565/566) Submitted by Project Design Consultants, for property located at the end of Ray Avenue,
South of Huntsville Rd. containing 13.92 acres. The request is for Zoning and Development review of
a Residential Planned Zoning District with 59 single family dwellings: 30 attached and 19 detached.
Planner: Jesse Fulcher

Property Owner:

Parcel: 765-15223-000 Owner Name: ACJ ENTERPRISES, LLC

Parcel: 765-15191-000 : Owner Name: FLYING MONKEY, LLC

Parcel: 765-11915-000 FLYING MONKEY

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:

Imogene Kellar
Name of Property Owner (Printed)

Imogene Kellar
Signature of Property Owner

HELEN STREET 2006014- 06-2196

RECEIVED
OCT 17 2006
PLANNING DIV.

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

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4825 N. SHILOH, FAYETTEVILLE, AR 72703. Phone: 479-521-5405

Planning Commission Meeting

Monday October 23, 2006 5:30pm
Fayetteville Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION: R-PZD 06;2196: Planned Zoning District [REDACTED] 565/566 Submitted by Project Design Consultants, for property located at the end of Ray Avenue, South of Huntsville Rd. containing 13.92 acres. The request is for Zoning and Development review of a Residential Planned Zoning District with 59 single family dwellings: 30 attached and 19 detached.
Planner: Jesse Fulcher

Property Owner:

Parcel: 765-15223-000 Owner Name: ACJ ENTERPRISES, LLC

Parcel: 765-15191-000 : Owner Name: FLYING MONKEY, LLC

Parcel: 765-11915-000 FLYING MONKEY

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.

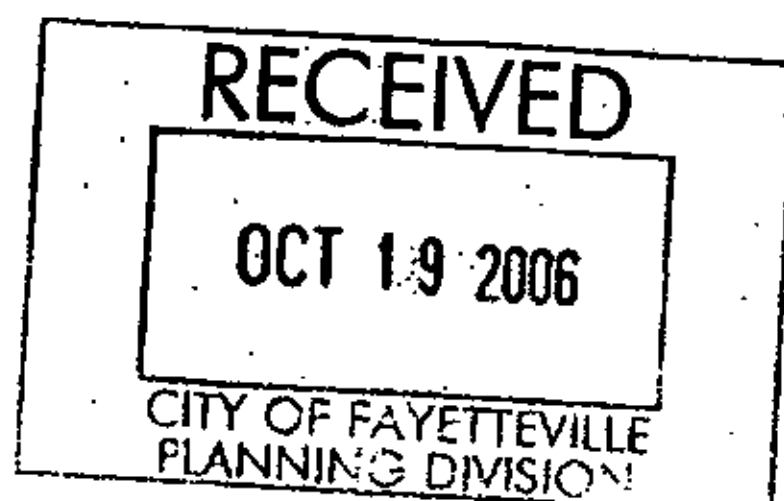
_____ I do not object to the project described above.

_____ I do object to the project described above because:

Name of Property Owner (Printed)

TENNEX WATKINS
Signature of Property Owner

HELEN STREET 2006014- 06-2196



ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

FLYING MONKEY, LLC, c/o Project Design Consultants, Inc. Contact: Art Scott
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Planning Commission Meeting

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PROJECT DESCRIPTION: R-PZD 06;2196: Planned Zoning District [REDACTED] 565/566 Submitted by Project Design Consultants, for property located at the end of Ray Avenue, South of Huntsville Rd. containing 13.92 acres. The request is for Zoning and Development review of a Residential Planned Zoning District with 59 single family dwellings: 30 attached and 19 detached.
Planner: Jesse Fulcher

Property Owner:

Parcel: 765-15223-000 Owner Name: ACJ ENTERPRISES, LLC

Parcel: 765-15191-000 : Owner Name: FLYING MONKEY, LLC

Parcel: 765-11915-000 FLYING MONKEY

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.

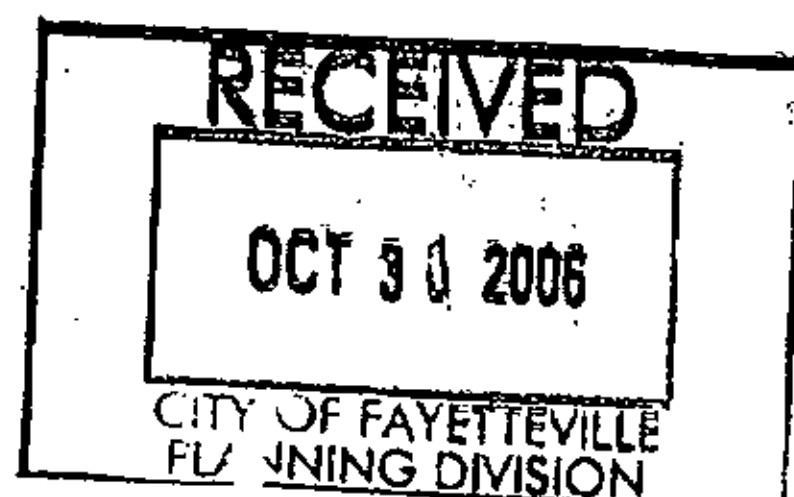
☒ I do object to the project described above because:

Name of Property Owner (Printed)

Signature of Property Owner

*if all those people use Ray St
to get in & out, too much
traffic, the new light doesn't
help. maybe they could get in
& out on 15th Street from
their apt & houses ??*

HELEN STREET 2006014- 06-2196



ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

FLYING MONKEY, LLC, c/o Project Design Consultants, Inc. Contact: Art Scott
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a Residential-Planned Zoning District with 59 single family dwellings: 30 attached and 19 detached.
Planner: Jesse Fulcher

Property Owner:

Parcel: 765-15223-000 Owner Name: ACJ ENTERPRISES, LLC

Parcel: 765-15191-000 : Owner Name: FLYING MONKEY, LLC

Parcel: 765-11915-000 FLYING MONKEY

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: **NEED FOR ROAD IMPROVEMENTS TO RAY,
JERRY, AND HELEN. NEED ANOTHER ROAD WEST TO EXIT THE NEW AREA:**

GARY L. NIELSEN
Name of Property Owner (Printed)

Gary L. Nielsen
Signature of Property Owner

HELEN STREET 2006014- 06-2196

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

FLYING MONKEY, LLC, c/o Project Design Consultants, Inc. Contact: Art Scott
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Parcel: 765-11915-000 FLYING MONKEY

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:

A. Bourquin
Name of Property Owner (Printed)

A. Bourquin
Signature of Property Owner

HELEN STREET 2006014- 06-2196

Hometown Development
1747 N. College Avenue
Fayetteville, AR 72703

October 03, 2006

Madison Assets, LLC
573 Rock Cliff Road
Fayetteville, AR 72701

Dear Mrs. Madison

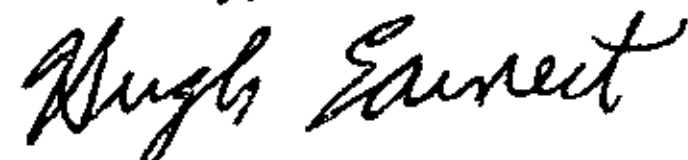
Several weeks ago, we had an opportunity to briefly discuss the housing that Hometown development is attempting to construct adjacent to Helen Street. At that time, you acknowledged the obvious need for the construction of Workforce housing in this area. You were also, as an adjacent property owner, very open about your concern over the development in this particular location.

Last week, as we made our presentation, I suspect that both you and your husband found yourself in agreement with many of the statements in the city 2025 plan.

However, rather than attempting to make our case in writing, I would simply ask that we schedule a meeting with you and your husband at your convenience to see if we can come to some consensus over what we believe is an excellent and well thought out development.

I will give you a call this week to see if we can agree on a time for a meeting.

Sincerely,

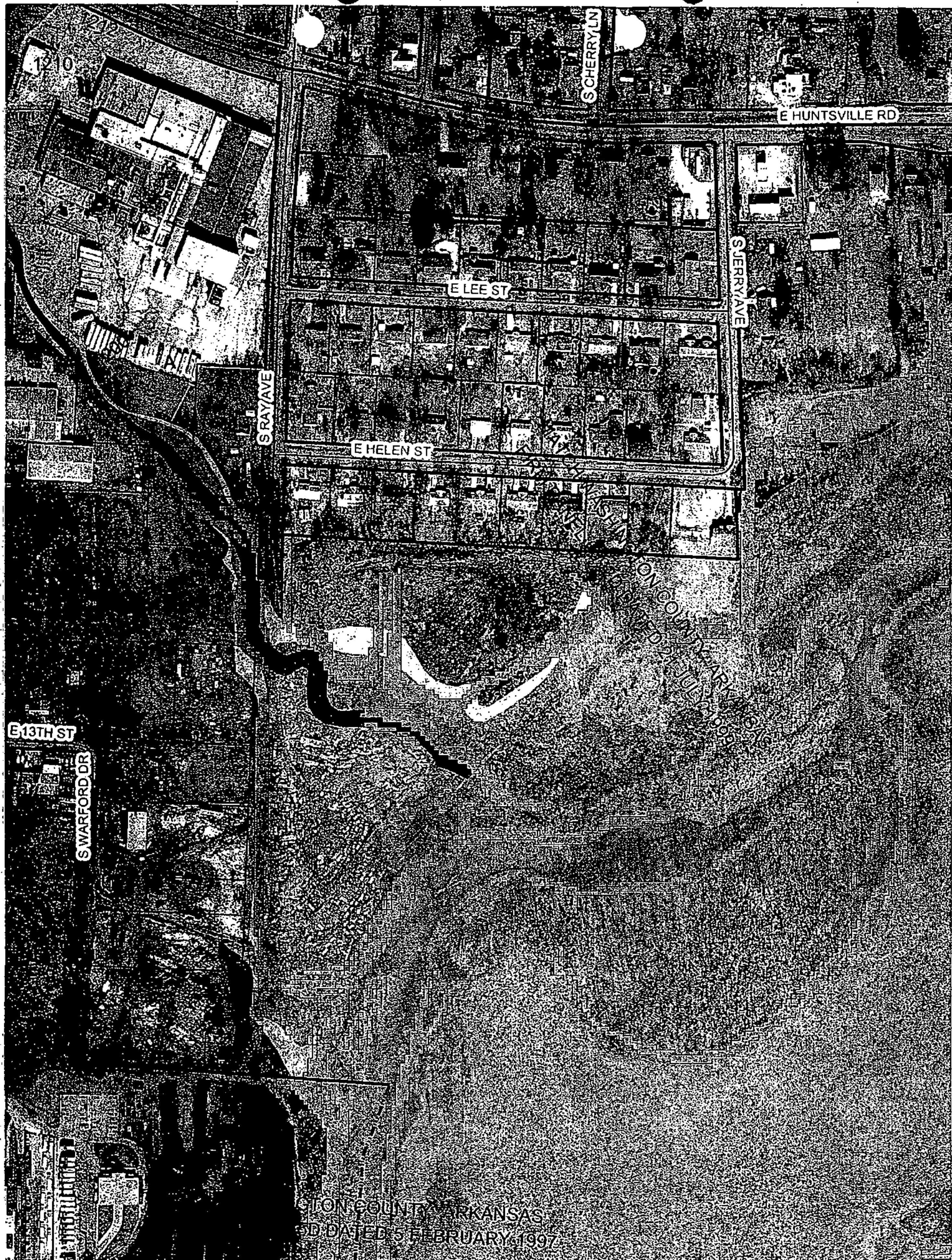


Hugh Earnest
Econsulting

cc: ☒ Jeremy Pate, City of Fayetteville Planning Director
City of Fayetteville Planning Commission

ATTACHMENT E

Vicinity Maps

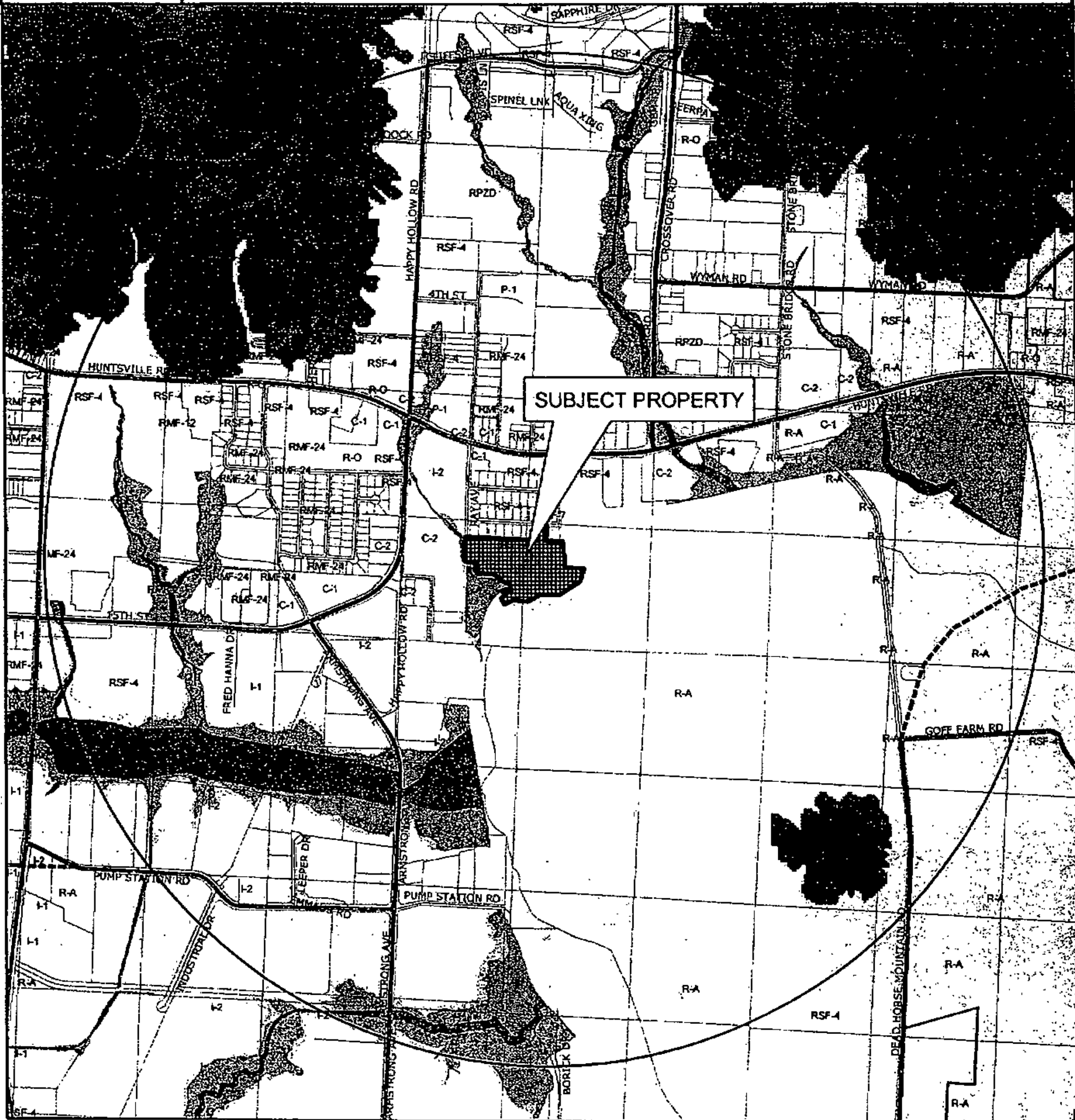


BENTON COUNTY, ARKANSAS
AERIAL PHOTO DATED 5 FEBRUARY 1997

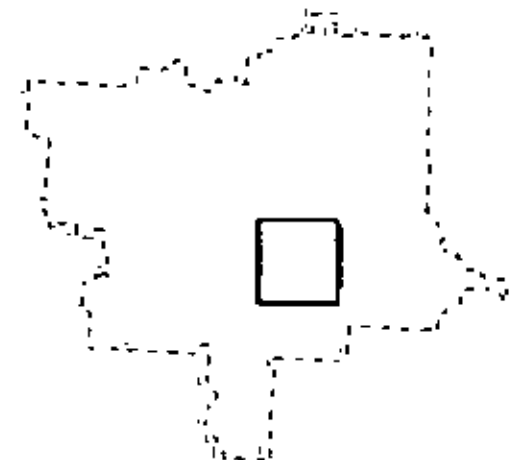
RPZD06-2196

WEST FORK PLACE

One Mile View



Overview



Legend

Subject Property

RPZD06-2196

Boundary

Planning Area

Overlay District

Outside City

Legend

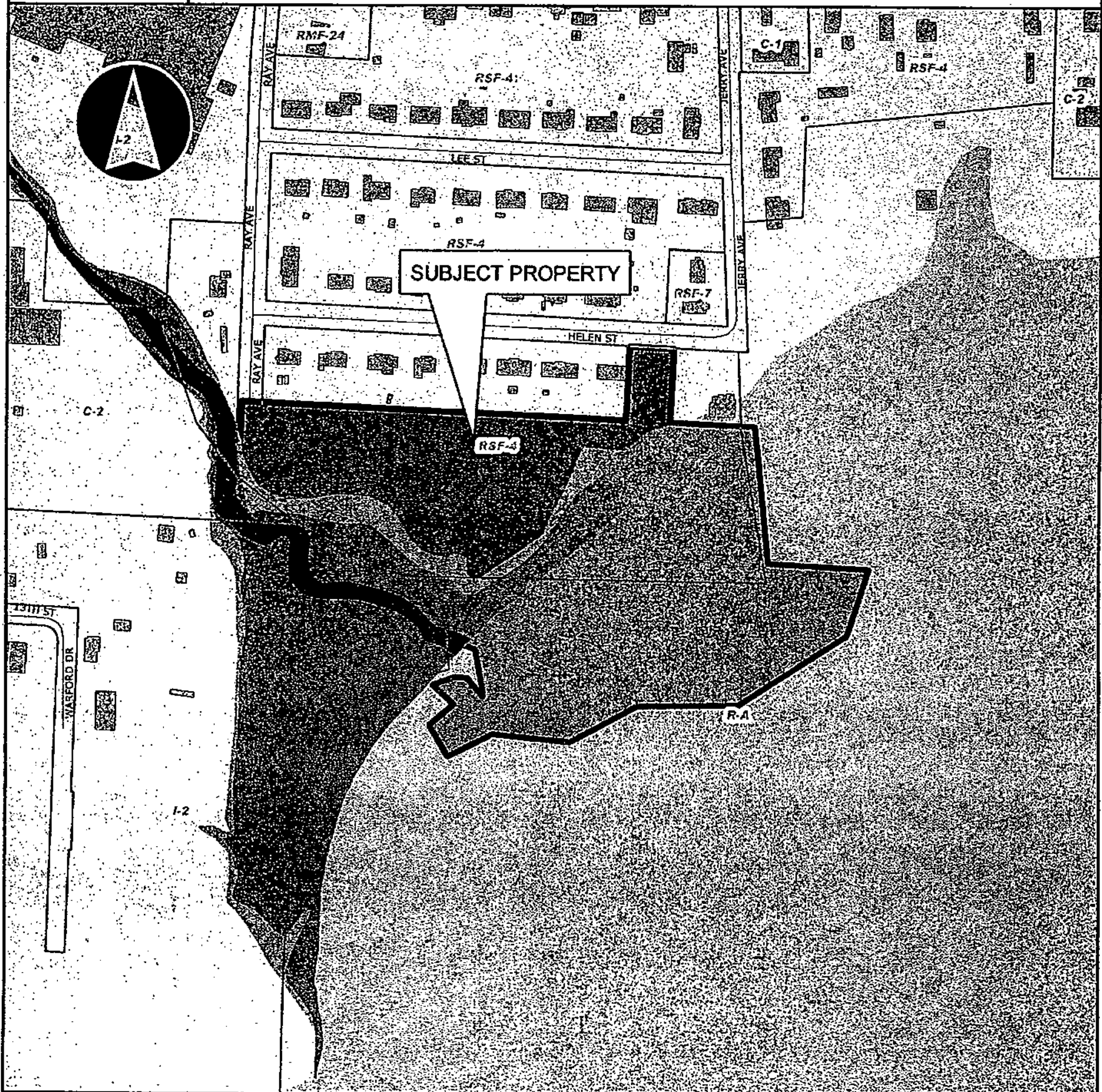
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RPZD06-2196

Close Up View

WEST FORK PLACE



Overview

Legend

- 100 Year Flood (Land Use)
- Overlay District
- Fayetteville
- Outside City
- RPZD06-2196
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 125 250 500 750 1,000 Feet



P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

December 1, 2006

City of Fayetteville Planning Staff
Attn: Mr. Jesse Fulcher

RE: LSD 06-2278
The Shoppes at Shiloh
Appeal of Planning Commission Decision

Mr. Fulcher,

Please consider this letter the official notification of my client's (Sage Partners – Mr. Brian Shaw) desire to appeal the decision of the City of Fayetteville's Planning Commission on Tuesday, November 28, 2006 regarding LSD 06-2278 The Shoppes at Shiloh.

Specifically, my client would like to appeal to the City Council the decision to not approve Condition of Approval 3b, a second, ingress-only, curb cut from Gregg Avenue.

Mr. Shaw has been in contact with Alderman Robert Rhoads and will continue to coordinate with City Staff to properly address this issue. If said coordination necessitates the delay of the appeal to another city council meeting I will inform you as soon as I am made aware.

Please let me know if you need any additional information prior to placing this item for consideration during the next city council agenda setting meeting.

Thanks Jesse

Michael G. Morgan
Project Manager

RECEIVED

DEC 04 2006

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

From: "Mike G. Morgan" <mmorgan@mcclelland-engrs.com>
To: "Jesse Fulcher" <jfulcher@ci.fayetteville.ar.us>
Date: 12/1/2006 1:07 PM
Subject: Shoppes at Shiloh - Appeal to City Council
Attachments: Shoppes at Shiloh - Letter of Appeal (12-01-06).pdf

CC: "Brian Shaw" <bshaw@sagepartners.us>
Jesse,

LSD 06-2278 Shoppes at Shiloh.

Attached is a pdf of the request to appeal the Planning Commission decision (11/28) to the City Council.

Please review and let me know if you need any additional information.

Thanks,

Mike

Michael G. Morgan
Project Manager
McClelland Consulting Engineers, Inc.
P.O. Box 1229 / 1810 North College Avenue
Fayetteville, AR 72702
(479) 443-2377 office
(479) 530-4393 cell
(479) 443-9241 fax

MMorgan@McClelland-engrs.com

RECEIVED

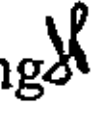
DEC 04 2006

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 

Date: December 4, 2006

Subject: Large Scale Development for the Shoppes at Shiloh (LSD 06-2278)

RECOMMENDATION

Planning Staff recommends denial of the applicant's appeal of the conditions of approval for LSD 06-2278 Shoppes at Shiloh, approved by the Planning Commission on November 27, 2006.

BACKGROUND

The subject property is located at the northeast corner of Gregg Avenue and Shiloh Drive and is zoned C-2 Thoroughfare Commercial. There is currently a single-family structure on the property with associated accessory structures. The owners are proposing an 18,750 sq. ft. retail building with 84 parking spaces. Three curb-cuts are proposed, two onto Gregg Avenue and one onto Shiloh Drive.

Staff recommended approval of the subject development proposal, however recommended denial of a requested waiver from the 200' separation between the two proposed curb-cuts on Gregg Avenue. Staff is not supportive of a 101' waiver to allow a second curb-cut onto Gregg Ave. given the close proximity to the southern curb-cut on Gregg Ave. and the amount of traffic in the vicinity of the Gregg Ave. and Shiloh Dr. intersection, finding the interior circulation and additional turning movements created on adjacent streets would compound a dangerous traffic condition (see access findings in staff report). Additionally, the proposed second curb-cut may create a dangerous traffic condition, with vehicle stacking distance limited for the proposed drive-thru on the west end of the building.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of this request, including staff's recommendations for the requested waivers from the Design Overlay District requirements. All recommended conditions were approved by the Planning Commission and are reflected in the attached staff report. The waiver from the Unified Development Code requirement that was requested was denied unanimously.

BUDGET IMPACT

None.



PC Meeting of November 27, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS PLANNING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

TO: Planning Commission Members
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~November 21, 2006~~ Updated November 22, 2006

LSD 06-2278: Large Scale Development (THE SHOPPES AT SHILOH, 211): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at THE NE CORNER OF GREGG AND SHILOH. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 3.09 acres. The request is for a single story, 18,750 s.f. retail facility with associated parking.

Planner: Jesse Fulcher

Findings:

Property & Proposal: The subject property is located at the northeast corner of Gregg Avenue and Shiloh Drive and is zoned C-2 Thoroughfare Commercial. There is currently a single-family structure on the property with associated accessory structures. The owners are proposing a 18,750 sq. ft. retail building with 84 parking spaces. Three curb-cuts are proposed, two onto Gregg Avenue and one onto Shiloh Drive. Surrounding Land Use and Zoning is depicted in *Table 1*.

Discussion: The requested large scale development was tabled at the October 12, 2006 Subdivision Committee meeting based on a recommendation by City staff and concerns by the Subdivision Committee members. The main concerns with the project were the number and location of the proposed curb-cuts, specifically how they would function in close proximity to the intersection of Gregg Avenue and Shiloh Drive, both of which are minor arterials. Additionally, the applicants were requesting multiple waivers from requirements of the Design Overlay District concerning exterior greenspace and curb-cut separations.

The request was again tabled at the November 2, 2006 Subdivision Committee meeting based on the same concerns expressed by both staff and Subdivision Committee members at the October 12, 2006 meeting.

The request was forwarded by the Subdivision Committee on November 16, 2006 due to the fact that the issues/revisions that were itemized at the previous Subdivision Committee meetings had been addressed. The remaining issues to address were specific to the requested waivers and should be reviewed by the full Planning Commission for a final decision.

The revised plans have not changed the number or location of curb-cuts; however the applicants have attempted to minimize the northern curb-cut on Gregg Avenue to discourage frequent use

by motorists. The intended use of the drive is for truck delivery traffic and as an access to a drive-thru on the west side of the building. It is not the intent of the applicants to have the northern drive service a great deal of vehicular traffic, however they maintain it is necessary for practical purposes.

Table 1-Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Residential	RSF-4
South	State right-of-way	NA
East	State right-of-way/Residential	RSF-4
West	Vacant	R-A

Right-of-way being dedicated: 45' from centerline for Shiloh Drive (State Highway) along the project frontage by warranty deed, 45' from the centerline for Gregg Avenue.

Adjacent Master Street Plan Streets: Shiloh Drive (State Highway), a Minor Arterial; Gregg Avenue, a Minor Arterial.

Water/Sewer: Water and sewer service is available to the proposed structure.

Tree Preservation: Existing Canopy: 26%
Preserved Canopy: 11%
Mitigation: Required in the amount of 25 (2) inch caliper, large species trees.

Design Overlay District:

Greenspace: The applicant has not complied with the 25' greenspace requirement along all rights-of-way within the Design Overlay District. *A waiver has been requested and staff is supportive.*

Signage: No signs have been indicated on the plans. All signs shall be permitted by a separate sign permit application, prior to installation.

Curb Cuts: The applicant has not complied with the curb cut requirements for a minimum of 250' from an intersection. The applicant has not complied with the curb cut requirements for a minimum of 200' between curb cuts. *A waiver has been requested from each requirement.*

Lighting: A note has been added to the plat indicating compliance with this requirement.

Exterior Appearance: Elevations have been submitted for all four sides of the building. Planning Commission determination of architectural treatment of fronts, along with Commercial Design Standards, is required.

Building Material: A materials sample board has been submitted for review.

Site Coverage:

The plat indicates site coverage in compliance with this requirement.

Fencing:

N/A

Outdoor Storage:

N/A

Access: Pedestrian access from the street to the entrance of the structure by way of a designated walk had been indicated on the site plan and is included as a condition of approval. Four (4) bicycle racks within 50' of a public entry are to be provided for multi-modal access.

Three curb-cuts (two on Gregg, on one Shiloh) are proposed to provide access to the subject property. The ingress/egress on Shiloh is proposed as a restricted right-in/right-out only, clearly marked and signed in accordance with AHTD regulations. Staff is supportive of this restricted access as noted in the conditions of approval.

The two curb-cuts on Gregg Ave. both require waivers, due to their proximity to the intersection of Gregg and Shiloh and one another. The southern most entrance is proposed as a full access curb-cut located approximately 194 feet from the intersection. Staff finds this to be an adequate location, given the existing turn lanes that will help facilitate turning movements into and out of the property. The northern curb-cut on Gregg is located approximately 99 feet from the southern curb-cut; the minimum distance required in the Design Overlay District is 200 feet, which also requires a waiver. Staff is not supportive of this proposed ingress only curb-cut, finding that the creation of additional turning movements in the vicinity of the southern curb-cut and the intersection will create additional danger for motorists in the area. Additionally, the circulation proposed for the ingress curb-cut combined with a proposed drive-thru may create stacking problems out onto Gregg Ave. Furthermore, vehicular traffic that enters the site and wishes to utilize the drive-thru will have to exit the site onto Shiloh or Gregg to do so, instead of utilizing a more logical interior means of circulation. Staff recommends removal of this curb-cut and re-evaluating the one-way drive behind the building to provide ample access and stacking for the proposed drive-thru, and to also allow interior circulation and reduce turning movements on adjacent streets.

Recommendation: Staff recommends approval of **LSD 06-2278** with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of Commercial Design Standards. *Staff finds that elevations presented comply with Commercial Design Standards. However, within the Design Overlay District all structures shall be architecturally designed to have front facades facing all street and highway rights-of-way. Therefore, staff recommends that additional articulation shall be shown on the west building face (the portion labeled as stucco) to more resemble a front façade as has been designed with the south facade. Additional articulation has been added to the east and west facades since the Subdivision Committee meeting, however staff finds that west façade has not been sufficiently addressed to meet the requirements for the Design Overlay District.*

10/12/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND THAT ADDITIONAL ARTICULATION WAS NEEDED ON THE EAST AND WEST FACADES.

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE REVISED ELEVATIONS.

11/27/06 PLANNING COMMISSION: THE COMMISSIONERS FOUND IN FAVOR OF THE PROPOSED ELEVATIONS.

2. Planning Commission determination of street improvements. *Staff recommends that money in-lieu of construction of a 10' wide sidewalk/trail along the north side of Shiloh Dr. be assessed in the amount of \$16,032.00, to be constructed by the City of Fayetteville in conjunction with the construction of Scull Creek Trail. Driveway ramps off Shiloh Dr. shall be constructed to accommodate a future 10' sidewalk through the drive.*

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE PROPOSED STREET IMPROVEMENTS.

11/27/06 PLANNING COMMISSION: THE COMMISSIONERS FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

3. Planning Commission determination of requested waivers from Chapter 161.28 as follows:

- a. A waiver from the 250' separation between the intersection of Gregg and Shiloh and the southern curb-cut.

Staff is supportive of a 56' waiver for the distance between the proposed southern curb-cut and the intersection if no other access is permitted to Gregg Ave., finding that sufficient separation has been provided from the intersection of Gregg Ave. and Shiloh Dr. to maintain safe ingress and egress for vehicular traffic.

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE REQUESTED WAIVER.

11/27/06 PLANNING COMMISSION: THE COMMISSIONERS FOUND IN FAVOR OF THE REQUESTED WAIVER.

- b. A waiver from the 200' separation between the two proposed curb-cuts on Gregg Avenue.

Staff is not supportive of a 101' waiver to allow a second curb-cut onto Gregg Ave. given the close proximity to the southern curb-cut on Gregg Ave. and the amount of traffic in the vicinity of the Gregg Ave. and Shiloh Dr. intersection, finding the interior circulation and additional turning movements created on adjacent streets would compound a dangerous traffic condition (see access findings in staff report).

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS DID NOT REACH A CONSENSUS REGARDING THE REQUESTED WAIVER.

11/27/06 PLANNING COMMISSION: THE COMMISSIONERS DID NOT FIND IN FAVOR OF THE REQUESTED WAIVER.

- c. A waiver from the 25' greenspace requirement along the right-of-way of Gregg

Avenue and Shiloh Drive.

Staff is supportive of a partial greenspace reduction along Gregg Avenue, finding that the existing AHTD right-of-way is greater than that which is required by the City's Master Street Plan and therefore a unique hardship on this property exists. Staff is supportive of a proposal that provides a minimum of 25' of greenspace adjacent to the Master Street Plan right-of-way, which is less than what is required by ordinance.

10/12/06: THE SUBDIVISION COMMITTEE WAS SUPPORTIVE OF A GREENSPACE WAIVER, FINDING THAT THE ADDITIONAL RIGHT-OF-WAY, WHICH IS ABOVE WHAT IS REQUIRED BY THE MASTER STREET PLAN, WAS A VALID HARDSHIP PLACED UPON THE PROPERTY. ADDITIONALLY, THE APPLICANTS WERE PROVIDING LARGE AREAS OF GREENSPACE ALONG THE RIGHT-OF-WAY IN OTHER LOCATIONS.

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE REQUESTED WAIVER.

11/27/06 PLANNING COMMISSION: THE COMMISSIONERS FOUND IN FAVOR OF THE REQUESTED WAIVER.

4. The curb-cut onto Shiloh Drive shall only be permitted if turning movements are restricted, specifically right in and right out only. Allowing east bound traffic on Shiloh Dr. to turn north into the development would certainly create a dangerous traffic condition, in staff's opinion.
5. Right-of-way dedication in the amount of 45' from centerline along Shiloh Drive and 45' from centerline along Gregg Avenue by warranty deed is required prior to issuance of a building permit.
6. Street lights are required to be installed every 300' along the property's frontage prior to the issuance of a Certificate of Occupancy. The applicant shall show the location of all existing and proposed street lights along Gregg Avenue and Shiloh Drive in the vicinity.
7. A combination permanent multi-use trail easement and tree preservation easement shall be provided for the entire eastern part of the development from the floodway line east to the property line as shown. Along with tree preservation language, the following language for the multi-use trail easement shall be included on the plat:
 - a. A permanent multi-use trail easement is granted to construct, maintain, repair and/or replace a multi-use trail together with trail appurtenances including lighting for public access thereto, on, over, across, and through the described land as shown on this plat.
8. Sidewalks shall be continuous through the driveways and shall be located at an elevation 2% above the top of the curb.
9. All existing driveway aprons shall be removed and the curb through the driveways shall be replaced.
10. All proposed signs shall be permitted separately from the large scale development

Tree Preservation Conditions:

11. Please contact the Urban Forester before any curb cuts are made onto Gregg Street so opportunity is given for the relocation of the street trees in the right of way.
12. A Tree Preservation Area and Multi-Use Trail Easement will be dedicated for the entire floodway on this site. This will remove all developmental rights from the site to ensure tree preservation but also allow for the continuation of the Scull Creek Trail as identified on the City of Fayetteville Alternative Transportation and Trail Plan.
13. Mitigation will be required on the site in the amount of 25 (2) inch caliper large species trees. The applicant is requesting on-site mitigation. Mitigation trees can not be located within utility easements. If all trees can not be located on the site, money in lieu will be required before issuance of a building permit.
14. Before issuance of a final certificate of occupancy, a bond, letter of credit, or check in the amount of \$250 per on-site tree shall be deposited with the City of Fayetteville for a 3 year period.

Standard Conditions of Approval:

15. 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).
16. 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.
17. Any required trash enclosure shall be screened with access not visible from the street. The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
18. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement.
19. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance.
20. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.

21. Large scale development shall be valid for one calendar year.
22. Prior to 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.
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.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
24. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional Conditions:

- a. _____
- b. _____

Planning Commission Action: ☒ Approved ☐ Denied ☐ Tabled

Motion: **Anthes**

Second: **Myers**

Vote: **7-0-0**

Meeting Date: **November 27, 2006**

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

Planning Commission Meeting
November 27, 2006



THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267

LANDSCAPE REVIEW FORM

To: Planning Commission Members

From: Jesse Fulcher, Current Planner

Date: November 21, 2006

ITEM #: LSD 06-2278 (Shoppes at Shiloh)

Applicable Requirements:

X	Off Street Parking
X	Commercial Design Standards
X	Buffers and Screening
X	I-540 Design Overlay

Plan Checklist:

Y = submitted by applicant

N = requested by city

NA = not applicable

Preliminary Submittal	Final Submittal	
		Off Street Parking and Loading
Y	Y	wheel stops / curbs
Y	Y	irrigation
Y	Y	edged landscape beds indicated
Y	Y	species of plant material identified
Y	Y	size of plant material at time of installation indicated
Y	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	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	Y	soil amendments notes include that soil is amended and sod removed
Y	Y	mulching notes indicate mulching around trees and within landscape beds.

Planning Commission Meeting
November 27, 2006

Y	Y	planting details according to Fayetteville's Landscape Manual
Preliminary Submittal	Final Submittal	Commercial Design Standards
Y	Y	greenspace adjacent to street R.O.W. (15' wide)
Y	Y	street trees planted every 30' L.F. along R.O.W.
NA	NA	outdoor storage screened with landscaping
		Buffer Strips and Screening
NA	NA	landscaped area (12' min.)
NA	NA	fence required
NA	NA	outdoor storage screened with landscaping
Y	Y	non-residential landscape screen when adjacent to residential zones
NA	NA	landscape requirement for setback reduction
		Overlay District Requirements
WAIVER	WAIVER	greenspace adjacent to street R.O.W. (25' wide)
NA	NA	street trees planted every 30' L.F. along R.O.W.
NA	NA	25% of total site area left in greenspace (80% landscaped)
NA	NA	parking lots and outdoor storage screened with landscaping

Recommendation: Staff recommends approval of the landscape plan associated with LSD 06-2278 with the following conditions/issues.

Conditions of Approval:

1. The required 25' of greenspace adjacent to the City of Fayetteville Master Street Plan right-of-way has not been provided, although a waiver has been requested for a reduction based on the existing state right-of-way.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 West Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Jesse Fulcher, Planner

Date: November 14, 2006

From: Glenn E. Newman, Jr., P.E. Staff Engineer

Engineer: McClelland Consulting Engineers

Re: Plat Review Comments (November 16, 2006 Subdivision Committee Meeting)

Development: LSD 06-2278 The Shoppes at Shiloh

Grading, Streets and Drainage

1. The sidewalks will need to be continuous through the driveways. The sidewalk needs to be at an elevation 2% above the top of curb. The grades shown for the driveways do not meet this requirement.
2. Extend the 10' sidewalk along Shiloh through the proposed driveway.
3. Provide calculations supporting the request for no detention. If detention is required, the applicant must provide on-site subsurface detention to meet the drainage criteria and not alter the current layout plan.
4. It is unclear how the pavement behind the building will drain. Please clarify the drainage path and discharge points.

General.

5. 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.



PC Meeting of November 27, 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: November 20, 2006

ITEM # LSD 06-2278: Large Scale Development (The Shoppes at Shiloh)

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	3.09
square feet	134,600
Existing Tree Canopy	
acres	0.79
square feet	34,450
percent of site area	26%
Existing Tree Canopy Preserved	
acres	0.33
square feet	14,386
percent of total site area	11%
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 currently has an existing house and Skull Creek along the back property line. There are several large significant trees along the

front of Gregg Street near the home. This property has a large amount of unbuildable area due to the floodway. For development a large amount of fill will be required on the site.

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

- **Environmental degradation could occur with the amount of natural grade change that will be disturbed.**

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 residential property to the north. A utility easement is required for this area therefore requiring removal of canopy.**

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 reduce flexibility of design. This is a very unusual shaped lot with a large amount of unbuildable area for floodway.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees fair to good.**

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

- **Because of the fill required, most trees along the corner of Gregg and Shiloh will be removed. There is the possibility of preservation along Gregg.**

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

- **An existing utility easement is found along the north property line. With this development the easement will be extended further to the east. Other utility easements are not as detrimental to the canopy due to the fill requirements.**

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

- **Flexibility of roads and utilities on this site is very minimal due to the grade, intersection of Gregg and Shiloh, and the floodway.**

Construction requirements for On-Site and Off-Site Alternatives.

- N/A

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on the site and will be a great asset to the area.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- N/A

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- N/A

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. **Please contact the Urban Forester before any curb cuts are made onto Gregg Street so opportunity is given for the relocation of the street trees in the right of way.**
2. **A Tree Preservation Area and Multi-Use Trail Easement will be dedicated for the entire floodway on this site. This will removal all developmental rights from the site to ensure tree preservation but also allow for the continuation of the Scull Creek Trail as identified on the City of Fayetteville Alternative Transportation and Trail Plan.**
3. **Mitigation will be required on the site in the amount of 25 (2) inch caliper large species trees. The applicant is requesting on-site mitigation. Mitigation trees can not be located within utility easements. If all trees can not be located on the site, money in lieu will be required before issuance of a building permit.**
4. **Before issuance of a final certificate of occupancy, a bond, letter of credit, or check in the amount of \$250 per on-site tree shall be deposited with the City of Fayetteville for a 3 year period.**



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

ENGINEERING DIVISION - TRAILS CORRESPONDENCE

To: Mike Morgan

From: Matt Mihalevich, Trails Coordinator

Date: November 15, 2006

Subject: Subdivision Committee Comments

ITEM #: LSD 06-2278: Large Scale Development (Shoppes at Shiloh, 211)
TRAIL COMMENTS

Background

1. The City's highest priority trail, Scull Creek Trail is shown on the Fayetteville Alternative Transportation and Trails (FATT) Plan to be located on the east side of this development. This trail will extend from Mud Creek Trail south to Frisco Trail, near Dickson Street. The first phase of Scull Creek Trail is currently under construction on the south side of Fulbright Expressway (just south of this development) and will extend to Gordon Long Park.
2. On September 5th, City Council approved a combination land trade and purchase to secure 7.39 acres of land directly north of this development for Scull Creek Trail.

Comments

1. A combination permanent multi-use trail easement and tree preservation easement has been requested by staff and agreed upon by the developer for the entire eastern part of this development from the floodway line east to the property line as shown. It is not necessary to show a temporary construction easement on the plat. Along with the tree preservation language, the following language for the multi-use trail easements will also need to be included on the plat:

A permanent multi-use trail easement is granted to construct, maintain, repair and/or replace a multi-use trail together with trail appurtenances including lighting for public access thereto, on, over, across, and through the described land as shown on this plat.

2. The 10' wide sidewalk along the north side of Shiloh will be bonded in the amount of \$16,032 to be constructed by the City in conjunction with the construction of Scull Creek Trail. The driveway ramps off Shiloh will need to be constructed to accommodate a future 10' sidewalk through the drive.



P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

To: The City of Fayetteville – Planning Staff

From: McClelland Consulting Engineers

Date: September 14, 2006

Subject: **Large Scale Development: The Shoppes at Shiloh**
Northeast corner of Gregg Avenue and Shiloh Drive
Initial Submittal

Scope, Nature and Intent:

Sage Partners and McClelland Consulting Engineers are proud to present the proposed development plans for The Shoppes at Shiloh located upon 3.09 acres located at the northeast corner of Gregg Avenue and Shiloh Drive.

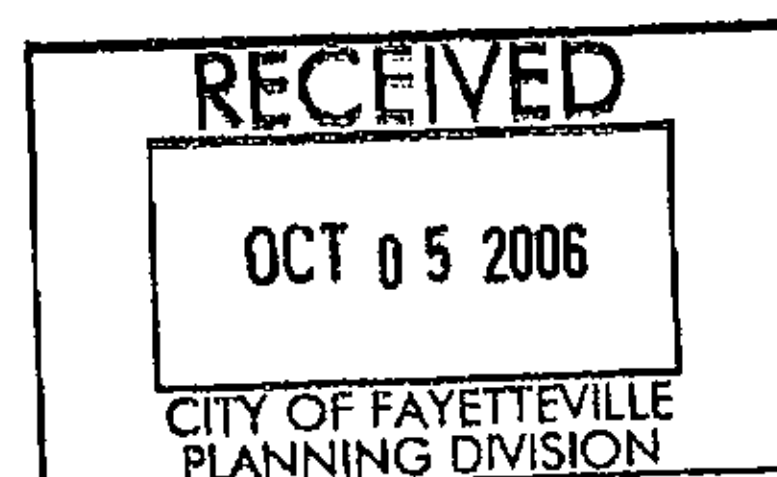
Upon this 3.09 parcel of land is planned a single story, 19,250 SF stand alone retail facility containing approximately 91 parking spaces, associated parking drives, landscaping and utility improvements. Open space has been calculated to allow for compliance with C-2 open space requirements. Proposed entry/exit drives are planned both along Gregg Avenue as well as Shiloh Drive.

Due to the amount of fill material necessary to bring the lot up to a buildable grade, tree mitigation will be required to properly develop the property. Further, the site is constrained by the existing floodway located toward the east of the proposed building – forcing the development to the western edge of the property.

Please feel free to contact me at any time to discuss any questions or concerns that you may have regarding this development.

Sincerely,

Michael G. Morgan
McClelland Consulting Engineers, Inc.
1810 North College Avenue
Fayetteville, Arkansas
v. (479) 443-2377
f. (479) 443-9241
Mmorgan@McClelland-engrs.com





P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

To: The City of Fayetteville – Planning Staff

From: McClelland Consulting Engineers

Date: October 4, 2006

Subject: LSD 00-2278, The Shoppes at Shiloh
Request for Waiver

Three waivers are being requested for this development:

- 1) A waiver from the 250' required between the intersection of Shiloh Drive and Gregg Avenue and the proposed southernmost curb cut (curb cut 'A' – illustrated on Waiver Exhibit 2).
- 2) A waiver from the 200' required between proposed curb cut 'A' and proposed curb cut 'B' (as illustrated on Waiver Exhibit 2).
- 3) A waiver from the 25' landscape buffer for approximately 100' along Gregg Avenue (illustrated on Waiver Exhibit 3).

Waivers #1 and #2 – Existing and Proposed Curb Cuts:

Three curb cuts currently exist along Gregg Avenue within the boundary of the western property line. The proposed development would eliminate the southernmost curb cut and utilize only the two northern curb cuts – one for the main ingress/egress to the site and the other for service access (delivery, maintenance, trash service) and access to a drive-through window for the westernmost tenant.

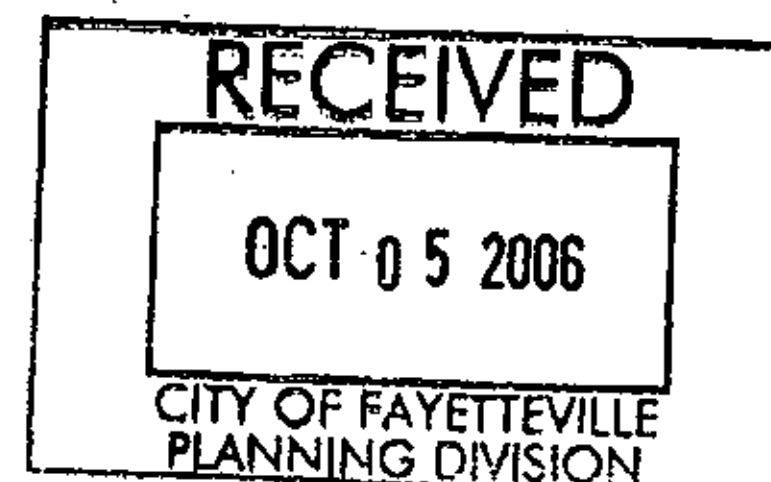
Waiver #3 – 25' Landscape Buffer:

Existing right-of-way currently exists in excess of 45' as required by the Master Street Plan. Approximately 4.5' of additional right-of-way has been dedicated along the northern limits of the 98' of area in question and 7.9' along the southern (see Waiver Exhibit 3). If measured from 45' from the centerline of Gregg Avenue, a waiver would be necessary for 5' along the northern limits of the 98' area and 7.6' along the southern.

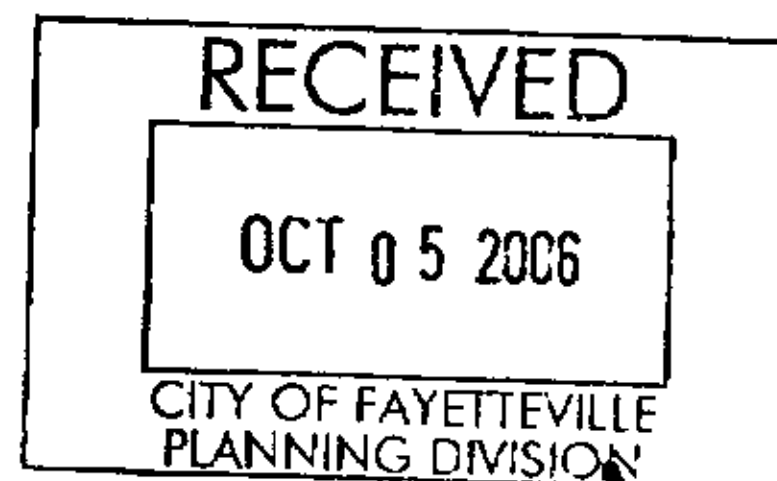
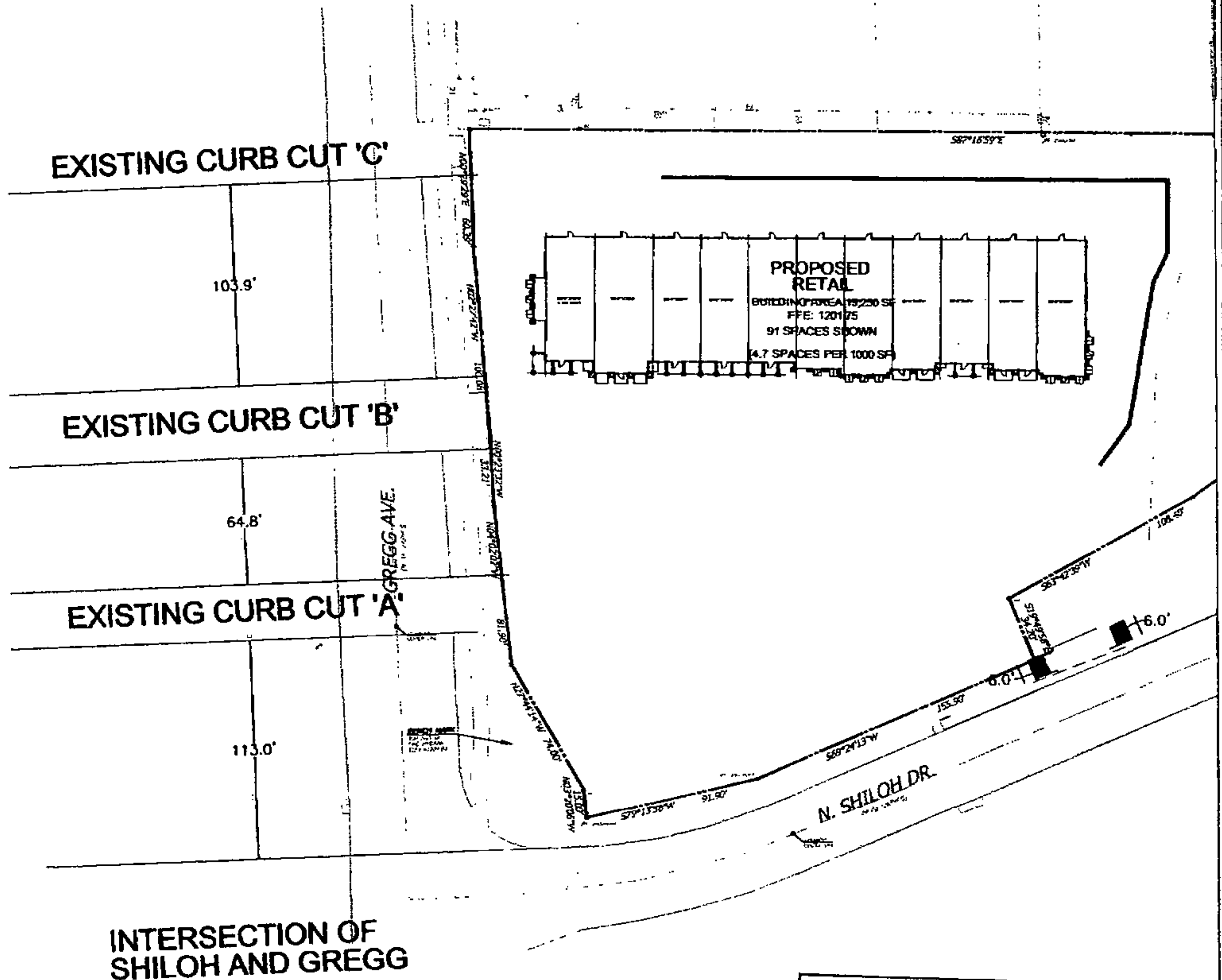
Landscape buffers in excess of 25' are currently proposed for the remainder of the property allowing the total square footage to be utilized for landscape buffer to be far in excess of what is required. Additionally, two large existing trees will be preserved within this 98' landscape island. Along with the preservation of these trees, additional amounts of shrubs will create a very effective screen along Gregg Avenue.

Sincerely,

Michael G. Morgan
McClelland Consulting Engineers
479.443.2377
Mmorgan@McClelland-engrs.com

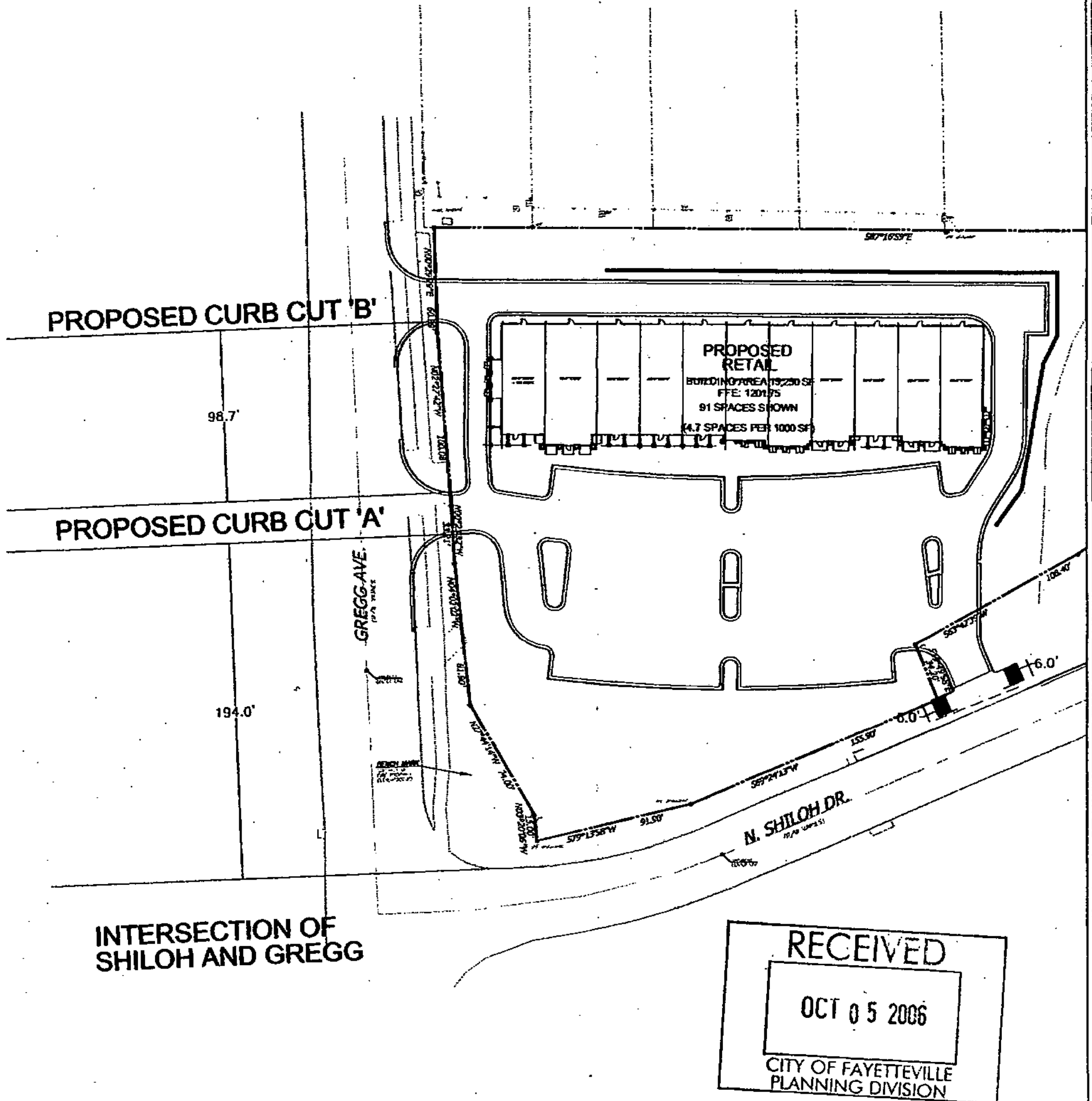


WAIVER EXHIBIT 1 - EXISTING CURB CUTS



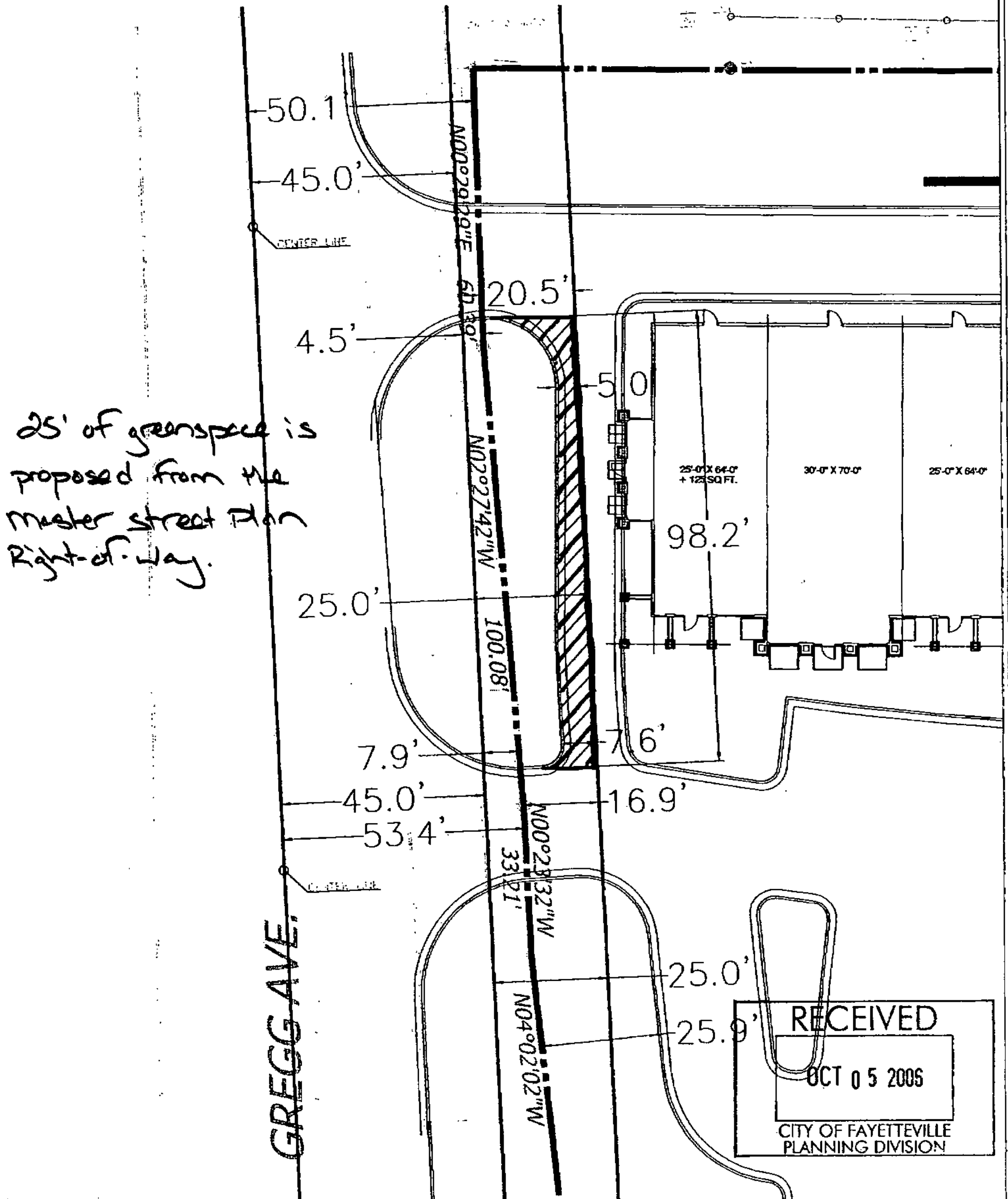
NOTE: ALL MEASUREMENTS ARE FROM FACE OF CURB.

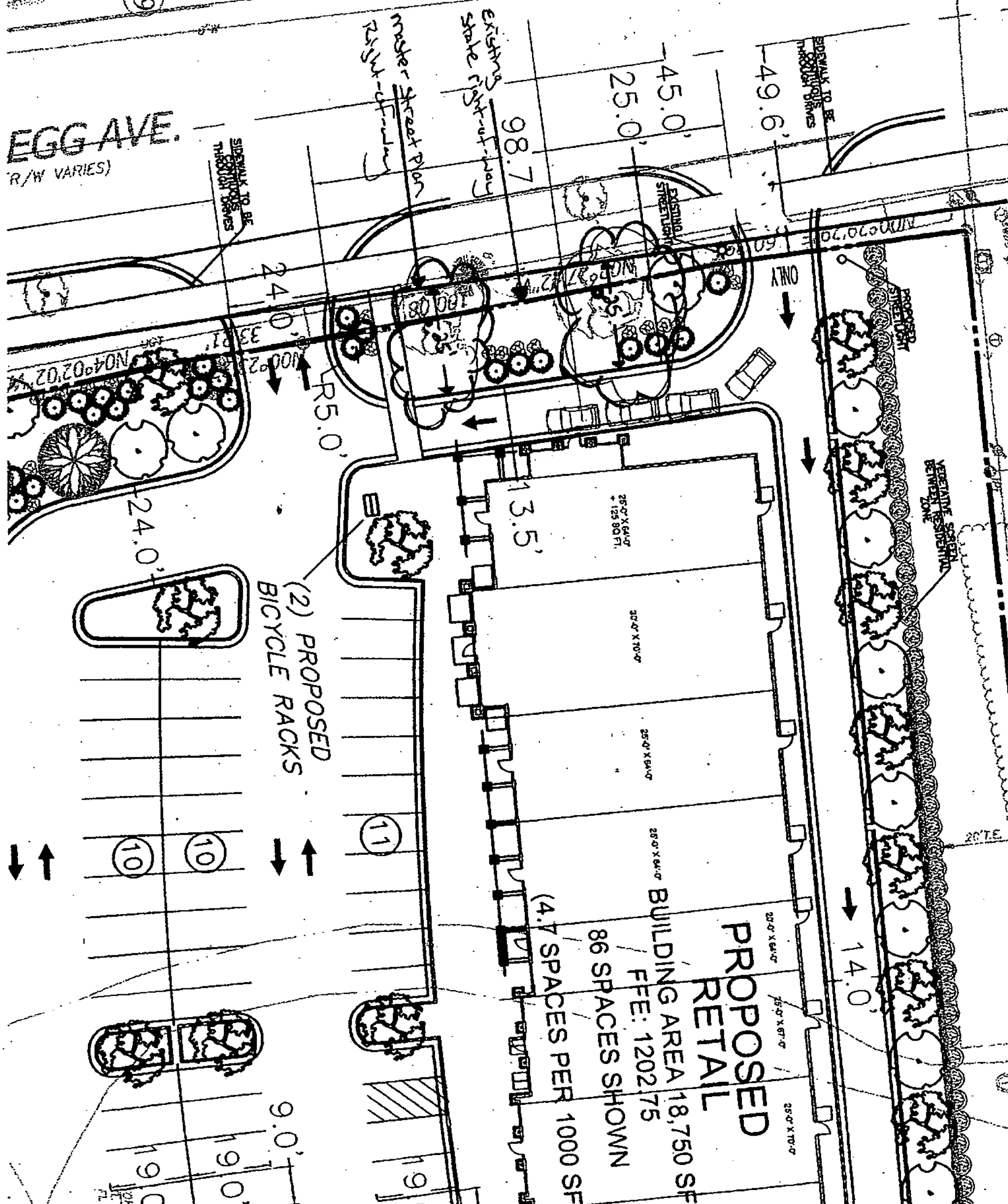
WAIVER EXHIBIT 2 - PROPOSED CURB CUTS

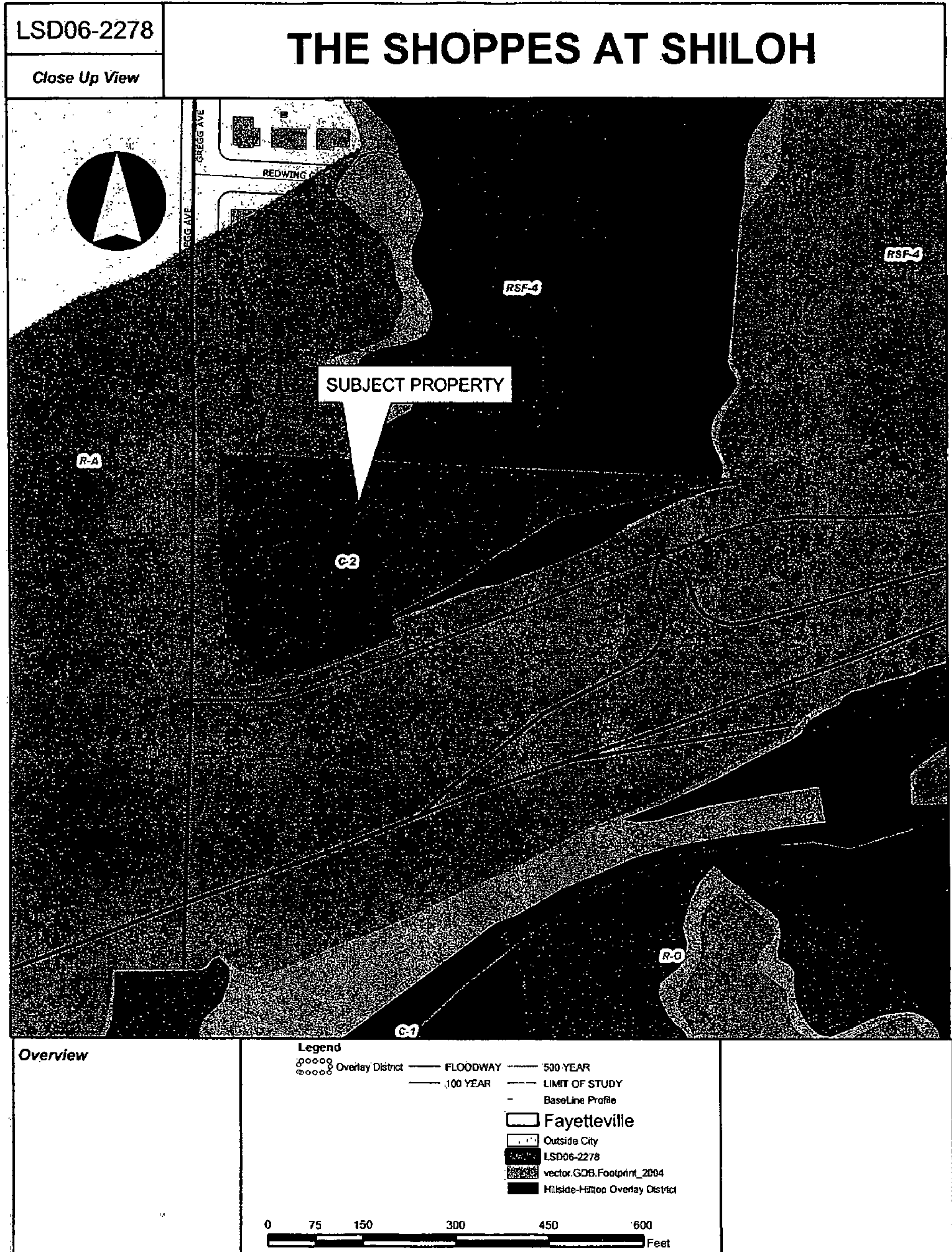


NOTE: ALL MEASUREMENTS ARE FROM FACE OF CURB.

WAIVER EXHIBIT 3 - 25' LANDSCAPE BUFFER



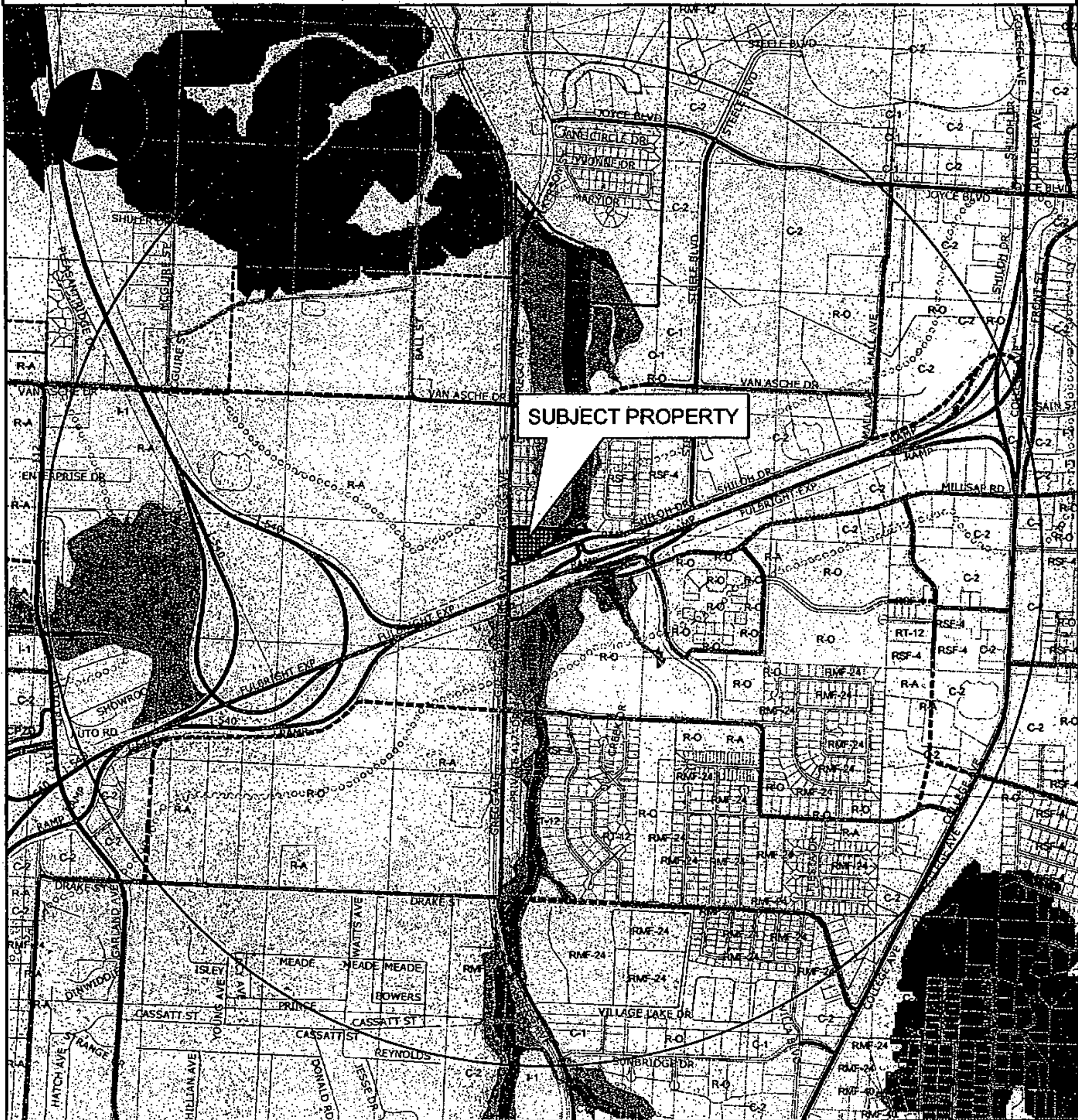




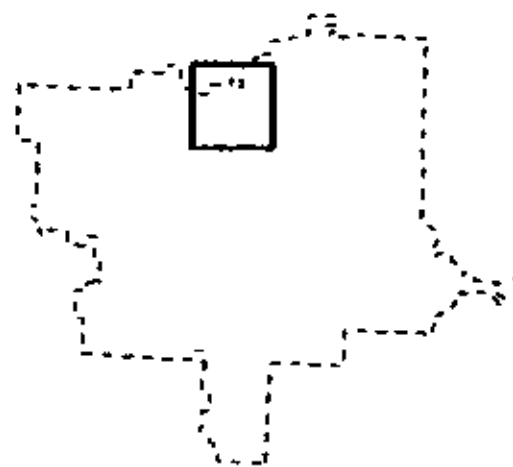
LSD06-2278

THE SHOPPES AT SHILOH

One Mile View



Overview



Legend

Subject Property

LSD06-2278

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

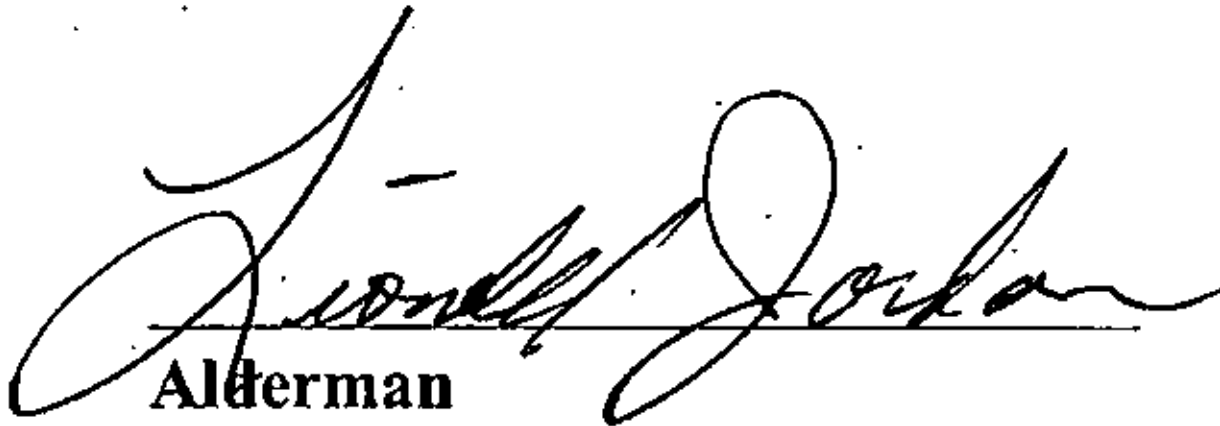
0 0.25 0.5 1 Miles

ALDERMAN APPEAL REQUEST FORM

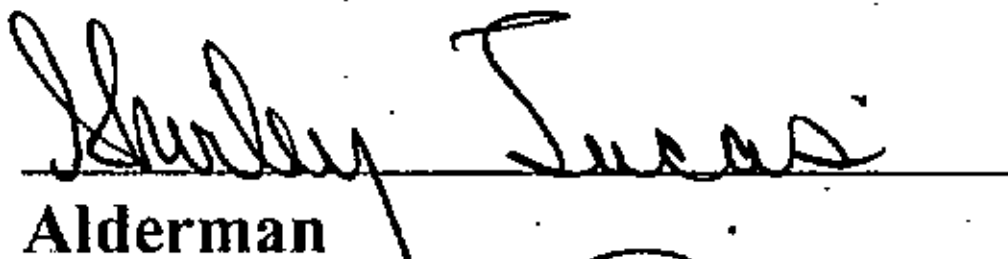
COUNCIL MEETING OF: December 19, 2006

FROM: Alderman Lioneld Jordan

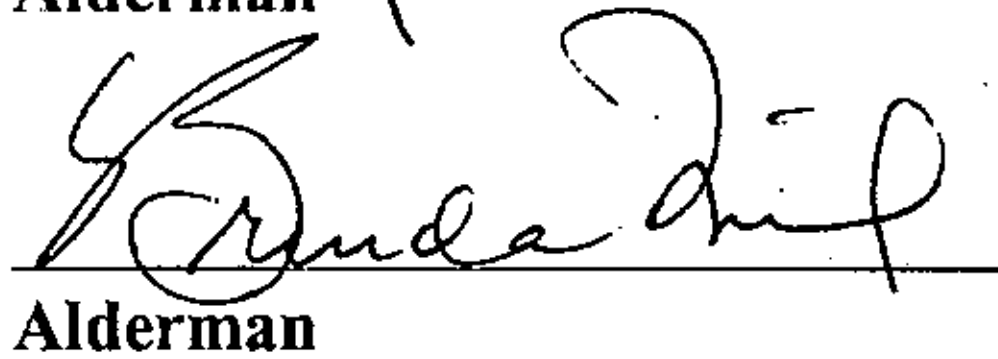
APPEAL TITLE AND SUBJECT: An appeal of CUP 06-2295: Conditional Use Permit (DIDICOM, 396) passed and approved at the Planning Commission meeting on November 27, 2006.


Alderman

12/5/06
Date


Alderman

12-5-06
Date


Alderman

12/5/06
Date



December 4, 2006

City of Fayetteville
Sondra Smith, City Clerk
113 West Mountain Street
Fayetteville, AR 72701

RE: Appeal of CUP 06-2295: Conditional Use Permit (DIDICOM, 396)

Dear Sondra,

I would like to appeal the Planning Commission's decision on November 27, 2006 regarding CUP 06-2295: Conditional Use Permit (DIDICOM, 396). I am appealing their decision due to complaints that I have received from neighbors that reside within the proposed telecommunications tower. I have received numerous complaints regarding this Conditional Use Permit therefore I feel this appeal is warranted. Please present this appeal to the City Council at the December 19, 2006 City Council meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Lionell Jordan", written over a horizontal line.

Alderman Lionell Jordan
Ward 4

*City of Fayetteville, Arkansas
City Council
113 West Mountain
Fayetteville, AR 72701*



FINAL AGENDA

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

AGENDA FOR A MEETING OF THE PLANNING COMMISSION

Monday, November 27, 2006, 5:30 p.m.
Room 219, City Administration Building

The following items will be considered:

Consent:

1. **ADM 06-2381: (PARK WEST):** Submitted by Milholland Co. for property located on Hwy 112, east of Deane Solomon Rd. The applicant requests an extension of an approved lot split, LSP 05-1755.

Planner: Suzanne Morgan

2. **ADM 06-2382: (HOUSE):** The request is for an extension of the approval for a vacation of a utility easement as approved and amended by the City Council with Ordinance No. 4807, regarding the timing for the relocation of a storm sewer on the subject property.

Planner: Jesse Fulcher

Old Business:

3. **CUP 06-2295: Conditional Use Permit (DIDICOM, 396):** Submitted by DIDICOM, LLC for property located NE OF WEDINGTON AND DOUBLE SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.83 acres. The request is to allow a telecommunications tower with cellular antennas on the subject property.

Planner: Jesse Fulcher

New Business:

4. **CUP 06-2369: (GRISSE, 484):** Submitted by BLEW, BATES & ASSOCIATES for property located at 215 N. LOCUST AVENUE. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 0.18 acres. The request is for a tandem lot.

Planner: Suzanne Morgan

5. **LSP 06-2343: Lot Split (GRISSE, 484):** Submitted by BLEW, BATES & ASSOCIATES for property located at 215 N. LOCUST. The property is zoned C-3, CENTRAL COMMERCIAL and contains approximately 0.18 acres. The request is to divide the subject property into two tracts of .06 and .12 acres.

Planner: Suzanne Morgan

6. **LSD 06-2278: Large Scale Development (THE SHOPPES AT SHILOH, 211):** Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at THE NE CORNER OF GREGG AND SHILOH. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 3.09 acres. The request is for a single story, 19,250 s.f. retail facility with associated parking.

Planner: Jesse Fulcher

7. **RZN 06-2344: (DUNNERSTOCK - WINDSOR S/D, 513):** Submitted by DAVE JORGENSEN for property located at NE CORNER OF DOUBLE SPRINGS RD. AND SELLERS RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 34.50 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Planner: Andrew Garner

8. RZN 06-2336: (SLOAN / BROYLES & PERSIMMON, 479/515): Submitted by DAVE JORGENSEN for property located at SW CORNER OF BROYLES AND PERSIMMON. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 33.43 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre.

Planner: Andrew Garner

9. RZN 06-2345: (SLOAN / DOT TIPTON, 474): Submitted by DAVE JORGENSEN for property located S & E OF DOT TIPTON ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 19.23 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre.

Planner: Jesse Fulcher

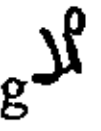
THE APPLICANT HAS REQUESTED THIS ITEM BE TABLED.

All interested parties may appear and be heard at the public hearings. A copy of the proposed amendments and other pertinent data are open and available for inspection in the office of City Planning (575-8267), 125 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to review the petitions. Interpreters or TDD for hearing impaired are available for all public hearings; 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: December 4, 2006

Subject: Conditional Use Permit for Didicom (CUP 06-2295)-Alderman Appeal

RECOMMENDATION

Planning Staff recommends approval of a conditional use permit to allow a wireless communications tower, submitted by Didicom, LLC, located northeast of the intersection of Wedington Drive and Double Springs Road, subject to the recommended conditions of approval.

BACKGROUND

The applicant is proposing to erect a 150' tall monopole with an area at the base for the wireless equipment, located northeast of Wedington Drive and Double Springs Road. The exact location of the tower is at the north end of an undeveloped pasture, which is currently zoned R-A, Residential Agriculture. The property is directly adjacent to the city limits.

The applicant states in their application that the area in western Fayetteville along Wedington Road has minimal cellular coverage. With the addition of traffic from new residences and new businesses, the existing network of towers is not sufficient to meet the current demand placed on the existing network capacity. The proposed tower will relieve some of the capacity issues placed on the surrounding towers while becoming the dominant server for the area. The nearest towers to this location are at least 3 miles away, on which the carrier for this proposal is already located. The lack of existing cell towers in the vicinity required the applicants to look at erecting a new tower.

DISCUSSION

The Planning Commission voted 6-2-0 in favor of this request on January 9, 2006, with Commissioners Anthes and Graves voting no. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report. Much of the discussion on this item centered on the proposal of an adjacent cellular tower within Washington County's jurisdiction, directly north of this property. The majority of the Planning Commission found the Conditional Use Permit for this application was properly filed and that a tower in this location was appropriate, with the conditions of approval as recommended. The City of Fayetteville does not review cellular towers outside the city limits.

BUDGET IMPACT

None.



PC Meeting of November 27, 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: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: November 22, 2005 Updated November 23, 2006

CUP 06-2295: (DIDICOM, 396): Submitted by DIDICOM, LLC for property located NE OF WEDINGTON AND DOUBLE SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURE and contains approximately 0.083 acres. The request is to approve a 150' monopole cell tower on the subject property.

Planner: JESSE FULCHER

RECOMMENDATION: If the proposed tower that is to be located outside of the Fayetteville city limits had all approvals required for construction, staff would recommend denial of the subject request, finding that co-location was available and that the applicant had not demonstrated a good faith effort to co-locate with another carrier. However, given that the adjacent tower has not been approved by the Washington County Planning Department and the applicant for the subject request has submitted all documents required by the City of Fayetteville Unified Development Code, staff recommends approval of the requested conditional use application for a 150' monopole tower, subject to the following conditions:

1. The applicant shall comply with all applicable federal regulations.
2. Equipment used in conjunction with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14 (A)(1).
3. Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motion-activated lighting may be used around the base of the tower provided that the lighting is compliant with Chapter 176 Outdoor Lighting of the Unified Development Code.
4. The tower shall be no taller than 150' (including all antennas, arrays, or other appurtenances).
5. The pole shall be painted utilizing the transitional paint scheme as shown in the application, or a color as determined by the Planning Commission which blends in with the background.

6. The utility equipment at the base of the tower shall be surrounded by a wooden security fence of sufficient height to prevent the view of the premises from vehicular and pedestrian traffic on adjacent streets.
7. Landscaping shall be added to the site (and shown on revised plans) which provides a "buffer of dense tree growth and under story vegetation in all directions to create an effective year round visual buffer" as required by Chapter 163.14 (B)(11). Species and location of the required plantings shall be subject to the approval of the Landscape Administrator.
8. Any connection to existing utilities to provide power to this site shall be located underground.
9. Only warning, site identification and FCC signs shall be permitted on the screening fence as provided by Chapter 163.14 (A)(3) and in no case shall any sign exceed 4 square feet.
10. Co-location shall be permitted on the subject tower by multiple carriers, with the approval of this conditional use request.
11. **ADDED BY PLANNING COMMISSION:** IN THE FUTURE, IF IT IS DETERMINED THAT TECHNOLOGY EXISTS THAT DOESN'T REQUIRE THE USE OF THE TOWER, OR THE CURRENT HEIGHT OF THE TOWER, THEN THE TOWER SHALL BE LOWERED TO THE LOWEST POSSIBLE HEIGHT OR REMOVED IF NO LONGER NECESSARY.

Background: It has come to staff's attention that a cell tower application was submitted to the Washington County Planning Department on November 1, 2006. The 195' monopole tower is to be constructed on the adjacent property, less than 500' to the northeast. Based on documents obtained from the Washington County Planning Department, the monopole tower was conditionally approved on November 7, 2006. The approval is contingent upon the applicant providing the County Planning Department a copy of the National Environmental Policy Act (NEPA) report for the tower site. Construction of the tower may not commence until the County has received a copy of the NEPA report.

PLANNING COMMISSION ACTION: Required YES
☒ Approved ☐ Tabled ☐ Denied

Motion: Myers

Second: Clark

Vote: 6-2-0

Meeting Date: November 27, 2006

Comments: _____

BACKGROUND:

The applicant is proposing to erect a 150' tall monopole with an area at the base for the wireless equipment. The proposed lease site is located northeast of Wedington Drive and Double Springs Road. The exact location of the tower is at the north end of an undeveloped pasture.

Following ordinance requirements, notification (certified mail) was provided to all property owners within a 500' radius of the center of the proposed tower. The type and height of the proposed tower is in accordance with Chapter 163.14(B) (1 & 2). The tower is not located within 150' of a residential structure. The applicant provided all documentation required by Chapter 163.14.

The applicant states in their application, that the area in western Fayetteville along Wedington Road has minimal cellular coverage. With the addition of traffic from new residences and new businesses, the existing network of towers is not sufficient to meet the current demand placed on the existing network capacity. The proposed tower will relieve some of the capacity issues placed on the surrounding towers while becoming the dominant server for the area. The nearest towers to this location are at least 3 miles away, on which the carrier for this proposal is already located. The lack of existing cell towers in the vicinity required the applicants to look at erecting a new tower.

Surrounding Land Use:

Direction	Land Use	Zoning
North	Residential	Planning Area
South	Commercial/Residential	C-2, Thoroughfare Commercial/R-A Residential Agriculture
East	Residential	RSF-4, Residential Single-family
West	Residential	R-A, Residential Agriculture

Public Comment: No comments have been received.

GENERAL PLAN DESIGNATION: Residential

▷ 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Wireless Communications Facility on property zoned R-A, Residential Agriculture.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under § 163.14 (see attached) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Granting the requested conditional use for a 150' monopole tower with camouflaging and low profile antenna mounts will not adversely affect the public interest. By using camouflaging and existing vegetation, a balance can be reached which will maintain the scenic quality of the city as well as allow cellular companies to provide an important service to the community and emergency services. However, staff finds that granting a conditional use for a 150' monopole tower within 500' of another monopole tower would adversely affect the public interest.

(c.) The Planning Commission shall certify:

- (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: The applicant has complied with specific rules governing this individual

conditional use request.

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: A new 12' driveway would be constructed from Double Springs Road to the facility.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: No parking or loading areas are required for this use.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: No refuse areas are required for this use.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities shall be located underground or screened from the public view with the exception of the proposed monopole and the equipment mounted on that apparatus.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: If approved, screening shall be provided as required by Chapter 163.14, see ordinance section included as part of this report.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Only warning, site identification and FCC signs would be permitted on the

subject facility.

Finding: (g.) Required setbacks and other open space; and
The location of the proposed monopole is in compliance with required setbacks for the R-A zoning district as well as the fall zone requirements for a wireless communications facility.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Compatibility with adjacent properties is difficult to achieve when erecting any type of tower structure. However, by utilizing existing vegetation, adding additional vegetation, camouflaging the tower and locating the structure away from rights-of-way will lessen the visual impact of the proposed tower.

CHAPTER 163: USE CONDITIONS

163.14 Wireless Communications Facilities.

(A) The following general requirements shall apply to all new wireless communications facilities.

(1) **Noise Requirements.** Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air condition units no noisier than ordinary residential units or generator used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.

Finding: Equipment used in connection with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14.

(2) **Compliance with Federal Regulations.** Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the City Planner.

Finding: Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the Zoning and Development Administrator.

(3) **Lighting and Signage.**

(a) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of a tower and within the

wireless communications facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or right-of-way.

(b) Signs shall be limited to those needed to identify the property and tower and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.

Finding: **Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motions-activated lighting may be used around the base of the tower, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way. All outdoor lighting shall meet lighting ordinance requirements.**

(B) New Towers. New wireless communications towers shall meet the following requirements:

(1) **Type of Towers Allowed.** New towers shall be limited to monopole type structures or alternative tower structures.

Finding: **The applicant is proposing a monopole structure.**

(2) **Tower or antenna height limitations.** Towers or alternative tower structures are permitted to a maximum height of 150 feet.

Finding: **The maximum tower height permitted by the Unified Development Code is 150'.**

(3) **Fall Zone.** The minimum distance from the base of any tower to any residential dwelling unit shall be the tower height or required setback, whichever is greater, unless all persons owning said residences or the land on which said residences are located consent in a sign writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.

Finding: **There are no residential dwelling units located within a 150' of the base of the tower.**

(4) **Camouflaging or Stealth Technology for New Towers.** If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designated to be camouflaged to the greatest extent possible, including but not limited to: use of a compatible building materials and colors, screening, landscaping and placement within trees.

Finding: **The proposed location of the tower is located in such a way as to utilize existing foliage. The applicant has also indicated that additional trees could**

be planted to screen the facility and tower from the right-of-way and adjacent properties. The tower will have a three (3) tone paint scheme to blend with the natural surroundings and low profile antennas will be utilized to minimize visibility.

- (5) **Color of Towers.** To the extent that any antenna extends above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.

Finding: The applicants will use a transitional paint scheme to match existing vegetation and the skyline.

- (6) **Information Required to Process New Tower Requests.**
(a) Provide a map of the geographic area that your project will serve.
(b) Provide a map that show other existing or planned facilities that will be used by the wireless communication service provider who is making the application.

Finding: Item (a) and item (b) are reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (c) Provide a map that shows other potential stand-alone locations for your facility that have been explored.

Finding: The applicant states in the application that the proposed site was chosen based on the existing locations of the three (3) towers utilized by the cellular provider and the ground elevation is sufficient for a 150' tower to achieve its broadcast purpose. Additionally, the applicant states that the optimal location for the tower would be approximately one half mile south of the proposed site. However, due to the existing number of residential structures, the applicants investigated properties on the north side of Wedington Drive.

- (d) Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specification on proposed lighting of the facility

Finding Item (d) is reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (e) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks and proximity to single family residences

Finding: The proposed location is evidently superior to other locations because of the inadequate coverage in this area based on information provided by the applicant. As depicted in the attached maps, the closest towers are over 3 miles away. Additionally, the carriers that are to be located on the proposed tower are currently located on these existing facilities. The carriers have call handling capacity issues due to the amount of users and coverage issues due to the distance between the existing facilities. The proposed location is set in the rear of the property, approximately 250 feet from Double Springs Rd. and approximately 500 feet from Wedington Dr.

(f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:

- (1) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;
- (2) Contact with all the other wireless communications licensed carriers operating in the City and Washington County; and
- (3) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- (4) Letter from tower owner stating why co-location is not feasible.

Finding: The applicant considered multiple tower sites as well as existing buildings and structures in the area for co-location. However, due to the lack of existing towers in the area, co-location was not feasible. Furthermore, the existing structures in the area are no higher than 2-3 stories. Since the tower application submitted to the County Planning Department was not submitted until after the subject conditional use request, the applicant was not aware of the ability to co-locate on the adjacent property.

(g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.

Finding: This facility will allow co-location for several wireless carriers as stated within the applicant's request.

(7) Required (after condition) and Balloon Test or Crane Test Photographs.

The proposed tower shall be photographed from four locations taken 90* apart and 300' from the center of the tower. The proposed tower shall be superimposed on the photographs. A balloon or crane test shall be performed to illustrate the height of the tower and photographed from the same four locations. The time period, not to exceed one week, within which the test will be performed, shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test. The four locations shall be approved by the City Planner.

Finding: The applicant has provided this information.

(8) Sight Line Representation. A sight line representation shall be drawn from four points 90* apart and 100* from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings.

Finding: The applicant has provided this information.

(9) Structural Integrity and Inspection of Towers.

- (a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.
- (b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to person or property, then upon written notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance within thirty (30) days, the City may terminate that owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).
- (c) By making an application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by the applicant which are located in the City. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

Finding: The applicant has provided a letter from Didicom, LLC. that states the tower will meet or exceed the design criteria for all local, state and federal requirements regarding the construction, maintenance and operation of the tower.

(10) Security Fencing and Anti-climbing Device. Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less

than six (6) feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing", "High Voltage" or other pertinent information on the outside of the fence, unless it is decided that the goals of this ordinance would be better served by waiving this provision in a particular instance. Barbed wire fencing or razor wire shall be prohibited.

Finding: **The applicant would construct a wood privacy fence around the base of the tower and would provide an anti-climbing device.**

(11) Vegetative Screening Requirements. Wireless communications facilities shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or combination of both.

Finding: **Vegetative screening, consisting of evergreen trees and shrubs shall be provided by the applicant in addition to existing vegetation. The species and location shall be approved by the landscape administrator.**

(12) Setback from Property Lines. Wireless communications facilities shall meet current setbacks as required by zoning.

Finding: **The proposed facility and accessory structures shall comply with R-A setback requirements.**

JERRY HUNTON
County Judge

JULIET RICHEY
Planning Director



WASHINGTON COUNTY, ARKANSAS
Planning Office

November 7, 2006

Dave Reynolds
Smith Communications, LLC.
520 N College Ave.
Fayetteville, AR 72701

Project # 2006-303

PROJECT #
06-303
WASHINGTON CO.
PLANNING DEPT.

Dear Mr. Reynolds:

This letter is to notify you that your application for Administrative Approval of Tower (cell/communications) proposed to be located on Double Springs Road, parcel # 001-11667-003, has been approved *contingent* upon your providing this office with a copy of the NEPA report for this tower/site. Please understand that no construction related to this tower on this site should take place until the County has received the copy of the NEPA report and notified you that you may proceed.

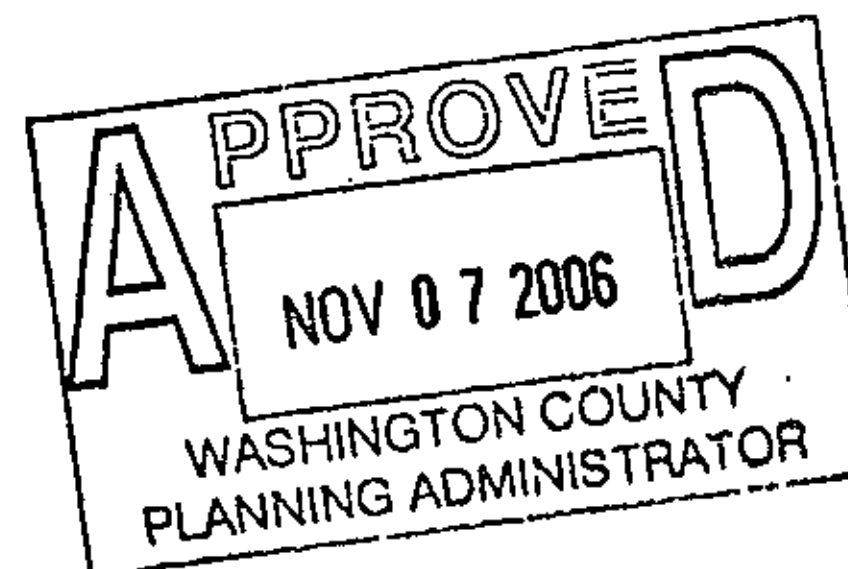
This application was reviewed as per Chapter 11, Article VIII, Washington County Code of Ordinances.

We look forward to receiving a copy of your NEPA report as soon as possible. Please contact this office with any additional questions that you may have concerning this project.

Sincerely,

A handwritten signature in dark ink, appearing to read "JBR", is written over a horizontal line.

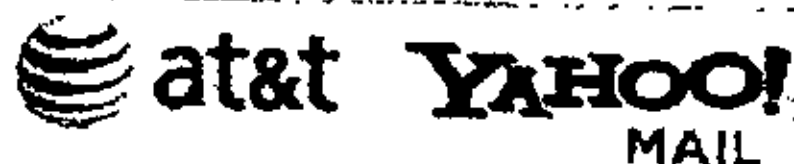
Juliet B. Richey
Washington County Planning Director



AT&T Yahoo! Mail

Search:

Web Search



Welcome, joel-taylor@sbcgl...
[Sign Out, My Account]

Mail Home Tutorials Help

Mail

Addresses

Calendar

Notepad

Mail For Mobile - Upgrades - Options

Check Mail

Compose

Search Mail

Search the Web

Folders

[Add - Edit]

Inbox (3)

Draft

Sent

Bulk

[Empty]

Trash

[Empty]

Search Shortcuts

My Photos

My Attachments

Previous | Next | Back to Messages

Delete

Reply

Forward

Spam

Move...

This message is not flagged. [Flag Message - Mark as Unread]

Subject: Smith Two-Way Tower Conversation

Date: Wed, 22 Nov 2006 08:42:26 -0600

From: Keith.Buchanan@alltel.com [View Contact Details] [Add Mobile Alert]

To: joel-taylor@sbcglobal.net

CC: Melissa.Loquet@alltel.com

Joel..

Per your request, this memo documents recent telephone conversations with Mr. Mike Smith, of Smith Two-Way, regarding proposed tower build just outside Fayetteville city limits.

I contacted Mr. Smith on Thursday, November 9th after reviewing the recommendation by Fayetteville City Zoning that tower application be tabled. After reviewing ALLTEL's intent to locate on the Didicom tower with Mr. Smith, and our Smith Two-Way tower being located so close, I told Mr. Smith that zoning was the last approval required before the tower could be built and that we estimated his NEPA would require an additional 45 days. Mr. Smith countered that his NEPA completed sooner than 45 days.

I explained to Mr. Smith that I was at a loss on how to proceed and asked him for options. He indicated that it was ironed out and wound up at the same approximate location and that he would think about the matter and contact me the next day.

Mr. Smith and I spoke again the next day and he indicated that since he had been working for a long period of time with the proposed tower project that he felt he could not remove his tower application with Washington County. During neither conversation did Mr. Smith reveal the name of the carrier he was developing the tower for.

This was the extent of my conversations with Mr. Smith.

Keith B. Buchanan

Staff Manager - Project Engineering
(AR, IL, KY, LA, MO, MS, East OK, East TX)
ALLTEL Communications, Inc.
501-905-8955 (o)

Site Purpose: The purpose of this site is to enhanced the coverage area in western Fayetteville along Wedington Road in the area known as White Rock. This area has had minimal coverage in the past and now with the expansion and widening of Wedington Road, the increase in traffic flow and the increased number of residences and businesses in the area, the existing network of towers is not sufficient to meet the current demand being placed on the existing network capacity. This tower will relieve some of the capacity issues placed on the surrounding towers while becoming the dominant server for the area.

Collocation: There were no suitable structures to be considered. All buildings in the area are of one story height. The closet towers are 4 miles west, 3.3 miles east and 3.8 miles south. Alltel, the anchor tenant committed to this site is currently on all three of the surrounding tower locations.

Site Selection: The three main reasons this site was selected are:

- Its proximity to the existing 3 tower locations it will connect to.
- The ground elevation is sufficient for a 150' tower to achieve its broadcast purpose.
- The site meets the requirements set out by ordinance.

- Site Location:** The site is located on a 5 acre tract of land in the Northeast corner of the intersection of West Wedington Road and Double Springs Road.
- Site Area:** The site compound will be a 60' x 60' area. It will be enclosed with an 8' height solid wooded cedar fence.
- Site Access:** Access to the site will be off Double Springs Road. A 12' wide gravel road will be constructed to the site.
- Site Utilities:** Electric and Telephone will be the only needed utilities. They will be buried and will run parallel to the access road.
- Site Lighting:** There are no plans at this time to have any streetlights or any continuous security lighting around the site area. The inside compound area will be equipped with maintenance lighting, if ever needed.
- Site Signage:** Three signs will be place on the entrance gate.
One (12" x 18") Warning Sign
One (18" x 24") Site Identification and
One (6' x 12") FCC Identification.
- Site Noise:** Noise will be limited to air conditioner sound consistent with residential use.
- Site Screening:** The site is naturally screened on three sides by a mature hedgerow of trees that line the perimeter fence line of the parent parcel (5) acre tract. The site is shielded on the forth side by commercial buildings along Wedington Road.
- Site Landscaping:** Additional landscaping may be added if deemed necessary by the commission.



P.O. Box 180727
Fort Smith, AR 72918-0727

Phone: 479-424-1100
Fax: 479-424-1103

November 21, 2006

Jessie Fulcher
Fayetteville Planning Department
113 West Mountain
Fayetteville, Arkansas 72701

Re: Didicom, LLC Cell Tower

Dear Jessie

Applicant hereby submits additional information to be included in the decision process of the Planning Department in the matter of Didicom, LLC.

LANDSCAPING and BUFFERS

Property-The existing 5-acre tract is currently used as a hay field. The north property line has an existing natural barrier of trees and vegetation. The east and west property lines have intermittent barriers of trees and vegetation. The south property line is lined with tall pine trees except the area behind Rainbow Service Center (our landowners business).

Planting trees around the perimeter of the site might enhance the look of the site, but it would not shield the site from being visible. Additionally, trees around the perimeter would interfere or minimize current hay production.

It is the opinion of the applicant that the best way to camouflage the facility and preserve the existing use of the land would be as follows: (see attached landscape drawing)

1. Plant a series of trees (elms, maples, poplars, etc.) along the west fence row on Double Springs Road. This would fill in the intermittent gaps and form a contiguous hedgeline that would shield the site from being seen from vehicular traffic on Double Springs and the residential property across the street.
2. Plant a series of trees (elms, maples, poplars, etc.) along the east fence row that would be in line of sight to the dwelling east of site.
3. Access to the site is off Double Springs Road. Instead of using the typical farm gate, in which vehicular traffic could see through and down the access road, we propose to use a solid wooden gate at the entrance. This would prevent any visual contact past the entrance gate.

TOWER and TOWER DESIGN

As stated on the application and depicted on page 3.1 of the construction drawings, Didicom proposes to build a 150' tri-color monopole tower with low profile antenna mounts. As of this date, Didicom has not received the final set of tower drawings. Since this tower is a custom tower and will be painted by Sabre the manufacture, Didicom has not confirmed the final order because it was waiting on the Planning Commissions approval first so it could verify the order. The Geotechnical report for this site has been completed and upon approval, Didicom will submit a complete set of tower and foundation drawings and calculations, prior to issuance of any building permit. Examples of the tower and foundation drawing to be supplied later will be similar to the ones attached and labeled Ft. Chaffee.

ALTERNATIVE LOCATIONS

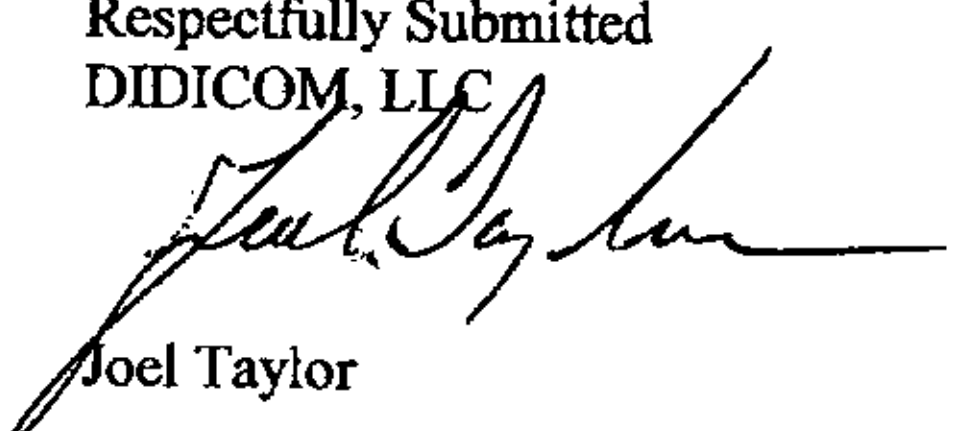
The optimum location for this site from a transmission point of view would be approximately 1/2 due south. Since the area on the south side of Wedington is all zoned residential and has extensive houses in place the site migrated to the closest next best place, which was the north side of Wedington at Double Springs. Bill Jowers, the landowner to the west and David Morlan the landowner to the east were both solicited. The final site location was determined by the process of elimination on what would have the least impact in the future to the area, since it is inevitable that this intersection will be developed commercially.

ADDITIONAL LETTERS

1. Alltel-Brian Smith, RF engineer
Acknowledgement of the existing tower at Dean and Moore
2. Alltel-Keith Buchanan
Acknowledgement of Communications with Smith Towers.

Thank you for your attention to this important matter

Respectfully Submitted
DIDICOM, LLC



Joel Taylor

ATTACHMENTS

FAA / FCC
Phase One Environmental
NEPA Compliance
Geotechnical Report

ALLTEL COMMUNICATIONS

One Allied Drive
Little Rock, AR 72202



Currently, Alltel has about 8 miles between the cell sites on State HWY 16 going east/west out of Fayetteville. The area between the current sites provides very weak indoor coverage and does not allow for a dominant server in this area. This particular area is a major concern for Alltel because State HWY 16 leads into the high traffic football stadium/University area.

The University of Arkansas football stadium is primarily covered by 3 sites. FSM_172, FSM_363, FSM_426. All 3 of these sites currently have F5 voice carriers deployed and F6 EVDO (high speed data) is being deployed with a plan for F7 EVDO. We are reaching the limitations of our B band 850 spectrum in this area and new sites to offload the capacity and reduce single site coverage areas is our only option of continuing to meet our customer quality standards.

The new White Rock site will improve digital quality in the City of Fayetteville and surrounding area along State Highway 16 / Wedington Drive by providing a dominant server capable of supporting in-building traffic and allowing lower soft hand offs. This site will also allow us to reduce capacity on sites FSM_172, and FSM_363 on Saturday game days and during the school season, as well as filling in the area along State HWY 16.

The proposed Smith 2way tower located north along Mt Comfort Rd, is an excellent location for Alltel's future coverage plans and future capacity needs. Unfortunately, this location does not help with our coverage along State Highway 16 / Wedington Drive. I am however, adding the Smith 2way location to our review list for next years plan because we will need this location soon.

Alltel RF can provide detailed statistics if necessary and answer any technical questions that may arise.

Brian Smith
RF Engineer
501-905-1036



October 31, 2006

RE: Alltel's Proposed Cell Site-White Rock

There is currently 8 miles between Alltel sites on State HWY 16, which provides very weak indoor coverage and does not allow for a dominant server, which in turn promotes more soft hand offs, which eat up capacity on a road leading into the high traffic football stadium area.

The University of Arkansas football stadium is primarily covered by 3 sites. FSM_172, FSM_363, FSM_426. All 3 of these sites currently have F5 voice carriers deployed and F6 EVDO (high speed data) being deployed with a plan for F7 EVDO. We are reaching the limitations of our B band 850 spectrum in this area and new sites to offload the capacity and reduce single site coverage areas is our only option of continuing to meet our customer quality standards.

The new White Rock site will improve digital quality in the City of Fayetteville and surrounding area along Arkansas State Highway 16 / Wedington Drive by providing a dominant server capable of supporting in-building traffic and allowing lower soft hand offs. This site will also allow us to reduce capacity on sites FSM_172, and FSM_363 on Saturday game days and during the school season.

Alltel RF can provide detailed statistics if necessary and answer any technical questions that may arise.

Thank you,

Brian Smith
RF Engineer
501-905-1036



P.O. Box 180727
Fort Smith, AR 72918-0727

Phone: 479-424-1100
Fax: 479-424-1103

APPLICANT'S COLLOCATION STATEMENT

Didicom, LLC is a independent provider of Wireless Communication Facilities for the Wireless Industry and therefore it is the intention of Didicom to lease tower space and provide collocation opportunities, at a fair market rate, for a variety of wireless needs on the tower to be located at White Rock.

P.O. Box 180727
Fort Smith, AR 72918-0727

Phone: 479-424-1100
Fax: 479-424-1103



November 7, 2006

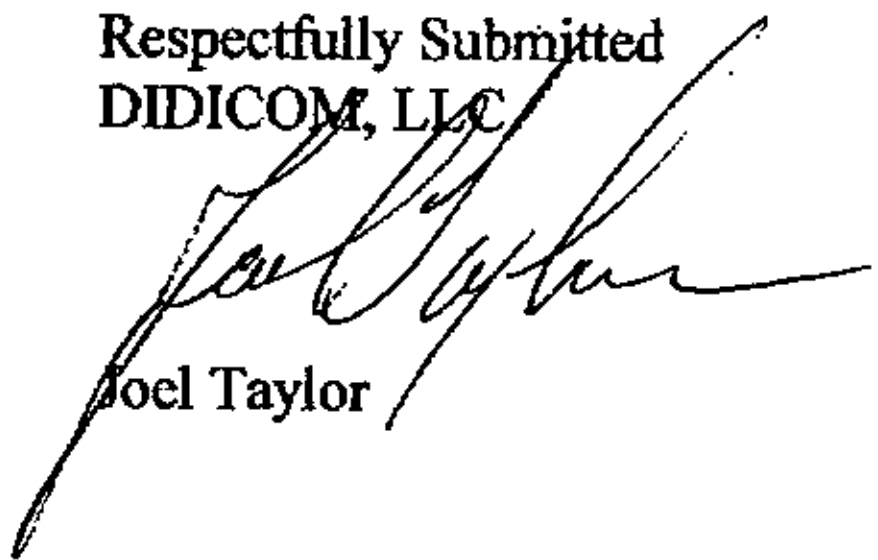
Jessie Fulcher
Fayetteville Planning Department
113 West Mountain
Fayetteville, Arkansas 72701

Re: Didicom, LLC Cell Tower

Dear Jessie

As per our telephone conversation November 6, 2006, this letter should serve as written confirmation that Didicom, LLC wishes to proceed with its Conditional Use Public Hearing to be held on Monday, November 13, 2006 at 5:30 p.m. at the City Hall Building, room 326.

Respectfully Submitted
DIDICOM, LLC


Joel Taylor



October 25, 2006

City of Fayetteville Planning Office
113 West Mountain
Fayetteville, AR 72701

RE: Proposed tower location at West Wedington Road and Double Springs Road

To whom it may concern:

I have been advised by Joel Taylor that Didicom, LLC, is proposing to build a new tower near the above referenced vicinity. Please be advised that Cingular would have a possible interest in collocation there in the event it is built. Our ability to construct new sites is based in large part on our funding level each year coupled with our coverage or capacity priorities. Hence, while I cannot commit to a new site at this location right now, we have it on our list of potential collocations for future development. This is an area that is currently not covered well and represents a growth area in that community.

If you have any questions, please call me at 501-219-4484.

Sincerely,

Lee Ann Fager

Lee Ann Fager
Manager--Real Estate & Construction
Arkansas/Oklahoma



P.O. Box 180727
Fort Smith, AR 72918-0727

Phone: 479-424-1100
Fax: 479-424-1103

October 30, 2006

Fayetteville Planning Department
113 West Mountain
Fayetteville, Arkansas 72701

Re: Didicom, LLC Cell Tower

To whom it may Concern:

This letter should serve as written conformation that there are no residential structures located within the one hundred fifty (150') tower fall zone for the proposed Didicom Cell Tower at Wedington and Double Springs Road.

Respectfully Submitted
DIDICOM, LLC

Joel Taylor



P.O. Box 180727
Fort Smith, AR 72918-0727

Phone: 479-424-1100
Fax: 479-424-1103

October 30, 2006

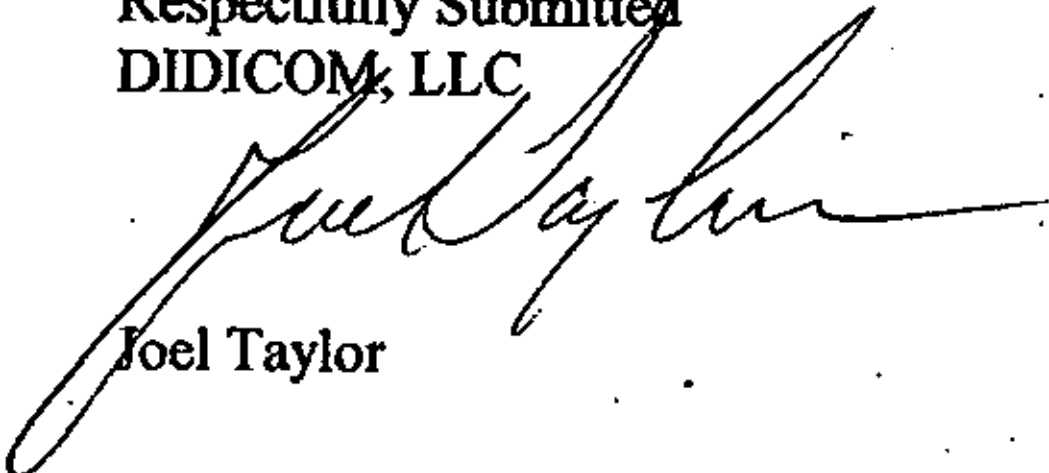
Fayetteville Planning Department
113 West Mountain
Fayetteville, Arkansas 72701

Re: Didicom, LLC Cell Tower

To whom it may Concern:

This letter should serve as written conformation that the tower to be used for the proposed Didicom Cell Tower at Wedington and Double Springs Road will meet or exceed the design criteria for all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.

Respectfully Submitted
DIDICOM, LLC


Joel Taylor

Tower Structure: The tower will be a 150' monopole.

Tower Manufacture: Sabre Communications Corpotation

Tower Standards: EIA/TIA-222-F 70mph Wind + 0.5 in Ice

Tower Load: 4 Platforms mounted at 150', 135', 120', 105'

Tower Platforms: 10' Low Profile, (9) antenna's (5' x 1' x 3")

Tower Lighting: None, unless required

Tower Color: 3 Tone, painted by manufacture

70' to 150' —

Filament SW4021
LRV 72%

40' to 70' —

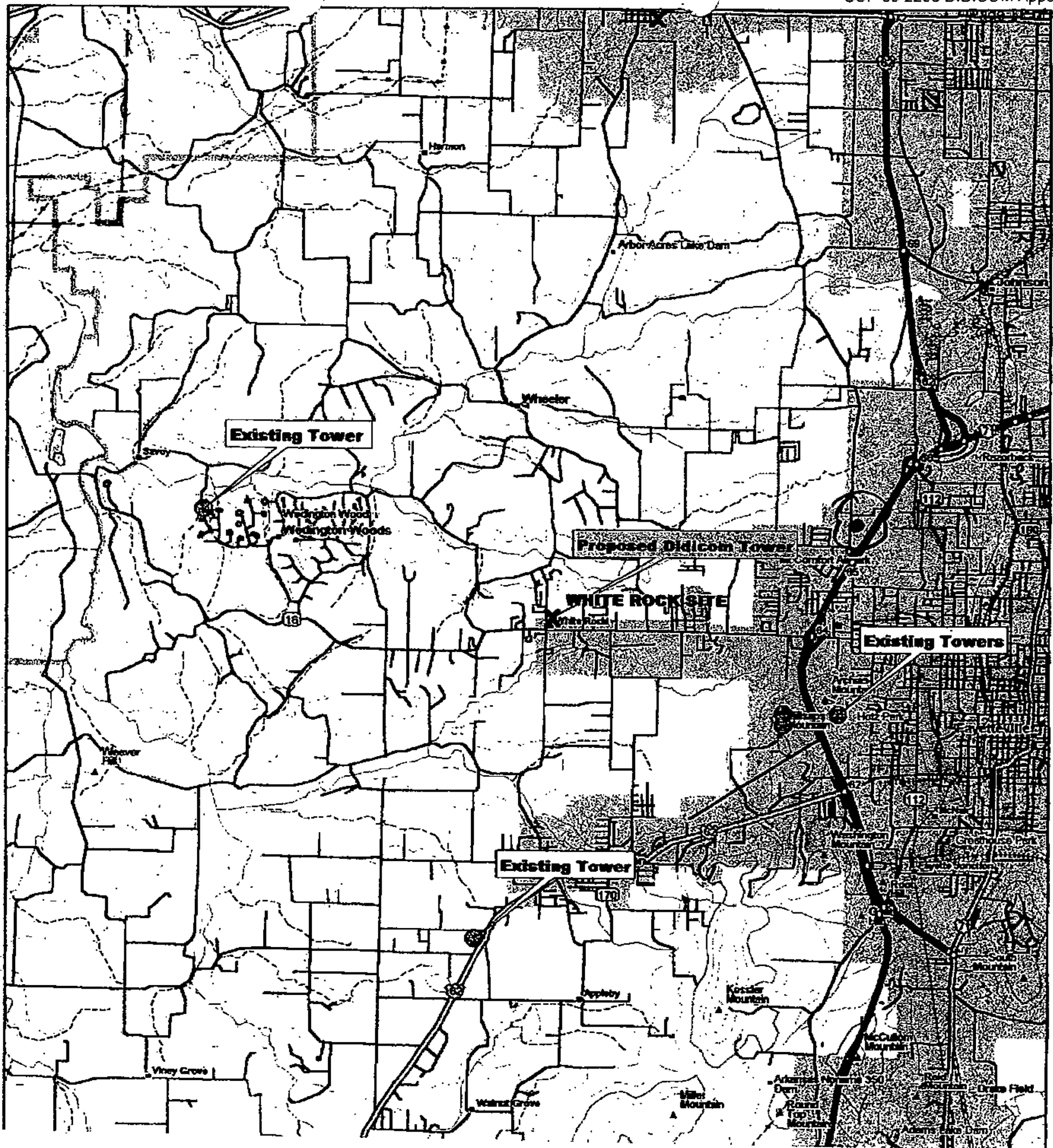
Olivine* SW4023
LRV 46%

0' to 40' —

Enviro Green SW4024
LRV 15%

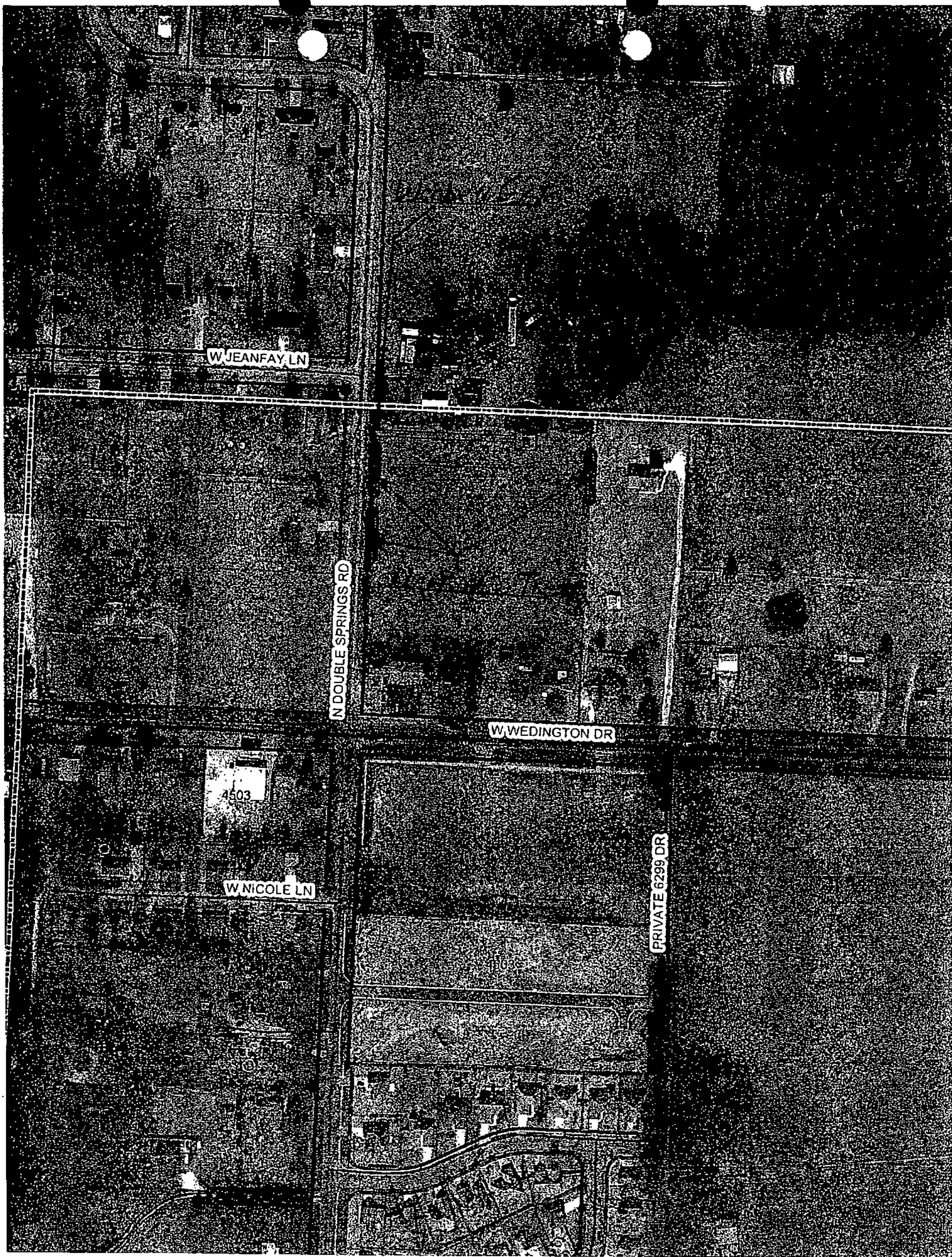


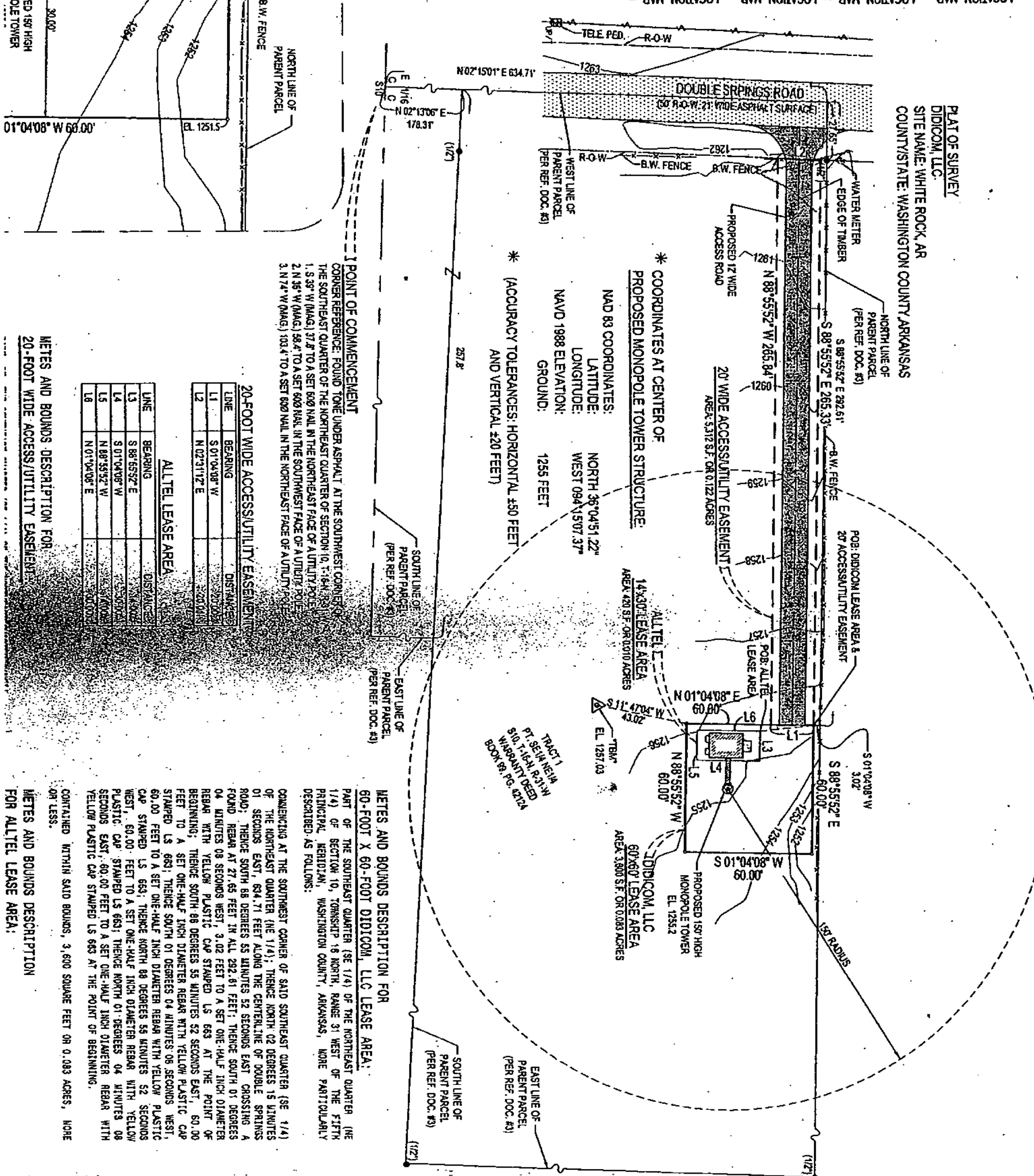
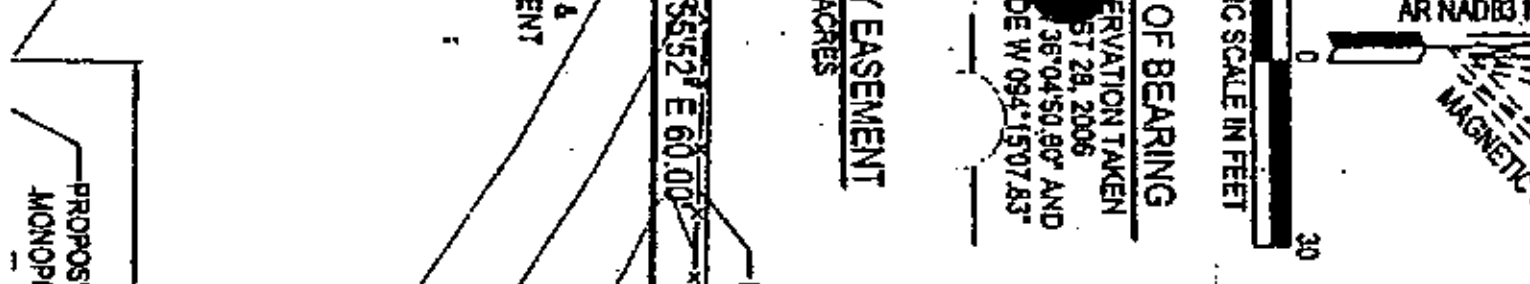
••• - Aillet located on site



Proposed Tower and Surrounding Tower Network







20-FOOT WIDE ACCESS/UTILITY EASEMENT		
LINE	BEARING	DISTANCE
L1	S 01°04'08" W	20.00
L2	N 02°31'12" E	20.00

ALTEL LEASE AREA		
LINE	BEARING	DISTANCE
L3	S 88°55'32" E	20.00
L4	S 01°04'08" W	20.00
L5	N 88°55'32" W	20.00
L6	N 01°04'08" E	20.00

**20-FOOT WIDE ACCESS/UTILITY EASEMENT FOR
METES AND BOUNDS DESCRIPTION FOR**

ON LESS.

METES AND BOUNDS DESCRIPTION

FOR ALTEL LEASE AREA:

CERTIFICATION
THE HEREON PLATED
SUPERVISION AND WA

REFERENCE DOCUMENT

1. USGS WHEELER QUAD
2. GLO PLAT OF T-16
3. WARRANTY DEED-BO

UTILITY INFORMATION
NO ATTEMPT HAS BEEN
SURVEY TO OBTAIN
SIZE, DEPTH, COND
UTILITY OR MUNICIPAL
DEPICTED ON THIS SU
THESE UTILITIES OR
APPROPRIATE AGENCIES

POWER LINE:
OZARKS ELECTRIC
1-478-521-2800

TELEPHONE LINE:
SBC ARKANSAS
1-800-484-7928

EASEMENTS, ZONING
EXCEPT AS SPECIFIED
THIS SURVEY PAGES

FOLLOWING WHICH WERE VISIBLE AT THE

OR AS PROVIDED BY
RESTRICTIVE COVENANTS
OR OTHER LAND-USE
REGULATIONS, AND ANY

CURRENT TITLE SEARCH
FLOOD INFORMATION

BY GRAPHIC PLOTTING
LOCATED WITHIN 2
MANAGEMENT AGENCY
FLOOD INSURANCE R

4 UNINCORPORATED
-REVISED JULY 21, 1964

POSITION & HEIGHT
FLOOD-PLAIN.

TRIMBLE NAVIGATION

REBAR STAMPED L566
SOUTHWEST CORNER OF
ELEVATION IN SECT.

HPA ELECTRONICS

BOOK: MISC. TOWER
CADD FILE: E:\DIDDI
CADD FILE: E:\DIDDI

FIELD SURVEY
AUGUST 28, 2006

PREPARED FOR
DIDICON, LLC
c/o JUNE DROTTER

6315 OLD HARRISON
FORT SMITH, ARKANSAS
C/O DINAH CLOUGH

CERTIFICATION
THE HEREON PLATTED
SUPERVISION AND WA



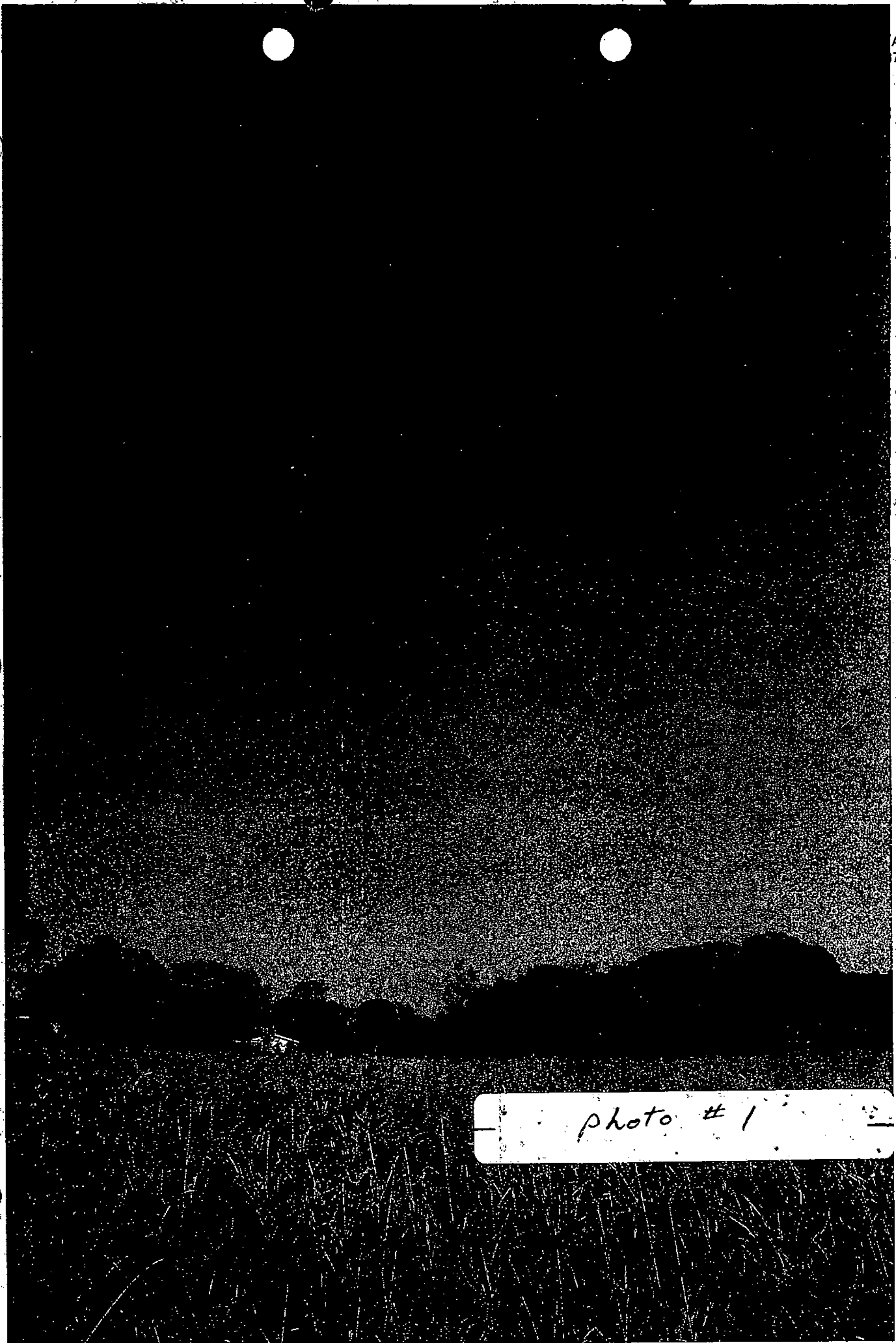


photo # 1

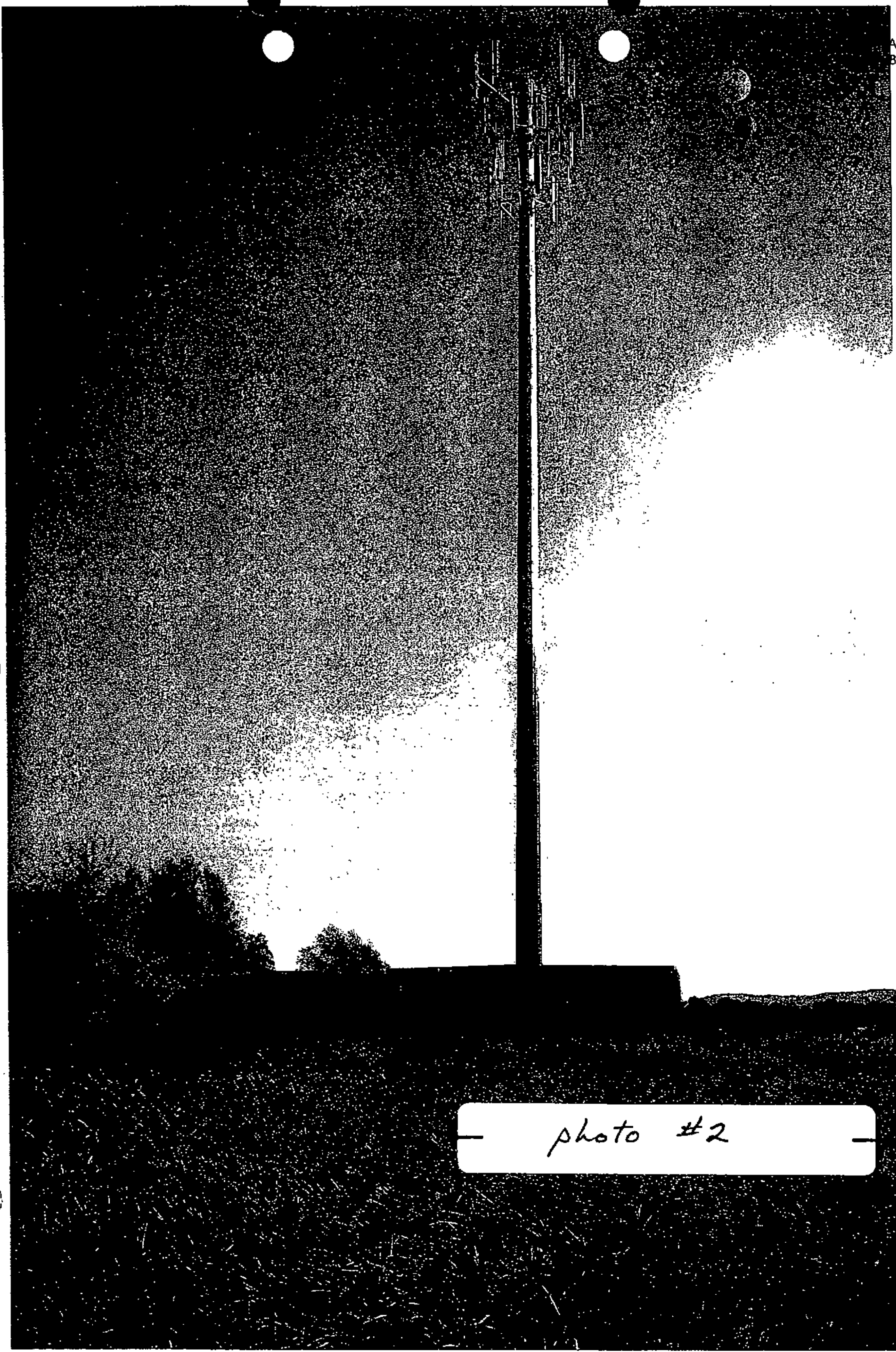


photo #2

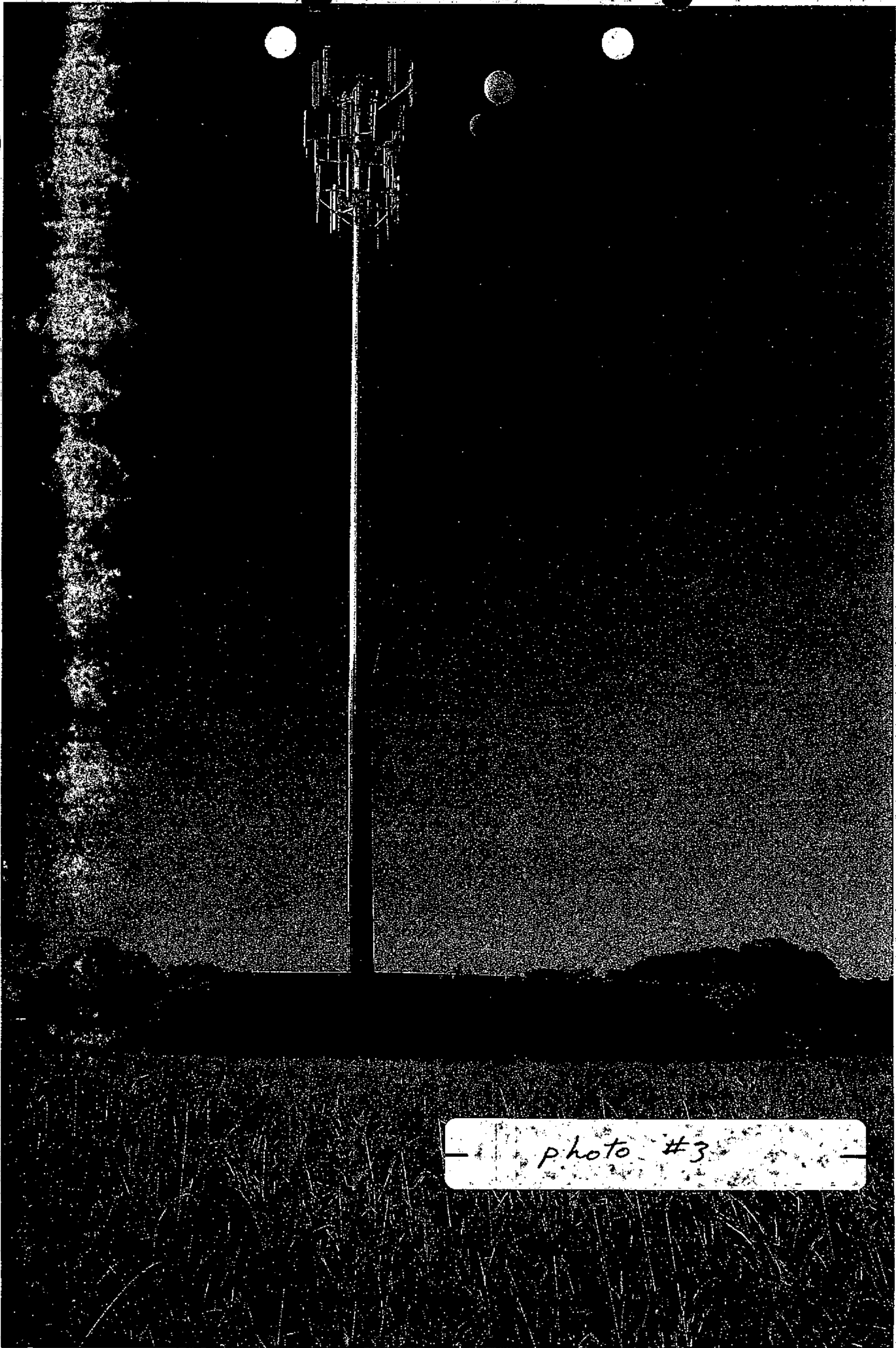


photo #3

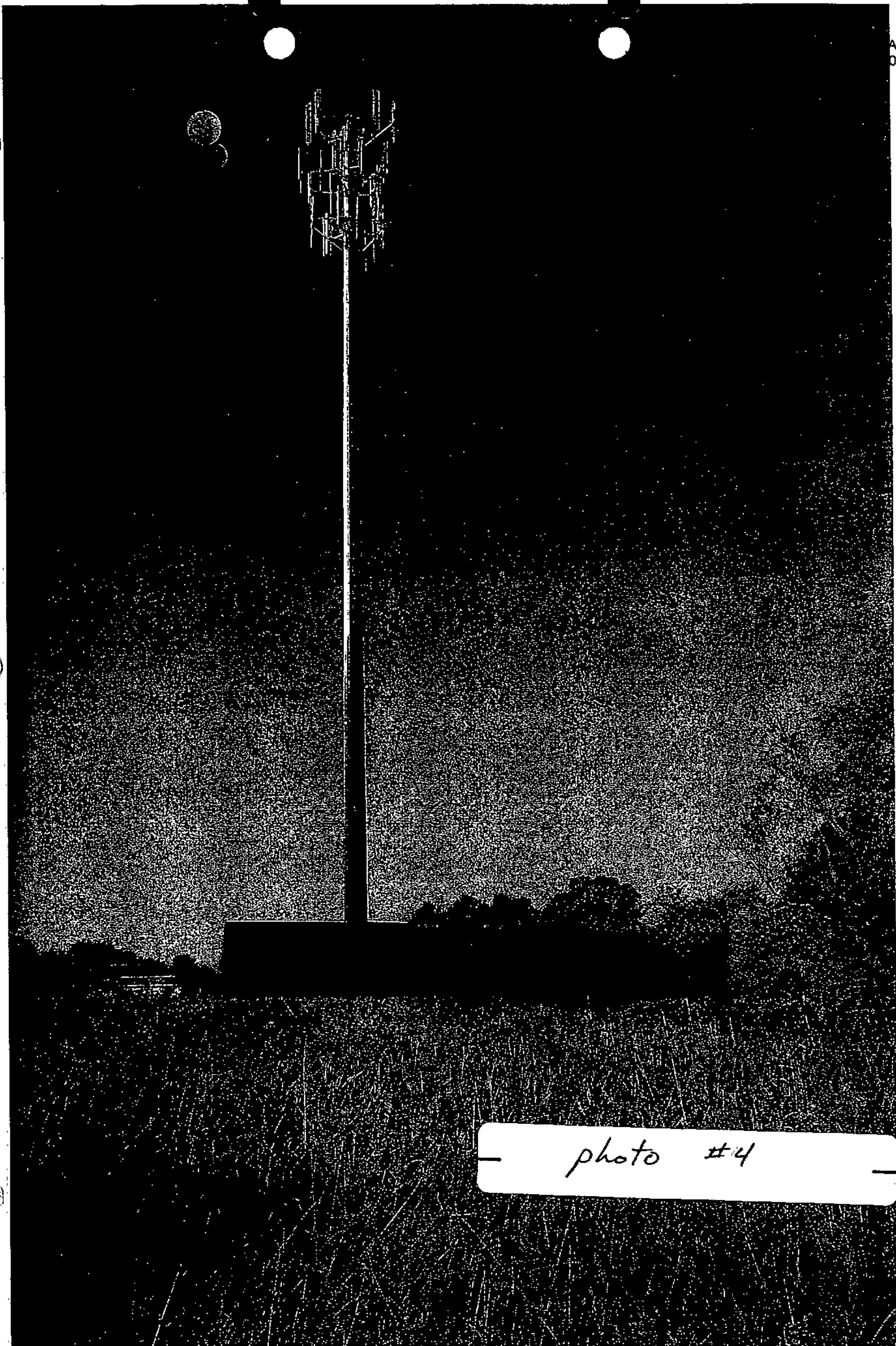
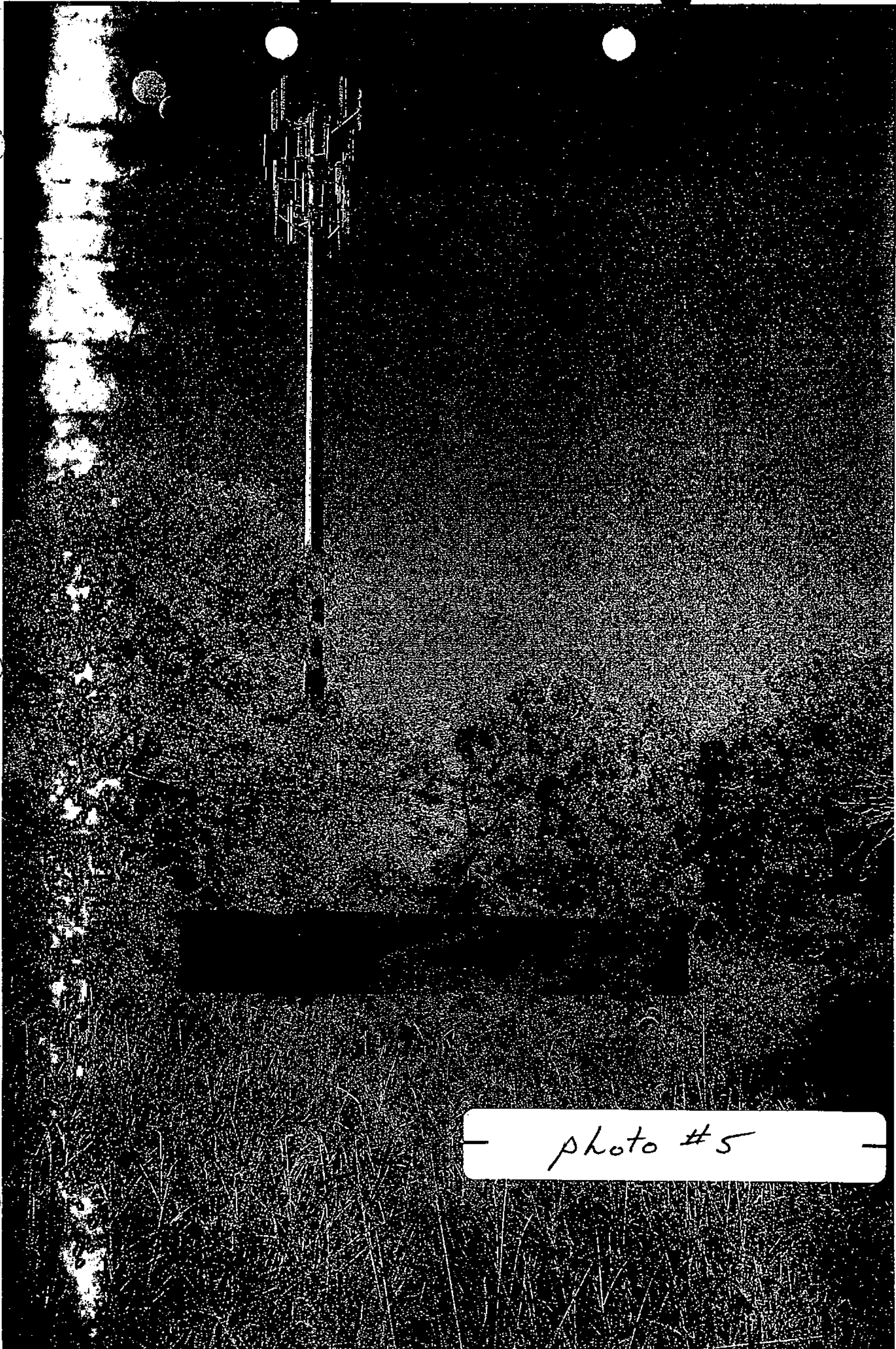
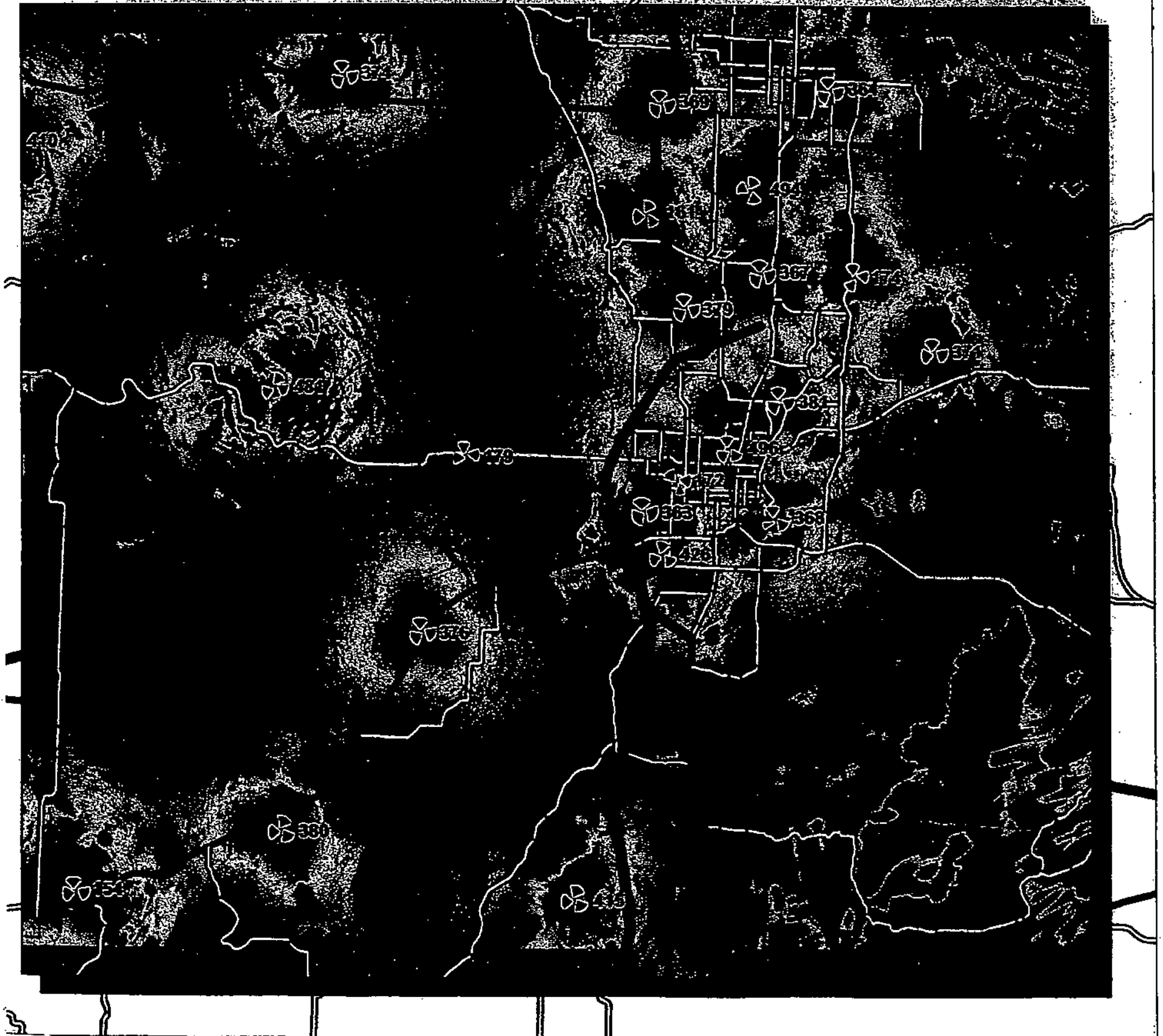


photo #4



Site Coverage Existing

168

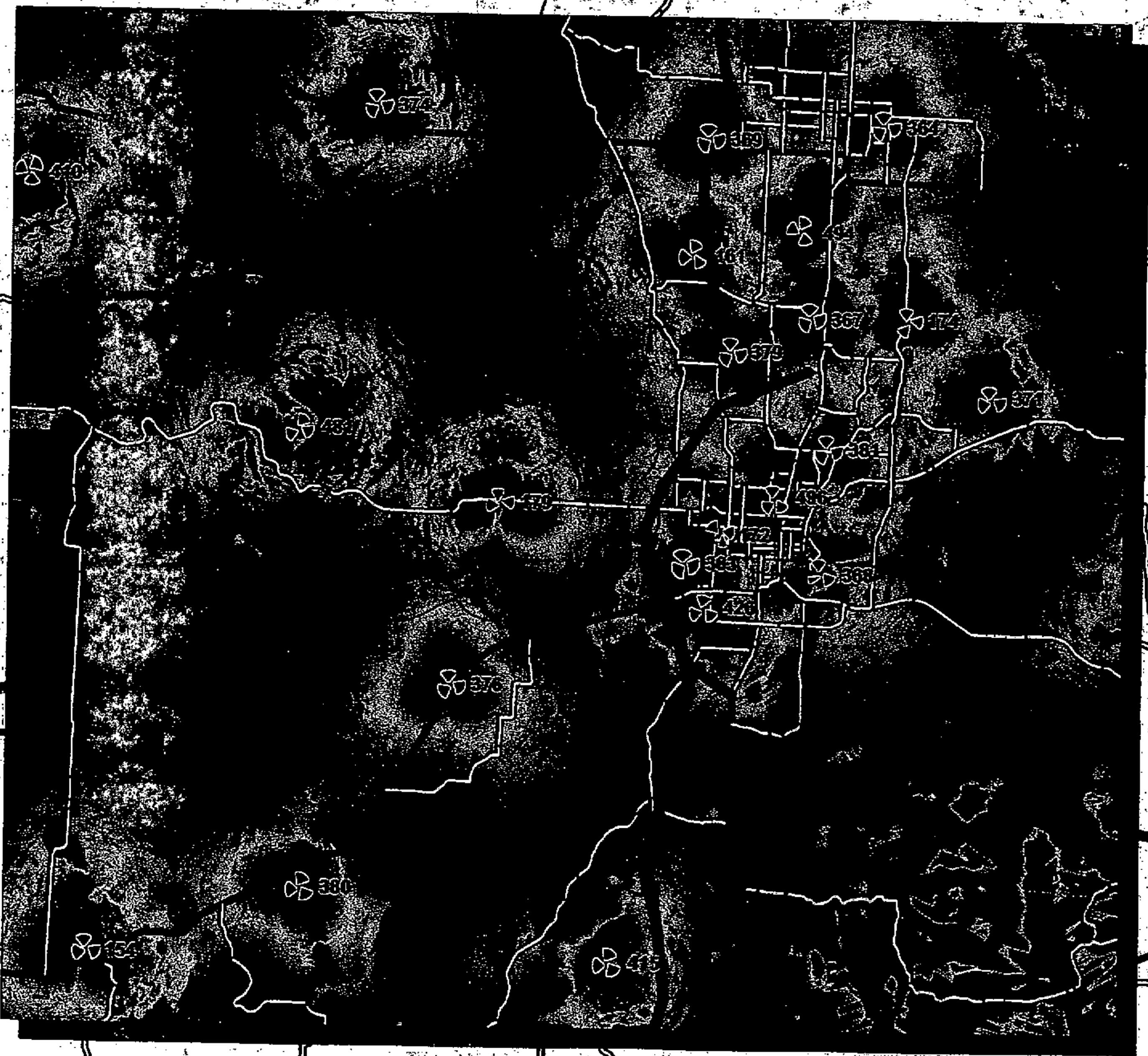


Site Coverage Proposed

D. 7
CUP 06-2295 DIDICOM Appeal
Page 43 of 46

168

443



1235 N DOUBLE SPRINGS RD

1233 N DOUBLE SPRINGS RD

1229 N DOUBLE SPRINGS RD

1227 N DOUBLE SPRINGS RD

1208 N DOUBLE SPRINGS RD

1200 N DOUBLE SPRINGS RD

6250 W WEDINGTON DR

N DOUBLE SPRINGS RD

6390 W WEDINGTON DR

6352 W WEDINGTON DR

6316 W WEDINGTON DR

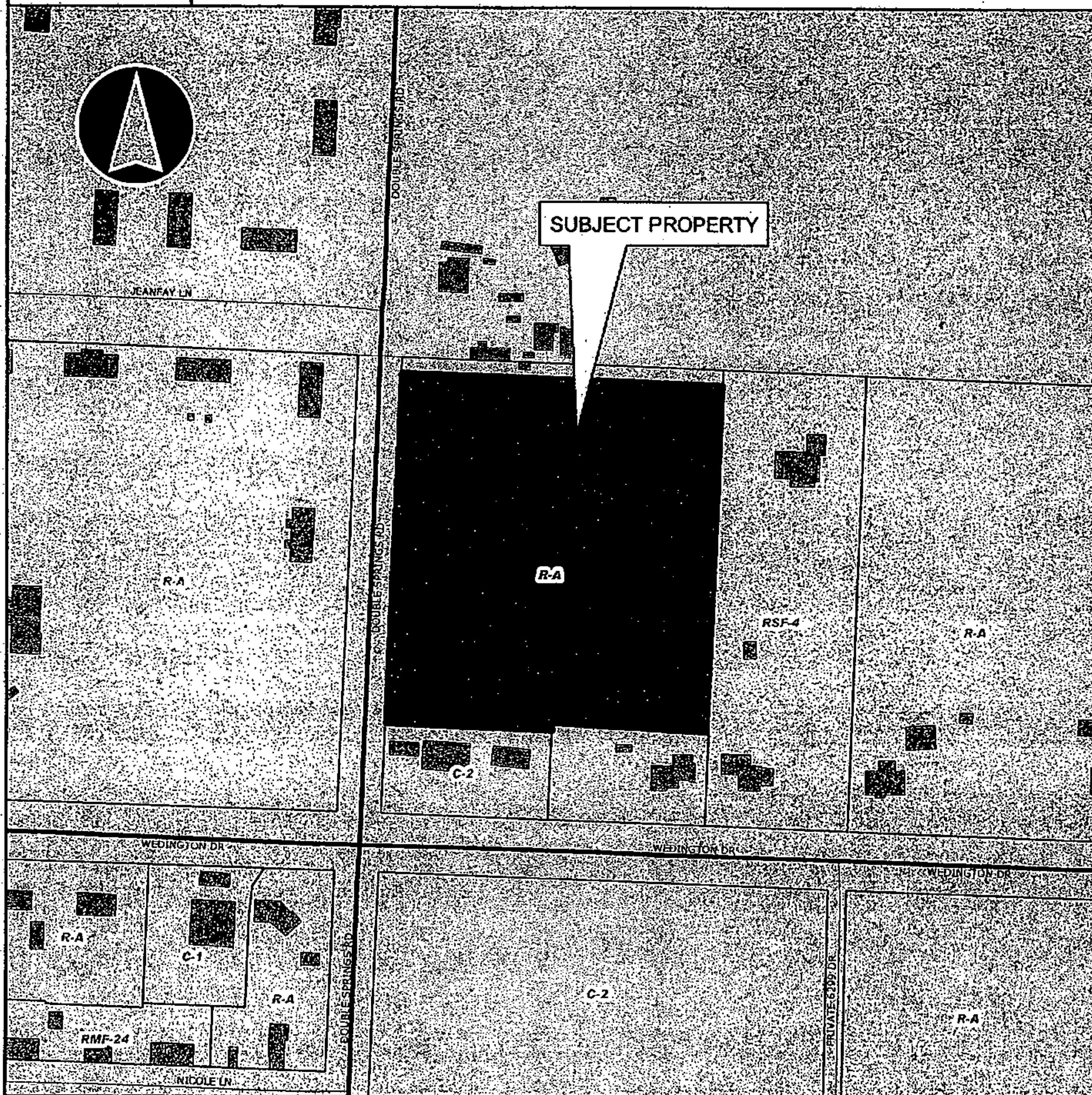
6310 W WEDINGTON DR

6236 W WEDINGTON DR

CUP06-2295

Close Up View

DIDICOM



Overview

Legend

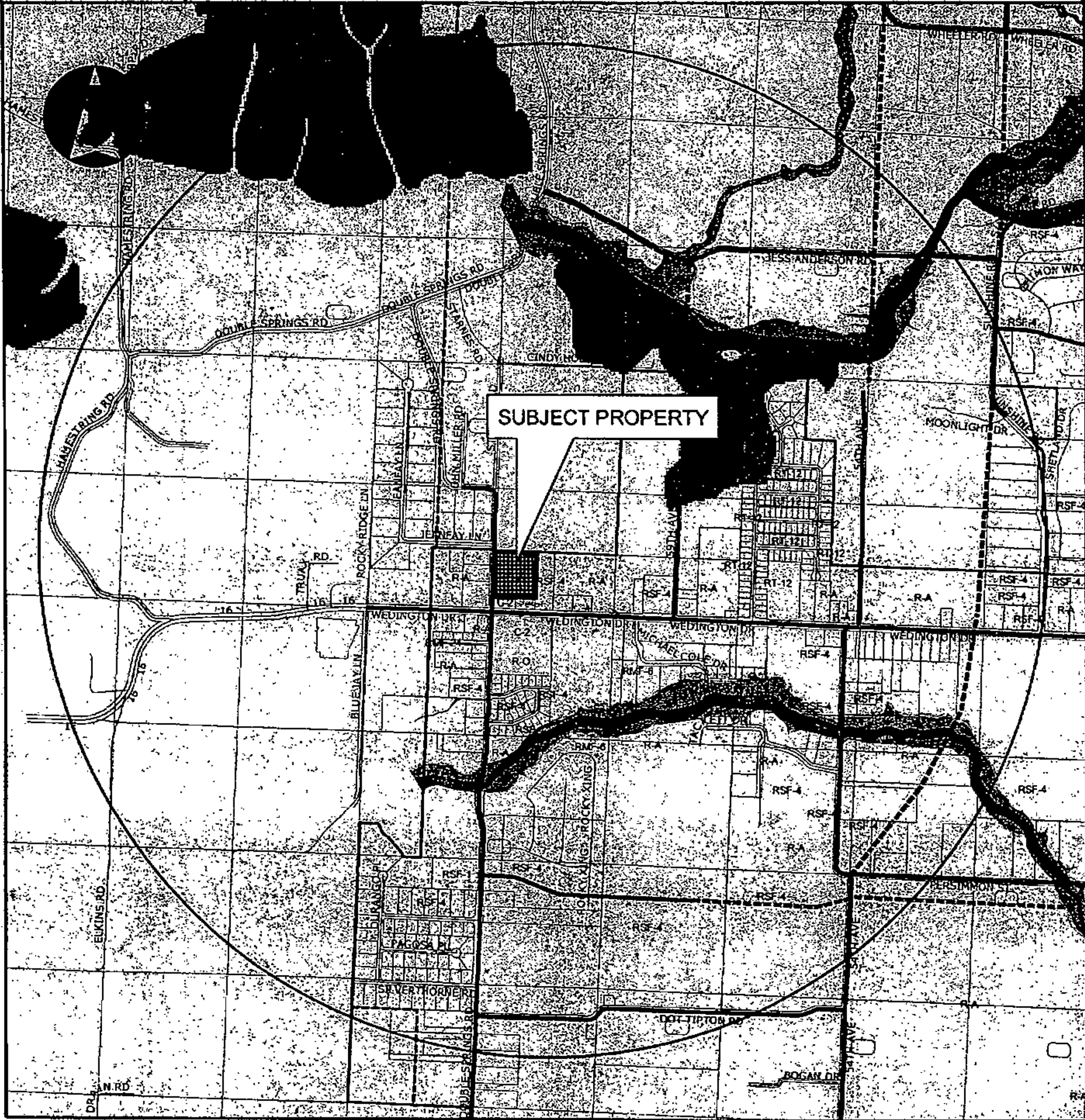
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- CUP06-2295
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



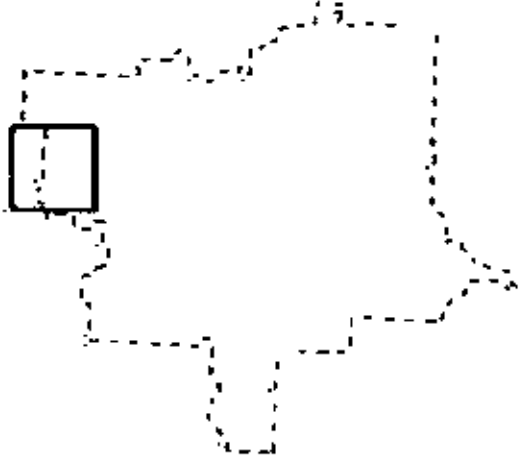
CUP06-2295

One Mile View

DIDICOM



Overview



Legend

Subject Property

CUP06-2295

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

12/19/2006
City Council Meeting Date

Sondra Smith
Submitted By

City Clerk
Division

City Clerks
Department

Action Required:

To adopt a resolution approving the Retention Schedule and authorizing the City Clerk to keep it updated as needed.

\$0 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 ☐

Sondra Smith 12/1/06
Department Director Date

K. [Signature] 12/6/06
City Attorney Date

Paul a. Berlin 12-6-06
Finance and Internal Service Director Date

Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office
 Des

Received in Mayor's Office


Comments:



City Council Meeting Date: **December 19, 2006**

The City of Fayetteville, Arkansas

City Council Agenda Memo

To: Mayor and City Council
Thru: Sondra Smith, City Clerk/Treasurer *Des*
From: Gina Roberts, Records Management Specialist *GR*
Date: December 1, 2006
Subject: City of Fayetteville Document Retention Schedule

Recommendation:

Adopt a resolution approving the City of Fayetteville Document Retention Schedule and authorizing the City Clerk to keep it updated as needed.

Background:

Attached is a copy of the City of Fayetteville's Document Retention Schedule. These are the records that we are currently scanning or will be scanning as the different applications become available with the Electronic Document Management System (EDMS). As the need arises or laws change the Document Retention Schedule will be updated by the City Clerks Division. There are approximately 55,000 documents in the Electronic Document Management System. In the near future several Divisions will be able to scan documents that have not been archived in the past, from their Division.

In early 2007 the Document Management System will be available on line for citizens to access documents. All City staff will also be able to access records electronically in the near future.

With the adoption of the Document Retention Schedule documents will be destroyed at the end of their retention period without council approval.

Budget Impact:

None

RESOLUTION NO. _____

A RESOLUTION TO ADOPT THE DOCUMENT RETENTION SCHEDULE, TO AUTHORIZE THE CITY CLERK TO DESTROY DOCUMENTS OLDER THAN THIS RETENTION SCHEDULE AND TO ADJUST THE DOCUMENT RETENTION SCHEDULE TO COMPLY WITH CHANGES IN STATE LAW

WHEREAS, the Fayetteville City Clerk is the primary legal custodian of most city documents and has consistently maintained Retention Schedules and destroyed documents older than the period of retention authorized by the City Council and state law; and

WHEREAS, the Fayetteville City Clerk has a revised Retention Schedule for the City of Fayetteville (attached hereto as Exhibit "A") in compliance with state law which should be adopted by the City Council; and

WHEREAS, non-permanent city documents should be destroyed if older than the appropriate period of retention to free up space for more recent and future documents; and

WHEREAS, the Fayetteville City Clerk should be authorized to revise the attached Retention Schedule if state law changes the required retention period for particular documents.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby adopts the Retention Schedule For The City Of Fayetteville attached as Exhibit "A" and authorizes the Fayetteville City Clerk to destroy such non-permanent documents that are older than the required retention period within this Retention Schedule or any amended Retention Schedule.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Fayetteville City Clerk to amend the Retention Schedule For The City Of Fayetteville in the future to comply with future changes in state law affecting the length of time city documents must be retained.

PASSED and APPROVED this 19th day of December, 2006.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

RETENTION SCHEDULE FOR THE CITY OF FAYETTEVILLE

Document	Electronic	Paper Copy	Federal Government	State of Arkansas
ACCOUNTING & INTERNAL AUDIT				
Accounting Cash Receipts	5	1		3
Accounts Payable Vendor Files	P	0	2	3
Accounts Receivable	5	1		3
Accounts Receivable Detail Posting Records	5	1	3	3
Accumulative Transaction Journal	P	0		P
Annual Budgets	P	1		P
Alcoholic Beverage License	Life of Business Plus 3 Years	1		Life of Business Plus 3 Years
Audits	P	1		P
Audit Work Papers	10	1		10
Bank Reconciliations	6	1	6	6
Bank Statements	P	1	6	6
Cash Deposit Register	5	1		
Cash Payment Journals	5	1		
Check Register	P	0		3
Contracts	Length of Contract or 10 Years	1		5
Final Investment Statements	3	1		3
Financial Statement (Certified)	P	1		P
Fixed Asset Register	P	1		P
Hotel, Motel & Restaurant Taxes (HMR)	Life of Business Plus 3 Years	1		Life of Business Plus 3 Years
Inventory Adjustments	3	1		
Inventory Reconciliations	3	1		
Journal Entries	P	0		3
Journal Posting/JE Post	5	0		
Purchasing Card Month End Statements	P	0		
Payroll Check Register	P	0	4	3
Payroll Terminated Employee Files	5	0		
Payroll Journals	4	0	4	3
Payroll Summary	4	0	4	3
Payroll Time Sheets	3	0		3
Pension Contribution Registers	P	1		3
Pension Transfers (Bank of Oklahoma)	P	1		
Police & Fire Investment Trust Records (Old Plan)	P	1		
Police & Fire Old Plan Files	P	1	2	
Police & Fire Pension Payroll Registers (Old Plan)	P	1		
Privilege License	Life of Business Plus 3 Years	1		Life of Business Plus 3 Years
W-2, 941 & 1099 Files	P	0	4	
ADMINISTRATION				
Mayor's Correspondence Files	Term of Office Plus 3 Years	1		3
FOIA Request	2	Until Completed		
AIRPORT				
Airport Board Agenda's & Minutes	P	P		
Contracts	10	1		
FAA Document Required Operating Manuals	P	P		
Grants, FAA-AIP, FAA DBE & Arkansas Aeronautics	P	3		
History of Airport	P	P		
Leases	10	1		
Project Files	10	3		

RETENTION SCHEDULE FOR THE CITY OF FAYETTEVILLE

Document	Electronic	Paper Copy	Federal Government	State of Arkansas
BILLING & COLLECTIONS				
Adjustment Register	3	0		3
Bank Draft Register	3	1		3
Billing Register	3	0		3
Cash Receipts Register (Utility Billing)	3	1		3
Deposit Refund Slips	3	1		3
Deposit Register	3	0		3
Final Billing Register	3	0		3
Meter HiLo's Register	3	1		3
Meter Read Listings	3	1		3
Payment Register	3	0		3
Utility Billing Yearend Reports	3	0		3
Web Payment Register	5	0		
BUDGET/RESEARCH				
Budget Work Papers	10	1	1	10
BUILDING SAFETY				
Building Permit Files	P	0		
Building Plans	P	0		
CITY ATTORNEY				
Closed Cases	5	1		5
CITY PROSECUTOR				
Case Files	10	1		
CITY CLERK				
Annexation Files	10	1		
Bond Files	P	Maturity or Until Paid		
Board & Committee Agendas	5	1		
Board & Committee Files	5	1	2	3
Board & Committee Minutes	P	P	P	P
City Council Agenda's	P	1	2	P
City Council Meeting Recordings	1			Approval of Minutes Plus 90 Days
City Council Minutes	P	1	P	P
Contracts	Length of Contract or 10 Years	1		5
Elected Official List	P	1		
Firemen's Pension Agenda's, Minutes, Investment Reports and Investment Policy (Old Plan)	P	P	2/P	P
Grant Files	P	1		
Lobbyist Registration Filings	4 years After Notice of Termination	1		4 Years After Notice of Termination
Meetings Calendar	2	0	2	
News & Press Releases	5	0		
Oaths of Office	5	1		
Ordinances	P	1	P	P
Policemen's Pension Agenda's, Minutes, Investment Reports and Investment Policy (Old Plan)	P	P	2/P	P
Policy & Procedures	P	0		
Real Estate Holdings for Elected Officials	10	1		
Resolutions	P	P	P	P
State of the City Address	10	1		
Statement of Financial Interest	10	1		

RETENTION SCHEDULE FOR THE CITY OF FAYETTEVILLE

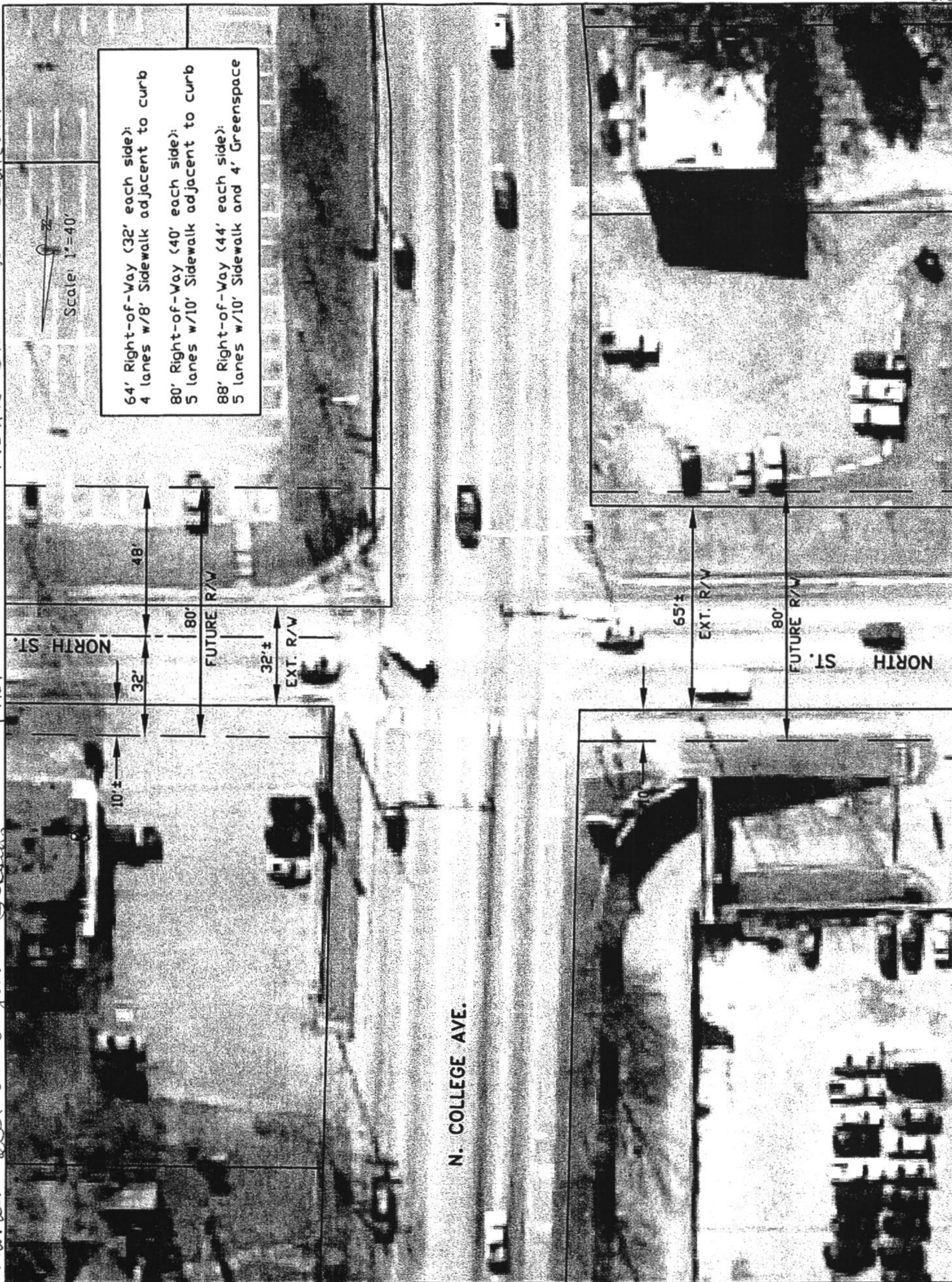
Document	Electronic	Paper Copy	Federal Government	State of Arkansas
COMMUNITY RESOURCES				
GDBG Files	P	1		
Code Enforcement Files	P	1		
Code Enforcement/Taxi Coupon Files	0	5		
DISTRICT COURT				
Adjustment Registers	10	1		
Arrest Reports	10	1		
Bond List	10	1		
Civil Case Registers	10	1		
Daily Receipts Registers	10	1		
End of Month Reports	10	1		
Paid in Full Registers	10	1		
Small Claims Registers	10	1		
ENGINEERING				
Land Record Easements (Recorded Documents)	P	1		
Plans & Specs	P	1		
Project Files	P	1		
Service Connection Records (Taps)	P	10		
FIRE DEPARTMENT				
Fire Daily Logs	5	1		
Fire Protection Plan	P	1		
HUMAN RESOURCES				
Applications for Employment (Non-Hired)	0	3		
Civil Service Files	P	1		3
Insurance Files	5	1		
Workers Comp Claims	P	1	30	
Terminated Employee Files	P	1		2
PARKING MANAGEMENT				
Notices (Overdue Parking Tickets)	3	1		
Parking Ticket Payments Posted	3	1		
Parking Ticket Register (Tickets Posted/Voided)	3	1		
Parking Violations (Actual Ticket & Envelope)	0	5		
Summonses	0	5		
PLANNING				
Planning Plat Files	P	1		
Planning Project Files	P	1		
Plans	P	1		
Sign Permits	3	1		
Zoning Compliance	P	1		
POLICE DEPARTMENT				
Arkansas Non-Compliance Forms	10	1		
Arrest Dispositions	10	1		
Case Files Misdemeanors, Rape, Homicide, etc.	10	1		
Cash Receipts	10	1		
Citations	10	1		
Division Payroll Records	10	1		
Officers Daily Reports	10	1		
Radio Logs	3	1		
Served Warrants	5	1		
State & Federal Crime Reports	10	1		
Traffic Accident Reports	3	1		

RETENTION SCHEDULE FOR THE CITY OF FAYETTEVILLE

Document	Electronic	Paper Copy	Federal Government	State of Arkansas
PURCHASING				
City Vehicle & Equipment Accident Reports	5	0		
Bid Files, RFP'S & RFQ'S	5	0	3	3
Insurance Policies	5	0		
Purchase Orders	3	0		
Vendor's W-9's	P	0		
TRANSPORTATION				
Street Work Orders	3	1	2	
WASTEWATER PLANT				
Discharge Monitoring Reports	P	5		5
Land Application Permit for the Noland WWTP	P	5		5
NPDES Permits for the Noland WWTP	P	5		5
NPDES Permits for the West Side WWTP	P	5		5
OMI Annual Report	P	5		5
WATER & SEWER MAINTENANCE				
Backflow Prevention Assembly Reports	P	5		5
Regulatory Agencies Correspondence	P	10		10
Sewer Work Orders	P	1		
Water Quality Reports (CCR)	P	10		10
Water Sampling Reports	P	10	10	10
Water Work Orders	P	1		

Handed out at Agenda Session

ADM 06-2322 North Street Row Dedication





tabbles®
EXHIBIT
A

— Transmission Main
— ROW
Wash Co Parcels (Fayetteville)

200 100 0 200 Feet

Map Documents: (S:\GIS\PROJECTS\A\GIS\Aerial\Aerial_Fayetteville_080108.mxd)
10/1/2008 - 11:44:18 PM



Fayetteville
December 2006

PROPOSED NATURE TRAIL ON 20 ACRE CONSERVATION EASEMENT

