

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy 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
January 2, 2007**

A meeting of the Fayetteville City Council will be held on January 2, 2007 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**

Oaths of Office of the 2007 Elected Officials – Judge Rudy Moore

Report on the Firemen's and Policemen's Pension and Relief Fund – Mayor Coody

Election of Vice Mayor: Lioneld Jordan was elected to serve as Vice Mayor.

A. CONSENT:

- 1. Approval of the December 5, 2006 City Council meeting minutes.**

APPROVED.

- 2. WSIP Deed Restriction Covenant:** A resolution approving the filing of a deed restriction for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by U.S. Army Corps of Engineers Section 404 Permit Number 14207.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 01-07.

- 3. Adjustable Frequency Drive Unit Purchase:** A resolution approving the purchase of one (1) Adjustable Frequency Drive Unit from WESCO Distribution, Inc. in the amount of \$31,891.85 for WSIP Subprojects WL-6, Hamstring Pump Station, and WL-7, Gregg Avenue Pump Station.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 02-07.

4. **Bell-Corley Construction, LLC Contract:** A resolution awarding a contract to Bell-Corley Construction, LLC in the amount of \$1,270,000.00 for the construction of two (2) corporate hangars at the Fayetteville Municipal Airport; approving a project contingency in the amount of \$63,500.00; and approving a budget adjustment in the amount of \$33,500.00 for same.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 03-07.

5. **Assistance to Firefighter's Fire Prevention and Safety Grant:** A resolution authorizing the Fayetteville Fire Department to apply for and accept a Department of Homeland Security FY2006 Assistance to Firefighters Fire Prevention and Safety Grant in the amount of \$12,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 04-07.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the December 19, 2006 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4966.

C. NEW BUSINESS:

1. **Northwest Arkansas Economic Development District Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$62,500.00 to provide public recreation services for the senior citizens of Fayetteville for 2007.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4967.

2. **Amend Chapter 174 & Chapter 153; Signs:** An ordinance to enact a replacement Chapter 174 Signs and § 153.08 (G) Signs to clarify sign regulations in Fayetteville.

THIS ITEM WAS LEFT ON THE FIRST READING OF THE ORDINANCE. THE ORDINANCE REVIEW COMMITTEE IS TO MEET AND DISCUSS ORDINANCE.

3. **Amend Chapter 159; Road Impact Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159: Fees by enacting § 159.05 Road Impact Fees of the Unified Development Code and to refer this ordinance to the voters for their adoption or rejection.

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

- 4. RZN 06-2366 (Wonnacott):** An ordinance rezoning that property described in Rezoning Petition RZN 06-2366, for approximately 1.50 acres, located at 655 and 657 north Genevieve Street from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4968.

- 5. RZN 06-2344 (Dunnerstock and Windsor SD):** An ordinance rezoning that property described in Rezoning Petition RZN 06-2344, for approximately 34.44 acres located at the northeast corner of Double Springs Road and Sellers Road, from R-A, Residential Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

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

- 6. R-PZD 06-2349 (Westbrook Village II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2349, Westbrook Village II, located at Salem Road and Clabber Creek Drive; containing approximately 1.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4969.

- 7. VAC 06-2362 (Springwoods):** An ordinance approving VAC 06-2362 submitted by H2 Engineering for property located at Lot 2 of the Springwoods C-PZD to vacate sewer and electric easements a total of 0.48 acres, in order to develop the Arbors at Springwoods Large Scale Development.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4970.

- 8. Aspen Ridge Expiration Date Extension:** An ordinance repealing and replacing Ordinance No. 4848, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2007.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4971.

D. INFORMATIONAL:

City Council Tour: None

New Year's Day Holiday – January 1, 2007 – City offices will be closed

Meeting adjourned at 7:15 p.m.

Adjourn 7:15 ^{PM} R

Subject: <i>Roll</i>					
Motion To:					
Motion By:					
Seconded:					
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody	✓			

8-0

Subject: <i>Vice Mayor</i>					
Motion To:		<i>Lionel Jordan</i>			
Motion By:		<i>Allen</i>			
Seconded:		<i>Lucas</i>			
<i>Lionel Jordan was elected as Vice Mayor.</i>	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

City Council Meeting January 2, 2007

Subject: <i>Consent</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Jordan</i>			
Seconded:		<i>Lucas</i>			
<i>Passed</i> <i>Res.</i> <i>01-07</i> <i>to</i> <i>04-07</i>	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject: <i>RZN 06-2336 Sloan-Brayles & Permission</i>					
Motion To:		<i>3rd read</i>	<i>Pass</i>		
Motion By:		<i>Jordan</i>			
Seconded:		<i>Lucas</i>			
<i>B.I.</i> <i>Unfinished</i> <i>Business</i> <i>4966</i>	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Mayor Coody				

8-0

8-0

Subject:		NW Arkansas Economic Dev. District Contract			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Cook	Jordan		
C. 1. New Business Passed 4967	Lucas	✓	absent during the vote	absent during the vote	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				
		8-0	7-0	7-0	

Subject:		Amend Chapter 174 & Chapter 153: Signs			
Motion To:		Left on the First Reading			
Motion By:					
Seconded:					
C. 2. New Business Left on the First Reading Ordinance Review Will meet to discuss	Lucas	Le			
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject: Amend Chapter 159; Road Impact Fees					
Motion To:		Left on the First Reading			
Motion By:					
Seconded:					
C.3. New Business Left on the First Reading	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject: RZN 06-2366 (Wonnacott)					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Ferrell		
C.4. New Business Passed	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
4968	Mayor Coody				

8-0

8-0

8-0

City Council Meeting January 2, 2007

Subject: R Z N 06-2344 (Dunnestock & Windsor SD)					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C. 5. New Business Left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

Subject: R - P Z D 06-2349 (Westbrook Village II)					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C. 6. New Business <u>passed</u>	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
4969	Mayor Coody				

8-0

8-0

8-0

City Council Meeting January 2, 2007

Subject: VAC 06-2362 (Springwoods)					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan	.	
Seconded:		Lucas	Lucas		
C. 7. New Business <u>Passed</u> 4970	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	Absent during the vote	✓	✓	
	Mayor Coody				

7-0

8-0

8-0

Subject: Aspen Ridge Expiration Date Extension					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Ferrell	Jordan		
C. 8. New Business <u>Passed</u> 4971	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Aldermen

Mayor Dan Coody

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D. INFORMATIONAL:

City Council Tour: None

New Year's Day Holiday – January 1, 2007 – City offices will be closed

A.3
**City of Fayetteville
Staff Review Form
City Council Agenda Items
or
Contracts**

A.3
Adjustable Frequency Drive Unit Purchase
Page 1 of 12

1/2/2006
City Council Meeting Date

David Jurgens
Submitted By

Wastewater Sys Imprvmnt Project
Division

Water/Wastewater
Department

Action Required:

Approval of a \$31,891.85 purchase for an Adjustable Frequency Drive Unit from WESCO Distribution, Inc., for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station. Funds are available in the 2007 WSIP project budget.

\$ 31,892

Cost of this request

4480.9480.5315.00

Account Number

02133-0314

\$ 118,765,766.00

Category/Project Budget

\$ 107,923,028.89

Funds Used to Date

\$ 10,842,737.11

Wastewater System Imp Project

Program Category / Project Name

Water and Wastewater

Program / Project Category Name

Water/Sewer

Budgeted Item

XX

Budget Adjustment Attached

Department Director

22 Dec 06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

12/28/06
Date

Finance and Internal Service Director

12-28-06
Date

Mayor

12/28
Date

Received in City Clerk's Office

ENTERED
12/28/06

Received in Mayor's Office

ENTERED
12/28/06

Comments:

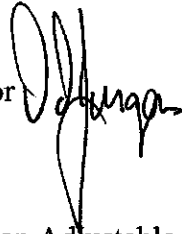
City Council Meeting of January 2, 2006

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water/Wastewater Director



Date: 22 December 2006

Subject: Approval of a \$31,891.85 purchase for an Adjustable Frequency Drive Unit from WESCO Distribution, Inc., for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station.

RECOMMENDATION

Fayetteville City Administration recommends approval of a purchase totaling \$31,891.85, for an Adjustable Frequency Drive (AFD) Unit from WESCO Distribution Inc., for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station. Funds are available in the 2007 WSIP project budget.

BACKGROUND

Large wastewater pumps are operated most efficiently by the use of adjustable frequency drive units that essentially act like a dimmer switch for the pump, controlling the flow to match the upstream and downstream requirements. This AFD will be used for two independent purposes.

While the new Gregg Avenue lift station, subproject WL-7, is being constructed, portions of the old lift station will have to be taken out of service to make room for the new structure. Only the larger pumps will be able to remain in service. These pumps are currently only used in wet weather, and must have the AFD in order to pump during low flow periods. Failure to use the AFD will result in significant and costly pipe and pump failures as well as increased odors at the Gregg and Old Wire Road lift stations.

For the new Hamestring pump station, these drives will be critical for safe and efficient operation of the pump station itself and for controlling the flow entering the West Side WWTP. The lift station has three of these drives being built in as part of the WL-6 project. After the new Gregg Avenue lift station is completed, this drive shall be used as a critical shelf spare for the new Hamestring lift station.

DISCUSSION

Four bids (bid tab attached) were received on 21 December, 2006:

Wesco Distribution	\$ 31,891.85 (low bid)
AMO Electric Supply	33,383.00
Carlton-Bates Co	36,118.75
Evans Enterprises	48,796.00
Original Estimate	\$60,000.00

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) ADJUSTABLE FREQUENCY DRIVE UNIT FROM WESCO DISTRIBUTION, INC. IN THE AMOUNT OF \$31,891.85 FOR WSIP SUBPROJECTS WL-6, HAMESTRING PUMP STATION, AND WL-7, GREGG AVENUE PUMP STATION.

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 one (1) Adjustable Frequency Drive Unit from Wesco Distribution, Inc. in the amount of \$31,891.85 for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station.

PASSED and APPROVED this 2nd day of January, 2007.

APPROVED:

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

Delivery is 6-weeks ARO.

City of Fayetteville
Bid 06-67, Variable Frequency Drive
Bid Form – (must be included with bid submittal documentation)

DATE REQUIRED AS A COMPLETE UNIT: 60 days from Date of Order

F.O.B. 1400 N. Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
1.	Cutler-Hammer Adjustable Frequency Drive : (or pre-approved equal): - Catalog Number CPX35014AAK2PF*L1 - CPX Series - 480V AC Volts - 350 HP FLA: 414 IVT - Enclosure: CPX NEMA Type 1 - Variable torque - Standard software	1	\$31,891.85	\$ 31,891.85

Please Specify for Unit(s) Bid: *MANUFACTURER: Cutler-Hammer MODEL: CPX35014AAK2PF*L1

TOTAL BID PRICE: \$ 31,891.85

EXECUTION OF BID -

Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: WESCO DISTRIBUTION, Inc.

*BUSINESS ADDRESS: 1210 E.S.I. Drive

*CITY: SPRINGDALE *STATE: AR *ZIP: 72764

*PHONE: 479-750-2188 FAX: 479-750-2150

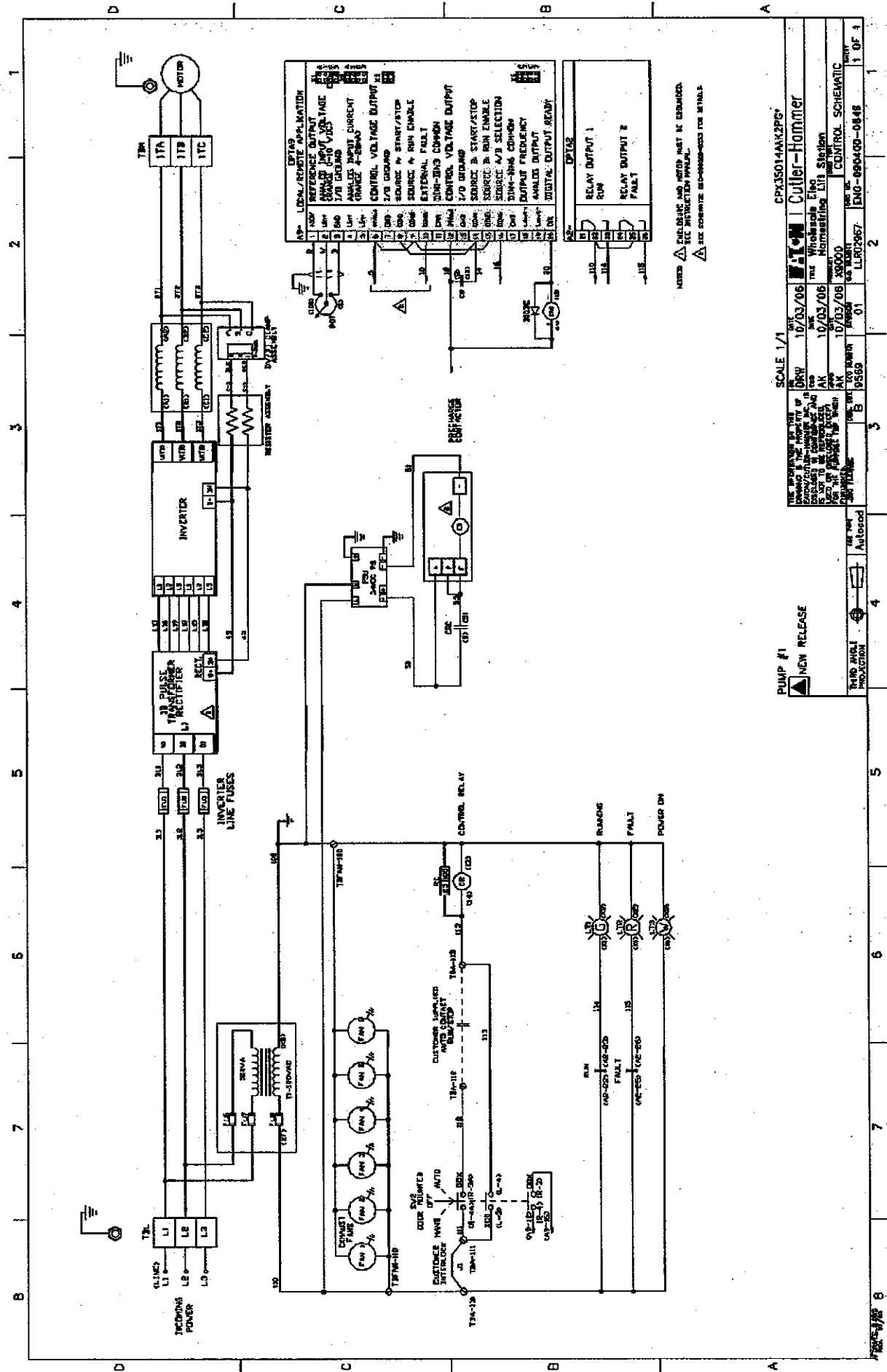
*BY: (PRINTED NAME) RICK SUTHERLAN

*AUTHORIZED SIGNATURE: Rick Sutherland

*TITLE: BRANCH MANAGER

**Bid 06-67, Variable Frequency Drive
Submittal Drawings**







**Bid 06-67, Variable Frequency Drive
Technical Data**

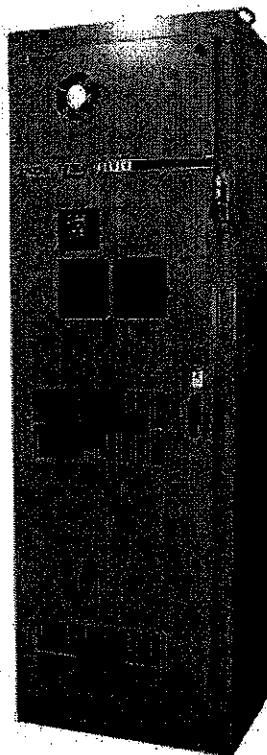
EAT•N

Cutler-Hammer

CPX9000 Adjustable Frequency Drives

Technical Data

November 2005
New Information



CPX9000 — 150 hp VT

Product Description

The Cutler-Hammer® CPX9000 Clean Power Drives from Eaton's electrical business uses advanced 18-pulse, clean power technology that significantly reduces line harmonics at the drive input terminals, resulting in one of the purest sinusoidal waveforms available.

Enhancements to the CPX9000 Clean Power Drives include smaller enclosures and higher temperature ratings than CP9000 for selected drives.

The CPX9000 drive also delivers True Power Factor — in addition to reducing harmonic distortion, the CPX9000 drive prevents transformer overheating and overloading of breakers and feeders, which enables the application of adjustable frequency drives on generators and other high impedance power systems.

CPX9000 Enclosed Products Program

- **Standard Enclosed** — covers a wide range of the most commonly ordered options. Pre-engineering eliminates the lead time normally associated with customer specific options. Available configurations are listed on **Pages 9 – 14**.
- **Modified Standard Enclosed** — applies to specific customer requirements that vary from the Standard Enclosed offering, such as the need for an additional indicating light or minor modifications to drawings. *Contact your local sales office for assistance in pricing and lead time.*
- **Custom Engineered** — for those applications with more unique or complex requirements, these are individually engineered to the customer's needs. *Contact your local sales office for pricing and lead time.*

Contents

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Features and Benefits	1
Application Description	2
Technical Data and Specifications	7
Catalog Number Selection	8
Product Selection	9
Options	11
Dimensions	15
Wiring Diagrams	18

Features and Benefits

New CPX9000 Clean Power Drive features include:

- 25 – 150 hp VT drives available in 30" enclosure
- 200 and 250 hp VT drives available in 48" enclosure
- 300 – 400 hp VT drives available in 60" enclosure
- NEMA Type 1, NEMA Type 1 with Gaskets and Filters
- Input Voltage: 480V
- Complete range of control, network and power options
- Horsepower range:
 - 480V, 25 – 700 hp CT;
 - 25 – 800 hp VT
- Over ten years of 18-pulse Clean Power experience



CITY OF FAYETTEVILLE

**113 W. Mountain St.
Fayetteville, AR 72701**

INVITATION TO BID

BID # 06-67

Variable Frequency Drive

BID #: 06-67

DATE ISSUED: December 14, 2006

DATE & TIME OF OPENING: December 21, 2006 at 2:00 PM

BUYER: Andrea Foren, Room 306 ~ (479) 575-8220

F.O.B. 1400 N. Fox Hunter Road, Fayetteville, AR 72701

Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.

City Of Fayetteville

(Not a Purchase Order)

Requestion No.:		Date:	
		12/22/2006	
P.O Number:		Expected Delivery Date:	
		3/3/2006	
Vendor #:	Vendor Name:	Mail Yes: No: XX	Quotes Attached Yes: No: XX
Wesco Distribution, Inc.			
Address:	Fob Point:		
1210 E. S. I. Drive	1400 North Fox Hunter Road		
City: Springdale	Zip Code: 72764	Ship to code:	
State: AR	Requester's Employee #: 490		
Requester: David Jurgens	Extension: 330		
Item Description	Quantity	Unit of Issue	Unit Cost
1 WSP- Subproject WL-6, Adjustable Frequency Drive Unit	1	EA	\$31,891.85
2			\$0.00
3			\$0.00
4			\$0.00
5			\$0.00
6			\$0.00
7			\$0.00
8			\$0.00
9			\$0.00
10			\$0.00
Shipping/Handling		Lot	\$0.00
Special Instructions:			
Adjustable Frequency Drive Unit Purchase			
Subtotal:		\$31,891.85	
Tax:		\$0.00	
Total:		\$31,891.85	
Fixed Asset #			
Inventory #			
Project/Subproject # 2133-0362			
Account Numbers 4480-9480-5801.00			

Approvals:

Mayor:

Finance & Internal Services Director:

Dispatch Manager:

Department Director:

Budget Manager:

Utilities Manager:

Purchasing Manager:

IT Manager:

Other:

ALDERMAN AGENDA REQUEST FORM

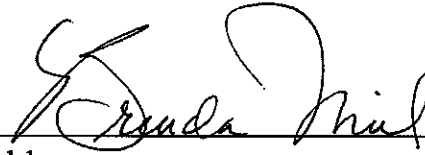
FOR: COUNCIL MEETING OF January 02, 2007

FROM: Brenda Thiel

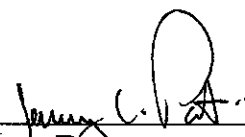
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

Aspen Ridge Planned Zoning District - Project Extension
AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO.
4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307
(ASPEN RIDGE)

APPROVED FOR AGENDA:


Alderman

12/28/06
Date


Jeremy Pate
Director of Current Planning

12-28-06
Date

Town Creek Construction & Development

RE: Aspen Ridge Townhomes

December 28, 2006

113 W. Mountain
Fayetteville, AR

Dear Alderwoman Thiel,

We would like to request an extension on the requirement for obtaining our building permits at our Aspen Ridge Project, located at 6th & Hill Ave in Fayetteville. We are currently completing the sidewalks on Phase I and we are working on the entrance area for Phase II.

The contractor that was formally employed by us has delayed the project. The site work subcontractor and the general contractor was unable to complete the work on time, due to poor performance and other delays from their lack of management on the project. Both of these companies have been terminated and we are currently working with new contractors for the remaining work.

We are requesting an extension of 180 days to complete all of the remaining civil work required. The landscaping around the buildings will be finished as the buildings are completed. We will also pave each of the alleyways as we complete each building section.

We appreciate your consideration in this matter and we are very excited about the future of this project. The continued improvements in the southern corridor of Fayetteville will greatly enhance all of the citizens of this area.

Sincerely,

Hal Forsyth
President
Town Creek Construction & Development, LLC

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: December 28, 2006

Subject: Aspen Ridge Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordinance repealing and replacing Ordinance No. 4848, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Aspen Ridge R-PZD and extending the expiration date for R-PZD 04-1307 (Aspen Ridge), with the condition that all building permits be obtained by the applicant prior to June 29, 2007 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The subject property contains approximately 27.929 acres, located in south Fayetteville, near the intersection of Hill Avenue and 6th Street. The City Council adopted an ordinance granting approval of a Planned Zoning District (R-PZD 04-1307) on the site on January 18, 2005. The combination zoning and development action allowed for the development of 220 condominium units in two phases, along with dedication of 0.86 acres for parkland and 0.36 acres of land for construction of a public trail through an old railroad corridor. A large tree preservation and deed-restricted wetland area along the floodplain of the on-site creek is also integrated with the project.

The subject Planned Zoning District was approved in January of 2005, prior to the adoption of the current Planned Zoning District Ordinance that allows for larger projects to request a more reasonable period of time in which to obtain building permits. When this project was approved, there was in place a blanket one-year time period in which to obtain all building permits associated with the project. The one-year time frame expired in January of 2006; the City Council approved an ordinance permitting an extension of that time frame for all building permits to be obtained by December 31, 2006, thus if all building permits are not obtained by this date, the project (and PZD zoning) will be null and void.

The applicant has installed a great deal of the required public infrastructure for this project, including most streets, sidewalks, curb and gutter, storm drainage, etc. However, in order for the applicant to obtain building permits for the project, all public

improvements have to be installed or guaranteed. The resulting guarantee in the form of a letter of credit, cash, or bond approaches \$500,000. All other requirements to obtain building permits for this project have been met. The applicant has indicated several issues with contractors have created delays in the past year.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process, also meeting all new submittal requirements. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately 180 days to expire on June 29, 2007. All building permits for Aspen Ridge PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND
REPLACING ORDINANCE NO. 4848,
EXTENDING THE EXPIRATION DATE FOR R-
PZD 04-1307 (ASPEN RIDGE) TO JUNE 29,
2007.

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 and replaces Ordinance No. 4848 that extended the approved plans to December 31, 2006.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2007.

PASSED and APPROVED this ___ day of ___, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

ORDINANCE NO. 4848

**AN ORDINANCE TO WAIVE § 166.20 EXPIRATION OF
APPROVED PLANS AND PERMITS FOR R-PZD 04-1307
(ASPEN RIDGE)**

WHEREAS, after the Aspen Ridge R-PZD was approved the City Council amended §166.20 to allow a greater period of time before an approved PZD must have all building permits issued; and

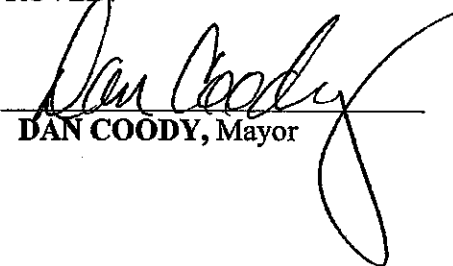
WHEREAS, Aspen Ridge is such a large R-PZD that construction of the streets, water mains, sewer mains, sidewalks, trail and other infrastructure improvements could not be accomplished so that all building permits could be obtained within one year of approval.

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

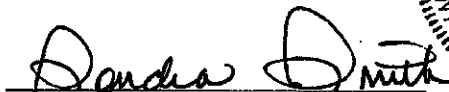
Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the one year time limitation of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 to obtain all building permits and extends that period to December 31, 2006.

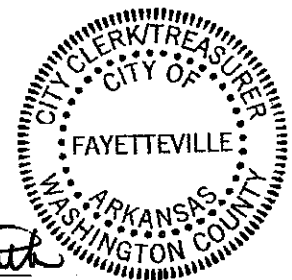
PASSED and APPROVED this 21st day of March, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



Page 28

3/21/06
4848

Waive 166.20/
R-PZ D04-B07

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

21-Mar-06

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extension for the Aspen Ridge Planned Zoning District until December 31, 2006.

\$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

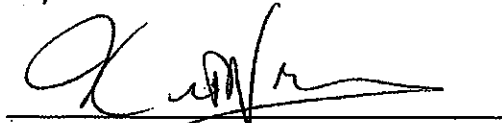
☐

Budget Adjustment Attached

☐

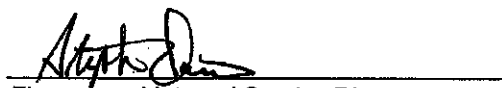
 3-2-06
Department Director Date

Previous Ordinance or Resolution # n/a

 3-6-06
City Attorney Date

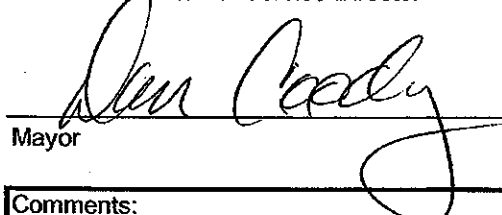
Original Contract Date: n/a

Original Contract Number: n/a

 3-6-06
Finance and Internal Service Director Date

Received in City Clerk's Office

ENTERED
3/21/06

 3/21/06
Mayor Date

Received in Mayor's Office

ENTERED
3/6/06

Comments:



Crafton, Tull & Associates, Inc.

901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.crafttull.com

March 2, 2006

Mr. Jeremy Pate
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

RE: PZD Expiration
Aspen Ridge
CTA Job No. 021111-00

Dear Mr. Pate:

On behalf of Mr. Hal Forsyth (a.k.a. Town Creek Construction & Development LLC), we request the city council's consideration to allow the construction of the Aspen Ridge project to continue. The approval for this project was conditioned on the PZD only being valid for one calendar year, and the approval was granted by the city council on January 18, 2005. The city staff approved the infrastructure construction plans on May 2, 2005 and construction proceeded shortly after that. Construction has continued steadily since that time, with the infrastructure on Phase I now nearing completion and work on the Phase II earthwork, drainage, utilities and streets on-going.

As you know, Aspen Ridge is a large and very complex project. Due to the size and complexity, completion of the project within a year of the PZD approval was not possible. Mr. Forsyth intends to obtain building permits for all of the buildings no later than December 31, 2006.

We appreciate your assistance with this project and ask that the city council look favorably on this request. When completed, we believe Aspen Ridge will be one of the premier housing developments in the region, aiding the city in its goal to revitalize south Fayetteville and setting a high standard for quality in the city.

Sincerely,

Crafton, Tull & Associates, Inc.

Matt Crafton, P.E.
Chief Operating Officer

ORDINANCE NO. 467.2

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-1307, ASPEN RIDGE LOCATED SOUTH OF 6TH STREET, WEST OF HILL AVENUE, NORTHEAST OF 11TH STREET ALONG TOWN BRANCH CREEK CONTAINING APPROXIMATELY 27.969 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION

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 04-1307 as shown in Exhibit "A" attached hereto and made a part hereof.

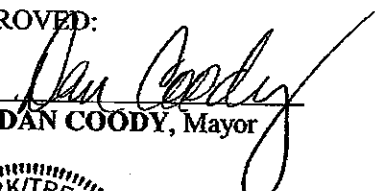
Section 2: That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on December 13, 2004.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the development plan have been met.

Section 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 18th day of January, 2005.

APPROVED:

By: 
DAN COODY, Mayor

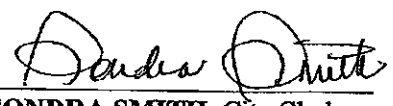
By: 
SONDRA SMITH, City Clerk



EXHIBIT "A"
R-PZD 04-1307

PART OF THE SOUTH ½ OF THE SW ¼ OF SECTION 16, AND A PART OF THE NORTH ½ OF THE NW ¼ OF SECTION 21, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°04'09"E ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21 A DISTANCE OF 5.92 FEET TO THE POINT OF BEGINNING; THENCE S87°04'09"E 418.49 FEET; THENCE S02°49'04"W 514.14 FEET; THENCE N87°04'09"W 424.40 FEET TO A SET ½" REBAR; THENCE S02°49'04"W 204.82 FEET; THENCE SOUTH 87°04'09"E 139.00 FEET; THENCE S02°48'48"W 293.00 FEET TO A SET ½" IRON REBAR; THENCE N87°05'54"W 183.58 FEET TO AN EXISTING IRON; THENCE S02°48'00"W 181.27 FEET; THENCE S87°04'02"E 84.31 FEET, THENCE S02°40'05"W 79.86 FEET; THENCE S37°07'40"E 39.06 FEET THENCE S07°40'05"W 15.00 FEET; THENCE N87°18'29"W 65.13 FEET THENCE S02°40'17"W 13.01 FEET; THENCE N87°13'13"W 222.57 FEET; THENCE N02°39'07"E 98.08 FEET; THENCE N87°11'50"W 222.77 FEET; THENCE N87°13'26"W 514.88 FEET TO AN EXISTING IRON ON THE EAST RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE ALONG THE EAST RIGHT OF WAY LINE OF SAID RAILROAD N35°29'31"E 52.81 FEET; THENCE N32°17'21"E 103.24 FEET; THENCE N28°25'22"E 103.51 FEET; THENCE N24°16'00"E 103.08 FEET; THENCE N21°19'30"E 102.24 FEET; THENCE N18°44'44"E 102.31 FEET; THENCE N17°42'23"E 150.90 FEET; THENCE N19°09'44"E 46.21 FEET; THENCE N19°55'12"E 130.59 FEET; THENCE N24°20'10"E 111.27 FEET; THENCE N28°56'24"E 112.03 FEET; THENCE N33°22'01"E 78.14 FEET; THENCE N36°27'09"E 61.08 FEET; THENCE N40°40'51"E 107.01 FEET; THENCE S86°14'53"E 62.45 FEET TO AN EXISTING IRON ON A 1381.79 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY AND CURVE 417.54 FEET, THE CHORD FOR WHICH BEING N51°38'45"E 415.96 FEET, TO AN EXISTING ARKANSAS HIGHWAY COMMISSION RIGHT OF WAY MONUMENT ON THE SOUTH LINE OF ARKANSAS HIGHWAY 180 (WEST 6TH STREET); THENCE ALONG THE SOUTH RIGHT OF WAY LINE OF SAID HIGHWAY S87°41'42"E 40.98 FEET TO AN EXISTING AHC MONUMENT; THENCE S87°40'49"E 26.16 FEET TO AN EXISTING AHC MONUMENT; THENCE S88°18'0"E 3.15 FEET; THENCE LEAVING SAID RIGHT OF WAY S01°44'50"W 153.30 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 315.50 FEET AND A DISTANCE OF 81.06 FEET; THENCE S16°28'1"W 8.54 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 215.50 FEET A DISTANCE OF 40.68 FEET TO THE POINT OF BEGINNING, CONTAINING 27.969 ACRES, MORE OR LESS, FAYETTEVILLE, ARKANSAS. THE ABOVE DESCRIBED 27.969 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF DUNCAN AVENUE, ANDERSON PLACE, HILL AVENUE AND ALL EASEMENTS AND/OR RIGHTS OF WAY OF RECORD.

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**City Council
Meeting Minutes
January 18, 2005**

A meeting of the Fayetteville City Council was held on January 18, 2005 at 6:00 p.m. in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

State of the City Address:

Mayor Dan Coody gave the State of the City Address. A copy of the address is attached.

Election of the Vice Mayor:

Alderman Lucas moved to appoint Alderman Jordan to serve as Vice Mayor. Alderman Marr seconded the motion. Upon roll call the City Council unanimously voted for Alderman Jordan to become Vice Mayor.

Board Appointments by the Fayetteville Housing Authority Board: Robin Ross & Deborah Olsen:

Alderman Marr moved to approve the Housing Authority Board appointments. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the Minutes: Approval of the December 7, 2004, December 28, 2004, January 4, 2005, and January 6, 2005 City Council meeting minutes.

The January 4, 2005 and the January 6, 2005 meeting minutes were pulled from the agenda.

ESRI, Inc. Annual Maintenance Agreement: A resolution approving the annual maintenance agreement in the amount of \$28,124.72 with ESRI, Inc. for Geographic Information System (GIS) software maintenance and upgrades.

Resolution 09-05 as Recorded in the Office of the City Clerk.

Hansen Technology, Inc. Purchase Request: A resolution approving a purchase request to Hansen Technology, Inc. in the amount of \$55,086.88 for 2005 service and maintenance fees.

Resolution 10-05 as Recorded in the Office of the City Clerk.

Pumping Unit Purchase: A resolution approving the purchase of one (1) portable, hydraulic-powered centrifugal pumping unit from Thompson Pump and Manufacturing Co., Inc. in the amount of \$24,431.50.

Resolution 11-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Wedington Drive): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed \$54,000.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Wedington Drive.

Resolution 12-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Razorback Road): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed \$22,800.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Razorback Road.

Resolution 13-05 as Recorded in the Office of the City Clerk.

Police Vehicle Purchase: A resolution authorizing the purchase of thirteen (13) Ford Crown Victoria Police Interceptors from the North Point Ford of Little Rock at a total cost of \$261,989.00.

Resolution 14-05 as Recorded in the Office of the City Clerk.

Insituform Technologies, Inc. Contract Renewal: A resolution approving a contract renewal with Insituform Technologies, Inc.; and authorizing the expenditure of an amount not to exceed \$338,250.00 for sanitary sewer lining services.

Resolution 15-05 as Recorded in the Office of the City Clerk.

South Fayetteville Community Development Corporation Fee Waiver: A resolution to waive the building permit fee and other developmental fees for homes to be constructed by the South Fayetteville Community Development Corporation.

Resolution 16-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda with the January 4 and January 6 meeting minutes removed. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

RZN 04-1330 (Dunnerstock): An ordinance rezoning that property described in Rezoning Petition RZN 04-1330 for property located on the west side of Ruppel Road containing approximately 19.84 acres from RSF-1, Residential Single Family, One Unit per Acre to RSF-4, Residential Single Family, Four Units per Acre. *This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.*

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

Mr. Williams read the ordinance.

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

Ordinance 4671 as Recorded in the Office of the City Clerk.

R-PZD 04-1307 (Aspen Ridge): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1307, Aspen Ridge located south of 6th Street, west of Hill Avenue, northeast of 11th Street along Town Branch Creek containing approximately 27.969 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and Development Plan as approved by the Planning Commission. *This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.*

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

Mr. Williams read the ordinance.

Alderman Cook stated he would have to recuse from this vote.

Alderman Thiel: I would like to compliment Mr. Broyles, the owners and the other developers of this project. They have gone out of their way; I think Mr. Broyles has in particular, visiting with the neighborhood and addressing the impact of the stream. They have also worked with the Audubon representatives on ways they can protect and enhance the water way. I have had and the neighborhood has had a lot of concerns about potential flooding at this project. The more I have visited with Mr. Broyles and looked at this project, we have to depend upon the engineers that they will design this properly. The city has a good staff of engineers that will oversee this project. They have to guarantee that they will not increase the problem; they can't guarantee that they will make it better but they have to guarantee that their project will not increase it. One thing that has been pointed out is that the water way will probably, through this project, stay much cleaner than it has over the past few years. Some of the debris and so forth that gets in this water way contributes to some of the flooding downstream. I think that in itself is valuable that the stream will be kept cleaner. I at this point will probably support this project. I think it will certainly enhance that neighborhood. I am really glad that most of the project is going to be owner occupied; I think that complements that neighborhood.

Mitch Woody: I am all for this project. Most of the residents that live around there feel like it is a lot better to have beautiful town homes than to have what was there before. The Planning Commission, Mayor and city officials have done a lot of hard work to make this project go through. As a former real estate broker from Texas I can appreciate that hard work.

He handed out a packet to the City Council that showed the extension of Brooks Avenue from Phase 2 of Aspen Subdivision. It shows that Brooks Avenue will be built and tie in with Twelfth Street. He said there are 12 families living on Twelfth Street and that they are very happy with the way it is now but progress has to go on. It is a dead end street right now. He is concerned with the possibility of in the future extending Brooks Street all the way to Fifteen Street. Originally when the subdivision was platted to show the street, Brooks Avenue was going all the way to Fifteenth Street, it was vacated back to the property owner in 1993. He said as it stands right now the only options that we have would be to tie it in with Twelfth Street which wouldn't be that bad.

Mr. Woody explained the map that he presented to the City Council and the different routes around this area. He also discussed the traffic study that was completed in this area. He stated he did not feel the numbers were accurate. He stated the engineers are from Little Rock and it is difficult for them to tell what the traffic flow actually is. He stated he is concerned about their numbers.

I am not here to try to put a halt to this. I believe the project should go through rapidly. I just wanted to let everyone know how we feel around the neighborhood. Mayor Coody indicated

today that Mr. Dumas and Mr. Pate were going to try to put together a package for the Mayor so the Mayor could contact Pinnacle at some future date and see if they wouldn't agree to donate a strip of land through there for the street. Of course we couldn't ask the developer to come back and put a street in after everything is already done. Mr. Dumas suggested that the City might later put in a street through a street improvement project. It is really needed. I would like to thank the Mayor for working with us and talking to Pinnacle.

Mayor Coody: I did hear from Pinnacle this afternoon and they said the immediate answer was no but they were going to kick it up the chain of command.

Mitch Woody: Whatever you can do in the future. I would hope that the City Council would agree that that street is needed. Thank you so much. I know it is a lot of hard work and this is a great project.

Aubrey Sheppard a resident of the neighborhood: I agree with most everything everybody said. I was asked the last time I was here who has problems with this. I said a lot of people feel that if they take the trouble to come down they do not think they will be listened to. That is a fact. I talked to one lady and she stated if she comes here and tells people how close that water came to her house three different times last year and she decides to move and sell, she might not be able to sell her home because the water goes almost out to the street without getting in her house. Just a little bit of change in the floodplain up stream could make that difference that is something hard to guarantee. It is close to being dangerous anytime you live in a floodplain or very near one. When these houses were built it wasn't a dangerous situation because we didn't have all the paving on the University campus or a lot of things built up there. Each project that is done from now on and as it has been for years will increase, as it has, the potential of flooding downstream. That is why we spoke with Mr. Broyles many times and with this Council about the significance of being sure that we don't increase it at all if possible. We can't keep a 10 inch rain from coming and we can't guarantee it won't get up a little higher than it ever has even now. It is sort of like the global warming argument even if mankind's acts are not causing it then maybe we still need to be sure that what we do choose to do doesn't aggravate it, if it is occurring naturally. We know it is occurring for come reason.

He showed the Council some photographs of the property and the water that floods the property.

Alderman Rhoads: Are these the same photographs that are on your website?

Aubrey Sheppard: One of these is on the website the other one isn't.

Alderman Rhoads: Mr. Sheppard are you contending that you are very certain that because of this development that all these things are going to happen. That people's homes are going to be flooded or that it is just a possibility.

Aubrey Sheppard: Three times last year the water got very near property.

Alderman Rhoads: Are you contenting it is just a possibility or are you fairly certain that it is going to happen?

Aubrey Sheppard: Well, I don't make it rain so I am not going to make it happen but rain comes and if it should come as it did three times last year and get out of the banks then it's basically a slew parallel to the town branch.

Alderman Rhoads: Have you talked to the developers about this issue?

Aubrey Sheppard: Sure. We talked about it first last April as I recall.

Alderman Rhoads: What did they say?

Aubrey Sheppard: They are hoping their engineers get it right so that it can't happen. What I was pointing out, that I am not sure the engineers concluded, was that the over flow when the creek gets up as it did last year, then the water gets out there. If that doesn't occur, water goes down stream faster.

Mayor Coody: Mr. Sheppard what is your recommendation to the City Council? Are you asking the Council to deny the development?

Aubrey Sheppard: Not at all. I am not sure I am doing anything but maybe talking about the future. When you look at developments and when your engineers get plans in, in a water shed area that may not be identified on a map as an over flow or flood plain area it may not say wet land. The Corp of Engineers and the Department of Environmental Quality get their information from what the engineers give them from the site. I think they are hoping that it will not cause any problems. I don't think that they would willingly create that problem. I would ask them to adjust those plans a little bit to see that as much of the flood plain is there to allow the water to flow as it does now. That could possibility help the situation.

Mayor Coody: I know this development has been in the works for about two years and they have done a lot of changing to the plans. They have worked with our storm water engineers and the neighborhood extensively to make something that would be palatable to pretty much everyone.

Aubrey Sheppard: Some of us in the neighborhood have tried to be available every chance we had to visit with them and look at things with them and they have been very good about that, this is not a complaint about that at all. Planning Commission when this was finally announced put one sign on Sixth Street, that didn't show the people that there was development coming anywhere else down the street or anywhere connected to it. So, people didn't know they should come to comment except when they were told it would affect them. There was one story in one of the newspapers that actually mentioned the limits of this development site. I would say we need to notify more people not just adjacent property owners. Thank you.

Mary Bassett, owner of Bassett Mix Real Estate Company stated she appreciated the opportunity to speak. She said she is very familiar with this property and what it looked like before the developers bought it. She stated none of this property was listed. She represented the developers in acquiring it; they went to each tract of land individually and approached them about selling their property. The majority of them got more financial gain by these developers.

buying their property. They gave more than the appraised value for many of these properties to accumulate the property to make it a whole 30 acres that they could develop in a feasible way and to help in the redefining of south Fayetteville. She stated it is going to be a beautiful project and she is very proud to represent them.

Melissa Terry with Audubon Arkansas: The developers have been very good about working with us. Audubon has tried to be a third party to help broker some of this discussion. I think a lot of the tension that has come up is a natural consequence of some of these downtown areas getting infilled. The reason they weren't in the first place is because they were problematic environmentally. Audubon has over the past year and a half worked with the developer and the neighborhood association. We have invested approximately \$200,000 in grant funds along this drainage. We see this as an investment in green infrastructure, a piece of infrastructure that's just as important as the city sewer or cable. This infrastructure has vital long term economic consequences for our community. We will do everything we can to keep working with the parties and I ask for your support as we go along.

Alderman Lucas: You had originally recommended 28 feet for that street with the idea that it would be going on to Fifteenth. Should we go back to 28 feet, does that allow a turn lane or why were you recommending 28 feet?

Jeremy Pate: The initial recommendation for 28 feet would allow on street parking. We were looking initially at the number of traffic that would be generated and the potential for it to get to Fifteenth Street. That would probably become much more of a through connection south to Fifteenth Street. The Planning Commission voted to recommend that go to 24 feet; it is just connecting to Twelfth. As the traffic study indicates only about 4% of the traffic will leave Phase 2 along Brooks and then Twelfth Street to go south. I feel comfortable recommending the 24 foot wide street as the Planning Commission has also indicated.

Alderman Lucas: Does that allow a turn lane later?

Jeremy Pate: It does not.

Larry Smith voiced his concern about the traffic.

Alderman Thiel: We should be very cautious whenever we vacate streets and alleys. This is a good example of no one foreseeing this project. I hope everyone understands that this is not something that we can do without condemning that property and paying money for it. I hope everyone understands that our hands are kind of tied in trying to make this extension.

Alderman Reynolds: Brenda and I have spent a lot of time in this area, we have done a lot of extra clean ups, we have taken tons of trash out of this area. When I heard Mr. Broyles was going to come in and take out these eyesores, which was the worst nightmare this city has ever had, those two parks, I thought it was a blessing for us and for our neighborhoods. For him to take on a project this size, you are not always lucky enough to get a home town guy to do a job like this. I know he is going to do a good job and he is going to do it right. I am going to support the project and I hope the neighbors do too at this point.

Alderman Marr: I want to thank the Audubon, the neighborhood association and the developer for working together because I do believe we need to push infill development in our city. I think it keeps us from annexing and putting in infrastructure outside of the core that cost us a lot more than continuing to invest in areas that are already there. I do realize we are going to have some difficult situations in doing that. I think it takes creativity to get through that, I appreciate the people who have done that. I am thrilled that we are having an infill project in south Fayetteville.

Alderman Jordan: I want to be sure that a 24 foot wide street is going to work. I am a big proponent of planning and what might occur. In your expert opinion we do not need a 28 foot street?

Jeremy Pate: A 28 foot wide street is considered a local street it handles 3,000 to 5,000 vehicle trips per day. That is not something we anticipate in this area. The 24 foot wide street in our Master Street Plan is considered a residential street and is probably more appropriate in this area. Most of the streets are actually a little wider and Twelfth Street is approximately 31 feet wide. It was developed like that to meet our ordinances in the past. The amount of traffic will probably never get to that point. We feel it is an adequate number at this point. It will allow for on street parking. Many of the streets downtown that handle much the same amount of traffic are the same width or narrower.

Alderman Lucas: If we do get the street through to Fifteenth Street will there be room for a turn lane?

Jeremy Pate: Yes that could be accommodated.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Cook recused.

Ordinance 4672 as Recorded in the Office of the City Clerk.

Downtown Master Plan Redevelopment District Number Two Adoption: An ordinance forming the Downtown Master Plan Redevelopment District Number Two pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan. *This ordinance was left on the first reading at the January 4, 2005 City Council Meeting.*

Mayor Coody: I suspect this will be tabled at this meeting?

Kit Williams: Mr. Mayor I think you are correct on that, at this point until we have some resolution from the legislative or more likely from the courts I think that the TIF Districts, all of them in the State are kind of up in the air. My recommendation would be that you simply move to table this district indefinitely and then if something changes in the future we can bring it back.



PC Meeting of December 13, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Senior Planner
Brent O'Neal, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: December 08, 2004 Revised 12-16-04

R-PZD 04-1307: Planned Zoning District (ASPEN RIDGE, 522/561): Submitted by MATT CRAFTON CRAFTON, TULL & ASSOC. for property located at THE SW CORNER OF HWY 62, S ON HILL AVENUE AND BORDERED BY 11TH STREET AND THE BURLINGTON NORTHERN RR. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 27.969 acres. The request is to approve a Residential Planned Zoning District with 220 condominiums in two phases proposed.

Property Owner: HANK BROYLES

Planner: JEREMY PATE

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
Date: <u>December 13, 2004</u>	☒ Approved	☐ Denied
	8-0-0	
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☐ Approved	☐ Denied
Date: <u>January 04, 2005 (1st reading if recommended)</u>		

Findings:

Property Description: The property consists of a total of 27.969 acres located in south Fayetteville, south of Hwy 62 (6th Street), west of Hill Avenue, east of the Railroad, along Town Branch Creek. The property previously was inhabited by a mobile home park, which was recently removed by the applicant. Several tons of trash, debris, tires, etc. were separated and removed from this property, beginning the cleaning up process. A total of 49 mobile homes and 6 single family homes were removed in an effort to combine the property for development. The applicant has contributed much time and money in an effort to clean this particular site, which is not readily recognized in the development review process. Approximately half of the site is underneath tree canopy, the majority of which is located along College Branch Creek, a stream

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that bisects the site north and south. This stream, and associated runoff from surrounding development, has been the source of many neighborhood concerns in past years, due to high water, flooding and debris being washed into and down the creek during heavy rainfalls. There are existing wetlands in the area, as well, much of which the developer is proposing to retain or enhance.

Existing Development: The site is currently vacant, with remnants of the previous mobile home park development evident.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Hwy 62 – 6 th Street, busy arterial	RMF-24, C-2
South	Pinnacle Foods, Single Family homes, approved MF development	I-2, RMF-24
East	SF homes, Coors, Brenda's Burgers	RMF-24, I-1
West	Burlington-Northern Railroad	RMF-24

Proposal: The applicant requests a rezoning and large scale development approval for a residential development within a unique R-PZD zoning district. The proposed use of the site is for a condominium-style development consisting of 220 attached residential dwelling units. Two separate phases are identified. Phase I consists of 113 units on the east side of College Branch Creek, and Phase II consists of 107 units on the west side of the creek. A future Phase III consisting of mixed-use office/retail/commercial is indicated on the site plans at the corner of 6th Street and Hill Avenue, but is not the subject of this request.

Process: Currently, the project proposal is submitted as one large tract of land, consisting of 27.969 acres. There are several independent parcels that create this tract, all of which are being combined into one for the purposes of development. Plans consist of all proposed buildings, parking, driveways, public and private streets, landscaping, tree preservation and mitigation, wetland mitigation, parkland dedication, trail construction, public utility extensions, etc., typically reviewed with a Large Scale Development. The developer intends to construct the project much as a typical multi-family development, with all structures, public infrastructure and utilities being constructed simultaneously. Though the process by which the request is being reviewed is a Large Scale Development consisting of 220 *condominiums*, the intent is to sell each of the 220 *townhomes* as a single-family residence and plat each townhome as a separate lot once the infrastructure has been constructed and the exact locations of the buildings are set in the field.

To clarify, a condominium and townhome are distinct from one another: **Condo unit owners own the inside of their units. Townhouse owners own the complete unit, including exterior surfaces and the land on which the unit is built.**

Condominium: a multiple-unit complex, the units of which are individually owned, with each owner receiving a deed to the unit purchased . . . and sharing in joint ownership of any common grounds, passageways, etc. (through an established POA/HOA) (*paraphrased from Webster's*

College Dictionary, 1991). This type of dwelling unit typically does not have land attached to its deed, it is merely the unit alone, inside the walls of the structure.

Townhome: a row house on a small lot, which has exterior limits common to other similar units. Title to the unit and its lot is vested in the individual owner with a fractional interest in common areas, if any. (Source: *mortgagewarehousemb.com*) A **townhouse** is a home that is attached to one or more other houses, but which sits directly on a parcel of land that you also own (if you don't own the land, it is a **condominium**).

In order to plat individual lots for the townhomes in the future, an amended Planned Zoning District plat will have to be processed and approved by the Planning Commission and City Council, at that time. This will likely take the form of a Concurrent Plat, if it meets the appropriate criteria. Otherwise, a Preliminary and Final Plat process will be required.

Proposed Land Uses:

- Use Unit 1: City-wide Uses by Right
- Use Unit 8: Single Family Dwellings
- Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.

The total proposed number dwelling units on the 27.969-acre site is 220, therefore the proposed density for the R-PZD is 7.87 DU/acre. The project site is currently zoned RMF-24, allowing for a much higher density of development as a traditional multi-family complex. The potential for a townhouse-style division of land, the inclusion of the public trail system, a public park, a large Tree Preservation and riparian corridor protection area, the challenges presented by existing natural conditions (drainage, slope and railway); all of these contribute to the need to process a Planned Zoning District in order for the best project to result for both the applicant and the city.

Building Setbacks: Building setbacks are proposed as indicated on the plat. Most setbacks are 8' or 10', with an exception at the 6th Street frontage (20 feet) and Duncan/11th Street frontage (25 feet).

Building Height: Maximum building height shall be 40 feet.

Greenspace: 51.6% Impervious (greenspace), 48.4% pervious (streets, buildings, trail, parking)

Wetlands: A small percentage of wetlands on the property are being filled and mitigated for in the riparian corridor along Town Branch Creek. As part of the Corps of Engineers permit to do so, a buffer area is to be deed-restricted for protection from future development. A portion of this area will also serve as the Tree Preservation and mitigation area.

Water & Sewer: Water and sewer lines are being extended to serve the development. The applicant is extending public lines to service each unit individually, in order to legally subdivide the property in the future.

Access: Access is from several streets in the area:

North: 6th Street (one-way entrance and exit, with a right-turn only allowed when exiting)

South: Phase I has no access across the creek.

Phase II : 11th and Duncan

: Brooks Avenue and 12th Street. This separate access point is recommended to provide a safe means of access into Phase II and alleviate potential congestion at the intersection of 11th and Duncan.

East: Phase I access east to Hill Avenue.

Phase II access south and east onto Duncan/11th/12th Streets.

West: No access is available over the railroad.

The ingress/egress to the proposed 113 units in Phase I is from 6th Street and Hill Avenue. Based on a traffic study prepared for this project, a turn lane and widening of the intersection is warranted at Hill and 6th Street due to the increase in number of vehicle trips per day, and plans by the developer have been prepared accordingly. Ingress and egress to Phase II is more difficult, due to the lack of frontage for this particular parcel. Staff has recommended, and the developer consented, to constructing an additional means of access within platted right-of-way known as Brooks Avenue, to connect to the portion of 12th Street that is constructed. The other entrance to this phase is at the corner of 11th and Duncan, which has been reviewed and determined to be satisfactory by the Engineering Division.

Interior to the project, public streets are being provided within a varying right-of-way, with sidewalks on both sides in most cases. Staff recommends that where possible, the sidewalk be located at the right-of-way line, with a minimum distance of six feet from the curb, to meet Master Street Plan requirements.

Adjacent Master Street Plan Streets: 6th Street (Principal Arterial), Hill Avenue, 11th Street, Duncan Avenue (Historic Collector)

Street Improvements: Staff recommends street improvements to surrounding streets to bring them to a safe and adequate level of service for the additional units proposed in this area. A significant number of units are being added to this area, and much of the property being developed has no direct frontage onto adjacent right-of-way. The following are staff's street improvement recommendations for the developer to meet ordinance requirements for this development's proportionate share:

- Repair the broken pavement on 11th Street, directly south of the proposed intersection at the corner of 11th and Duncan, as part of the improvements to this stretch of street.
- Continue the existing sidewalk on the north side of 11th street to connect the proposed sidewalk on Greystone Drive (approximately 20 feet).
- Complete the curb and gutter on the south side of 11th street from the bridge west to the constructed curb/gutter. Minimum street width should be 24 feet, face of curb to face of curb (approximately 240 feet in length).
- Widen the intersection at Hill Avenue and 6th Street, including a turn lane, the cost of relocating traffic signals and any necessary costs to add a left-turn signal to the existing

signal system. (Recommended in traffic study)

- Improve that portion of Hill Avenue adjacent to the subject property where necessary, to conform to City specifications. A six-foot sidewalk is required, at the right-of-way line.
- Relocate the sidewalk along 6th Street to transition from the railroad bridge to the Master Street Plan right-of-way line along the frontage of this project.
- Construct a secondary means of access to Phase II; The applicant proposes to construct a 24-foot wide public street within existing platted right-of-way of Brooks Avenue and turning south to connect to 12th Street. The Master Street Plan calls for a 28-foot wide street in this location, based on the platted right-of-way and number of vehicle trips per day to be generated. The applicant disagrees with this recommendation, stating the Traffic Study indicates only 4% of all traffic from Phase II will utilize Brooks Avenue. Based on this same report, the following is applicable:
 - Phase II will generate approximately 627 vehicle trips per day.
 - Figure 3 of the Traffic Report indicates slightly more vehicles will travel south from Phase II than north (358 vs. 303) in a 24 hour period.

A 24-foot wide Residential Street is designed to serve a range of 300-500 vehicles per day, maximum. Should ½ of the traffic within Phase II of the development travel south, many of them will utilize the Brooks Avenue access. Typical traffic calculations by the City of Fayetteville, when two access points are provided, are based on ½ of the traffic potentially traveling in either direction. This would result in approximately 313 vehicles trips per day accessing the Brooks Avenue access. Additionally, the street to be constructed to provide the only secondary means of access to this site also fronts onto other properties that are vacant and have the potential to develop in the future, thereby increasing their volume. A Local Street, by contrast, is developed with a 28-foot width and can support up to 4,000 vehicles per day, per the Master Street Plan. Staff recommends a 28-foot wide street be constructed, to transition to the existing 31-foot wide 12th Street. This is based on providing a safe and adequate means of access to the proposed development, planning for this development along with potential other developments in the area that may access the street, and Master Street Plan requirements.

<i>Tree Preservation:</i>	Existing:	52.5%
	Preserved:	15.1%
	Mitigation:	On-site mitigation, to 25% minimum

Parks: The Parks and Recreation board recommends a combination of money, land and services to meet park land dedication requirements. This will include 0.36 acres of land on which a 12-foot public trail is to be constructed by the developer, per the City of Fayetteville specifications. In addition, approximately 0.86 acres of land on the southern edge of the property is to be dedicated as a public park. *Credit will be applied to the developer to account for 55 existing inhabited homes that were removed from the property.* If remaining fees are due above and beyond the requirements herein, they will be applied to amenities for the park.

Temporary Office Space: The applicant proposes to operate one (1) temporary office within the development specifically for the purpose of selling townhomes for Aspen Ridge. One of the constructed units in the Phase I area will be used as the location of the sales office, with office hours of Monday through Friday, 8 am to 8 pm, Saturday and Sunday 10:00 am to 6:00 pm.

Once all of the units in the development are sold, the sales office will be closed and sold as a single-family residence.

Neighborhood Involvement: The applicant has met several times with adjoining property owners and neighbors on Duncan, both in groups and individually. Much concern has been voiced regarding the drainage and flooding problems associated with the Town Branch Creek. Many of the homes that are adjacent to this creek are within the 100-year floodplain or floodway. The developer has been involved with his engineers from the beginning of the process to best address these concerns, and others voiced by the neighborhood. Though not all are pleased with all aspects of the proposal, staff has received numerous calls from residents in this area pleased with the clean-up effort, removal of the mobile home park and the efforts to better the drainage situation, along with the proposal for single family attached units, rather than typical multi-family units that are allowed by right on the property.

A draft of the future plat of lots, as well as the applicant's response to the Planned Zoning District requirements and description of the project have been submitted and are included in the staff report.

Recommendation: Staff recommends the Planning Commission forward R-PZD 04-1307 to the City Council with a recommendation of approval for the requested rezoning and associated development plans, with the following conditions of approval:

Conditions of Approval:

1. Allowed uses in this R-PZD shall be restricted to Use Unit 1: City-wide Uses by Right, Use Unit 8: Single Family Dwellings and Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.
2. Planning Commission recommendation for future vacation of portions of existing Duncan Avenue and Anderson Place rights-of-way to facilitate the proposed development. *Staff recommends approval of the vacation of these platted rights-of-way, due to the changes in circulation proposed with the submitted site plans. The connection these two streets make will be in an improved configuration, with a boulevard section that enters into this neighborhood.* PLANNING COMMISSION DETERMINED IN FAVOR OF THE RECOMMENDED FUTURE VACATIONS.
3. No structure shall be permitted that falls into existing platted right-of-way. Formal vacation requests for Duncan Avenue and Anderson Place shall be submitted prior to permitting of affected buildings.
4. Planning Commission determination of the applicant's request for a temporary sales office. *Staff recommends approval, with the following conditions: One (1) dwelling unit shall be permitted to house a temporary sales office for the sole purpose of selling dwelling units within the Aspen Ridge Planned Zoning District. The sales office shall appear in all manners as a dwelling unit, and shall cease operation and revert to its intended use as a single family residence once the remaining units have been sold.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE REQUESTED OFFICE.

5. Planning Commission determination of appropriate off-site street improvements. *Staff recommends the following improvements for this development:*

- Repair the broken pavement on 11th Street, directly south of the proposed intersection at the corner of 11th and Duncan, as part of the improvements to this street being utilized for primary ingress and egress, to the satisfaction of the Engineering Division.
- Continue the existing sidewalk on the north side of 11th street to connect the proposed sidewalk on Greystone Drive (approximately 20 feet).
- Complete the curb and gutter on the south side of 11th street from the bridge west to the constructed curb/gutter. Minimum street width should be 24 feet, face of curb to face of curb (approximately 240 feet in length).
- Widen the intersection at Hill Avenue and 6th Street, including a turn lane, the cost of relocating traffic signals and any necessary costs to add a left-turn signal to the existing signal system. (Recommended in traffic study)
- Improve that portion of Hill Avenue adjacent to the subject property where necessary, to conform to City specifications. A six-foot sidewalk is required, at the right-of-way line.
- Relocate the sidewalk along 6th Street to transition from the railroad bridge to the Master Street Plan right-of-way line along the frontage of this project.
- Construct a secondary means of access to Phase II; *The applicant proposes to construct a 24-foot wide public street within existing platted right-of-way of Brooks Avenue and turning south to connect to 12th Street. Staff recommends a 28-foot street to meet Master Street Plan requirements for the vehicle trips per day generated by this development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE
RECOMMENDED STREET IMPROVEMENTS, WITH A 24-FOOT WIDE
STREET FOR BROOKS AVENUE.

6. Atypical interior street widths, sidewalk location, etc. shall be reviewed and approved by the Engineering Division at the time of more detailed construction plan review, to ensure emergency service vehicles, public service providers, solid waste, etc. is able to access the proposed development.
7. A combination of land, money and services shall be contributed by the developer to meet parkland dedication requirements, including 0.36 acres for a public trail, construction of said 12-foot wide trail, 0.86 acres land dedication for a park and all remaining fees due in excess of the above requirements for 220 units to be utilized for park amenities. *Credit in the amount of \$30,525 (55 units * \$555/unit) will be applied to the developer to account for 55 existing homes that were removed from the property prior to development.* All fees and deeds for land shall be submitted prior to building permit.

8. The developer shall mitigate for the removal of 115,440 sf of tree canopy to meet Tree
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Preservation ordinance requirements. On-site mitigation shall consist of a minimum of 420 trees. If all trees can not be planted on-site, the balance shall be contributed into the Tree Fund, as determined by the Landscape Administrator.

9. Specific location of the on-site mitigation trees shall be coordinated with the Landscape Administrator for approval. Several sites exist on the property where mitigation trees could benefit the overall development and enhance the creek corridor, currently not indicated on the plans.
10. The property line adjustments to create the described 27.969-acre parcel shall be processed, approved and recorded prior to this item appearing before the City Council for consideration.
11. Staff recommends a second pedestrian path be constructed from approximately between buildings 35 and 36 in Phase II to connect to the public trail through an existing creek crossing (see plat). A hard-surface (concrete or asphalt) path is desired. However, at minimum, the path shall be constructed of a 4" minimum depth shredded mulch (or equal) with appropriate edging on both sides. Trail slope, width, location through existing tree canopy and specifications shall be approved by the City prior to construction.
12. Signage for the development shall be limited to one (1) monument sign at each of the three primary entrances to the development. Sign size, location, height, etc. shall be limited to the monument sign restrictions in an RMF zoning district, per city code. (Maximum 16 square feet display surface area, six feet in height, 10 feet from the property line).
13. All dumpsters shall be enclosed on a minimum of three sides with access not visible from the street. Landscape screening as shown shall be required.
14. No structures shall be constructed over public utility easements, per city ordinance (including, but not limited to, trash enclosures).
15. Should the applicant desire to subdivide the land to create townhomes, an amended Planned Zoning District will be required. The development review process will likely be a Concurrent Plat, if all criteria are met. If not, a standard Preliminary and Final Plat will be required to subdivide the property.
16. All comments as itemized in the attached memo from the City Floodplain Administrator shall be addressed at the appropriate time and are considered, by reference, a part of the official Conditions of Approval (see attached).
17. The maximum separation for fire hydrants shall be 500 feet in distance.
18. Entrances into the subject property shall utilize a minimum width of 20 feet clear, to allow for the passage of emergency vehicles.

19. Maximum spacing for public street lights shall be 300 feet, along the proposed and existing public streets.

Standard Conditions of Approval:

20. 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)
21. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
22. Planned Zoning District approval shall be valid for one calendar year, per city ordinance.
23. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
24. Prior to the issuance of a building permit the following is required:
- a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §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: yes Required

Date: December 13, 2004

✓ Approved Denied
8-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Date _____

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
December 5, 2006**

A meeting of the Fayetteville City Council was held on December 5, 2006 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

ABSENT: Mayor Coody and Alderman Ferrell

Pledge of Allegiance

CONSENT:

Approval of the November 7, 2006 City Council meeting minutes.

Class Action Suit to Recover City Taxes: A resolution to approve a contingent fee contract with Elliot & Smith to represent the City on an internet hotel broker tax remittance issue.

Resolution 202-06 as Recorded in the Office of the City Clerk.

Westside Village Condominiums: A resolution approving the Parks and Recreation Advisory Board's recommendation to accept \$138,336.00 in lieu of the required Park Land Dedication for Westside Village Condominiums.

Resolution 203-06 as Recorded in the Office of the City Clerk.

Operations Management International (OMI): A resolution approving Amendment No. 14 to the contract with Operations Management International (OMI) in the amount of \$6,104,447.88 for the operation and management of Fayetteville Wastewater Treatment Facilities for 2006, and an increase of \$153,000.00 for the cost of services in 2006; and approving a budget adjustment in the amount of \$153,000.00.

Resolution 204-06 as Recorded in the Office of the City Clerk.

Alderman Cook moved to approve the Consent Agenda as read. Alderman Reynolds seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Ferrell was absent.

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. This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief update on the R-PZD. The applicant has a new plan and new alignment for the road. This new alignment will ensure that all the well house structures will be saved as well as a major tree. It will also provide access to College Avenue.

Daniel Ellis, Crafton, Tull, Sparks and Associates, Engineer for the project: We have a new alignment, we are staying off the bluff and we are not impacting the hillside, well house, or any of the significant trees. We have a verbal commitment from Mr. Pitts that he will provide us any access easement that is deemed necessary in order to get this road constructed and not impact the well house or the trees.

Alderman Cook: Regarding the private drive what happens if it is not maintained to standard and who determines if it is being maintained or not?

Jeremy Pate: The City has the right but does not have to maintain a private street. I assume the level of service would be determined by our Transportation Department. We have the right to maintain the street if it is not being maintained and charge back the developer or POA a lien on the property. That is detailed in our planned zoning district ordinance.

Alderman Reynolds asked where the street will be located.

Jeremy Pate showed Alderman Reynolds where the street will be located.

City Attorney Kit Williams asked about the trail.

Daniel Ellis: The trail is staying as part of the conditions of approval.

Alderman Cook asked if they will have to cut into the hillside.

Daniel Ellis: There is one small area that we will have to cut into the bluff. It will not impact any of the trees.

Alderman Allen asked if the units are sold or rented will the responsibility for upkeep of the road go back to the original developer.

City Attorney Kit Williams: The property owners will be required to maintain the road.

Alderman Allen: Are emergency vehicles comfortable with accessing this private drive.

Jeremy Pate: Yes.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 4954 as Recorded in the Office of the City Clerk.

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. This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Yume Rudzinski, Architect for the project: Gave a brief update on the project. She stated they are trying to design a building that will be a gateway to the City.

Russell Rudzinski also gave a brief update on the project. He presented a slide show on the project.

Alderman Thiel: Was there any consideration during this process by the Planning staff to recommend a step back on Garland due to the height.

Jeremy Pate: I think if you had the bulk of the property on the other end it would sit higher due to the grade and have more visual impact on the property. We don't have those transition findings to make in a PZD for residential uses. We felt if there was height on this project it would be better served on the lower end due to the impact from the view shed when you look at the property from surrounding streets.

Alderman Thiel: What is the status as far as requirements for apartments to design standards?

Jeremy Pate: We have started looking at that.

Alderman Reynolds asked about the infrastructure improvements the project will make.

Jeremy Pate: Garland is very much improved as well as Berry and Hughes. All the details have not been worked out yet.

Alderman Allen asked for an estimated price of the condos?

Steve Mansfield, developer: I can not give you a price at this time. Our intention is that they will be significantly less than the prices that we are seeing on Dickson Street which are running \$300 to \$350 per square foot. Because we have not designed the building it is really hard to give you a specific number. Hopefully we can bring the prices in between \$150 and \$250 per foot.

Alderman Allen: Has more windows and doors on the west side of the building been addressed?

Steve Mansfield: We will be making some adjustments to the west side.

Alderman Allen: Have you spoke to the neighborhood association in the area.

Steve Mansfield: I try to get as much public feedback as I can before we get to the Planning Commission stage or it goes to the City Council. We have attempted to have as many public meetings as possible. We did have a Ward 4 meeting. I believe the feed back was generally positive.

Alderman Lucas: The Ward 4 people were fairly positive about the project.

Alderman Cook: One of my biggest concerns is the traffic flow of this development. I am concerned about increasing the density. I feel it is a little too tall, but there are a lot of good things to say about the project.

Steve Mansfield explained how they have tried to relieve some of the traffic issues. He stated a traffic study will be conducted if this is approved.

Alderman Allen: I think having a traffic study completed is reassuring. I do have some trouble with the height of the building however I think the terrain is low enough there that it is not as problematic as it would be at other sites.

Steve Mansfield: The width of Garland is such that this height is almost perfect as far as one to one ratio from the width of the street to the height of the building as far as what architects are looking for today with regard to the proper height ratio to the street.

Alderman Cook: One thing I look at strongly too is this is currently zoned RMF-40 and looking at the other developments that have occurred in that zoning, I would much rather take this one. The RMF zoning in that area and what has been developed is excruciatingly painful to see in my opinion.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 4955 as Recorded in the Office of the City Clerk.

Emerald Point ADM 06-2282 Appeal: A resolution to approve the appeal of ADM 06-2282 (Emerald Point) and to approve the amended plat with an amended condition of approval # 1. *This appeal was Tabled at the November 7, 2006 City Council meeting to the November 21, 2006 City Council meeting. This appeal was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting.*

Jeremy Pate: I received a revised drawing today and a letter of agreement in which a stub out can be accommodated on the western side. An agreement has been reached between the two property owners. Based on the letter and drawings you have in front of you staff is recommending approval of this appeal. There is an amended condition of approval that states the applicant is proposing two street stub outs to the south which will be connected. A minimum of 42 foot of right of way shall be dedicated and a 24 foot public street shall be constructed approximately 70 feet south to provide for future public access. Hopefully this will be a solution everyone can live with.

A discussion followed on the amendment.

Alderman Cook: Is staff comfortable with the storm drainage that has been proposed.

Ron Petrie, City Engineer: I don't think we have worked out all the issues with storm drainage. The widening of the detention pond will address moving the on site flow to the south but it will not address moving the off site flow to the south. We still have to find a place for the off site flow to go.

Alderman Lucas moved to approve the appeal, the amended condition of approval and the amended plat. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

This appeal was approved.

Resolution 205-06 as Recorded in the Office of the City Clerk.

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. This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief history of the project. He stated we are recommending that you amend this project to accept an Exhibit C which is located in the handout that was passed out. Jeremy went over the conditions of approval. Staff is recommending an amendment to this R-PZD to accept Exhibit C as a condition of approval.

Hugh Earnest, representing Hometown Development: Blind Squirrel, LLD is developing the project. The site consists of 141 platted lots that has been operated as a trailer park for several years. Mr. Housley is selling the property. The property can be sold as individual lots as it sits and can be developed by right without going through an approval process. It is our desire to use the PZD process to clearly explain the proposed use of the property. The use as explained in the application is 129 single family homes and 36 multi-family units. The Planning Commission was concerned about the lack of diversity in the types of single family plans in the application. We will use a number of different plans in the subdivision. The community building shown on the site plan is an existing building that will be upgraded and remodeled. It will not be replaced with a new building. We are requesting a waiver of the requirement that dumpsters be placed to serve the multi-family units. It is an excellent use of an existing site.

Gene Housley, property owner gave a brief description of the existing property. He explained the relocation process for the existing residents. He stated he is currently not renting the properties as residents move.

Alderman Reynolds asked about the water lines for the project and the fire hydrants for the project. He stated he has no problem with the project he thinks they are doing a good thing with an area of town that needs it.

Ron Petrie: The water lines exist and they serve all the development. It is a matter of record that we need to flow test. We need the recorded flow data but it really does not concern us that the flow is not there. We have enough data in this area that tells us there will be no concerns about flow. We have some specific fire hydrants on the site that we need the data for.

Alderman Thiel moved to amend Exhibit C the Conditions of Approval. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 4956 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. ***This ordinance was left on the Second Reading at the November 21, 2006 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: I have provided you with a traffic study. The study provided traffic for this development and also a cumulative effect of several projects in the area that have been discussed. Several of these projects have not been constructed but it did account for those. The study made recommendations for when those projects are developed out as well. Our recommendations for street improvements on this project did take that traffic study into consideration.

The density on the project is proposed as 16.3 dwelling units per acre. The property is currently zoned for 24 units per acre so it is actually a decrease in the overall dwelling units that would be allowed.

The Council also requested the Ruppel Road minimum assessment amounts. That was included with the final agenda. Jeremy explained the improvements to Ruppel Road.

Alderman Jordan asked about the letter of credit and the time frame.

City Attorney Kit Williams: October 10, 2001 is when the contract was agreed to. So it would be October 9, 2007 before the letter of credit will expire.

Jeremy Pate: The letter of credit states from the date when all conditions are met for the Fayetteville Boys and Girls Club to obtain a Reynolds grant. So we will need to check that date and confirm that.

City Attorney Kit Williams: That is correct.

Alderman Jordan: A bank has been proposed at the corner of Ruppel and Wedington and they were not assessed any sort of street improvement cost because they face Wedington, is that correct?

Alderman Reynolds: Are those fire hydrants the correct size to service this type of development?

David Jurgens, Water & Wastewater Director: The fire hydrants that are there come off of dead end six inch lines. The hydrants are up to standard, they are up to code, they just have not been flow tested. We asked for a loop between the two six inch lines to provide an adequate loop through the subdivision rather than have them off of dead end lines. I believe the fire hydrant spacing is indeed adequate.

Alderman Thiel: The dwellings where shown as brick was that in our packet? I think they should be built the way they were shown.

Jeremy Pate: We can let the record reflect that.

Alderman Allen: Were all the interior streets in this project private?

Jeremy Pate: They are except for Villa. It is already a public street and currently goes through the project. We do not know the exact means of how those streets were constructed when the mobile home park was constructed therefore staff was not willing to recommend to the Council to accept them as a public street. That is a very typical recommendation in that case. They all have curb and gutter and will have to be overlaid.

Alderman Cook: The private street stub out to the west in Lot 55, is that still applicable?

Jeremy Pate: The Planning Commission added two conditions of approval, the non-residential structure shall comply with commercial design standards and a private street stub out shall be provided to the west in the vicinity of Lot 55. Staff did not recommend the stub out originally, we did remove that condition of approval for the stub out in the vicinity of Lot 55.

Alderman Cook: So there is no opportunity for any connection to the Greens development at all?

Jeremy Pate: Not presently. There are developed improvements adjacent to this property that would not allow that currently. I did not feel the 28 more units on the property would be a major contributor to traffic in the area.

Alderman Cook: Why is every lot surrounded by an easement?

David Jurgens: Most of the utilities did not follow the streets, they went between the trailers. Some of those easements are probably not required. All the easements need to be brought up to the current code as they redevelop. There will be some increased easements and probably some elimination of other easements.

Jeremy Pate: A lot of those are building setbacks.

Alderman Allen: It was a concern of mine that these people that are living there be placed and it seems to me that we have satisfied that and the Planning Commission's concern of a variety of facades that it seems like it will be a good project.

Jeremy Pate: They were not within this subdivision and they had access onto Wedington Drive. They did request to access onto Ruppel as well for cross access. That is a typical policy requirement to provide cross access. We recommended the connection to Ruppel. We did not recommend any assessment as part of this contract or any other, we felt the right of way dedication necessary for a principal arterial to create a five lane section there at Ruppel Road was sufficient for a bank. Typically a bank does not generate a great deal of traffic and an improvement like that would be abnormal in terms of our recommendations.

Alderman Lucas: I am concerned about the difference between the Planning staff and the Planning Commission regarding the street.

Jeremy Pate: There were several conditions that staff and the Planning Commission disagreed with. Most of those have to do with waiver requests. Our Engineering staff could not support several of the waiver requests that were in this submittal and recommended denial of those, the Planning Commission however found in favor of them. Those are things I would ask the City Council to make decisions on. If you approve the project as it is today you will be going along with what the Planning Commission has recommended. Jeremy explained the different conditions and their view on the conditions.

A discussion followed on the conditions of approval. City Attorney Kit Williams read the contract that was signed with the developer regarding the stub out streets.

Ron Petrie: We are very supportive of the narrower roads and the tighter radius if done properly and in the proper context. I don't feel we have been provided with enough information to make a true determination. They are proposing 15 feet and we are satisfied with the 23 foot wide streets with a 20 foot radius.

Alderman Thiel: I would recommend tabling this until we get all of the information in front of us and we know what we are actually approving.

Alderman Lucas: I would also like to table this and send it to the Street Committee and let them work this out. It is a good development.

Alderman Jordan: It is a good development.

Rick Alexander, Developer: I think we can agree to the 20 foot radius.

Alderman Thiel moved to table the ordinance to the December 19, 2006 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

This ordinance was tabled to the December 19, 2006 City Council meeting.

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. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting.*

Tim Conklin: I handed out a potential amendment you may want to make based on a previous Council decision regarding a cold storage facility on South School Street. You asked staff to go back and look at our Future Land Use Map and look at how to create a Future Land Use Map that was based on the City Plan 2025 principles. You should have received a map in your packet. This is a map that will be utilized as a guide by the Planning staff when rezoning's and developments come before you. It has been reviewed by the Planning staff. We have had a lot of discussion in trying to look at how to implement those goals within the City Plan 2025.

Alderman Thiel: I really appreciate staff reconsidering the use in this area. I do have a concern about the area on Mission where Ruskin Heights is planned; part of that area has been designated as a denser area.

Tim Conklin: A lot of the areas that were designated as Residential Neighborhoods recognized that the development pattern with the existing platted subdivisions that are in those areas are most likely not going to see a lot of change. Where there is opportunity to show city neighborhood areas we have shown those within the plan. There are other areas that are not developed that talk about complete, compact and connected neighborhoods with a mixture of uses. With regard to the Ruskin Heights proposal staff was aware that was being discussed as we were putting this map together but also many of the subdivisions that are platted probably are not going to change with a mixture of uses over time due to their POA covenants with regard to the land use and other restrictions. If you will look to the west and to the north on the map there are other areas that are shown as blue that are currently undeveloped. We looked at infill opportunities to allow people to have the ability to have a mixture of housing types, housing choices, mixed use and hopefully great neighborhoods that are walkable. That is the reason we showed those areas like that.

Alderman Thiel: Most of those areas are connected; I can't see another one that stands out by itself like that.

Tim Conklin: When you look at the map a lot of it is platted around there, it is already developed. As we looked at those areas it was difficult to show a different development pattern when it was already platted. We have had a lot of discussion with regard to this. If we want to encourage a mixture of housing types and potential mixed use and infill sites then we are trying to designate those within the city and not far out on the edges. Those are the reasons that we showed that as a City Neighborhood area.

Alderman Reynolds: When that change was done you did not visit with any of the neighborhood associations or with either alderman from the ward. I have had a lot of phone calls and letters from people that do not want that.

Tim Conklin: This is a city wide Future Land Use Map to be used as a guide. This is the time and place to bring up those concerns. We are dealing with thousands of acres and changing how we classify land use from previous land use maps.

City Attorney Kit Williams: The City Council has the right to modify this map.

Don Conner, a resident asked about the different designations on the map. He stated that on the July 17, 2006 map that was approved by this Council that area on Mission was not zoned blue.

Alderman Thiel moved to amend the map in the area south of Mission that is designated as City Neighborhood to Residential Neighborhood and the area south of Sunrise Mountain from Industrial to Rural. **Alderman Reynolds** seconded the motion.

Alderman Cook: This map is a guide and every agenda we have rezonings. The map is constantly in flux.

Dirk Van Veen, Ruskin Heights Developer: We brought forth a project that is in the bounds of the 2025 Plan and tried to address all six points. The map is a recommendation. I don't see how we can start nit picking areas that are undeveloped and unplatted and say they are not eligible for a mix of uses. To much of our own time and great personal expense we have invested in the idea that Fayetteville will move forward. I hope that we do not take a step backwards here. At some point we have to be more concerned with what is good for Fayetteville and allay the fears until a project can prove itself. It is not going to be easy to go against some of your constituents but it is important to Fayetteville as a whole unless we would like to continue to see conventional sprawl development as far as it can go until we run out of pipe and roads.

Upon roll call the motion passed 7-0. **Alderman Ferrell** was absent.

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

Resolution 206-06 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. *This resolution was Tabled at the November 21, 2006 City Council meeting to the December 5, 2006 City Council meeting.*

Paul Becker, Finance Director: The total operating budget is \$127.5 million. \$7.4 million of the increase over the prior year is for debt service for the new bond issue. There is a balanced General Fund budget and the budget provides for implementation of the compensation plan over a two year period. The other funds are balanced prior to capital expenditures except for the Airport which has a slight deficit.

Alderman Thiel: Does the budget include the staff's recommended nonprofit funding?

Paul Becker: Yes it does.

Alderman Thiel had some questions regarding the Ozark Regional Transit funding and them cutting services to the elderly and low income residents unless the city increases their funding amount.

Susan Thomas, Public Information and Policy Advisor: I represent the city on the Ozark Regional Transit Board and I have requested a meeting with the Director of Ozark Regional

Tim Conklin: That is correct.

Alderman Allen: Was the change in this map contingent on the probability of a project coming through. Did the map change because of the project?

Tim Conklin: No.

Alderman Thiel: I like planned zoning districts and I am not saying a planned zoning district would not be good there. I am concerned about the zoning being a given in that area. There is a lot of controversy in the neighborhood.

Tim Conklin: With regard to assuming whether or not staff is trying to base the Land Use Map on a particular project, you decide the zoning, this is a guide. At the same time we have to realize that if we are going to implement the City Plan we will have to find areas we can designate for future land uses and development patterns. This map has changed one hundred percent, it is a brand new map, it did not change just one individual area.

Karen Minkel: Because the entire map has changed we did not target any one neighborhood group. All of the Fayetteville Council of Neighborhood organizations were invited to attend two open houses to invite feedback from the entire city.

Alderman Lucas: Why were there not more blue zoned areas out west towards Wedington?

Tim Conklin: We showed a lot of potential around the Boys and Girls Club and we tried to confine it more towards the city center.

Alderman Reynolds: Tim, you and your staff do a wonderful job, the map is great, we just have to make some changes when we hear from our constituents.

Alderman Cook: The blue and the yellow are both residential zones. The blue allows a little more intensity as far as the commercial. We are talking about similar zonings.

Alderman Thiel: Some of the residents around the area on Mission did attend some of the public meetings and expressed their concern then.

Tim Conklin: Staff did receive concerns when it was presented. We did not make changes when we received a few comments. We did receive other comments in other areas also.

A discussion followed on different areas on the map and potential zonings for those areas.

Alderman Allen: Once these kinks are worked out and we go ahead and decide upon the map, how flexible is it, how easily can it be altered?

Tim Conklin: The map can be amended at any time just like you do the zoning map. Keep in mind this is a guide. It is not set in stone however staff would recommend that we maintain it or try to move towards consistency with our zoning.

Transit and Yolanda Fields, Director of CDBG. I have asked for some project accounting from Ozark Regional Transit.

Alderman Reynolds asked for a list of routes that might be discounted.

Alderman Cook: The City of Fayetteville has gone above and beyond to help Ozark Regional Transit. It is frustrating to me; at times I wish we would pull all that money and give it Razorback Transit. I would hope Ozark Regional Transit will come forward with the information we need.

Dominic Swanfeld, Fraternal Order of Police voiced his concern about funding the compensation plan over a two year period. He stated the system was changed from a step system to an open range system for the Police Department and he believes that is a fair system to go to. He voiced his concern about some of the officers being behind the market with a two year implementation.

Alderman Cook moved to table the resolution to the December 19, 2006 City Council meeting. **Alderman Rhoads** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Ferrell** was absent.

This ordinance was tabled to the December 19, 2006 City Council meeting.

NEW BUSINESS:

RZN 06-2320, Garner: An ordinance rezoning that property described in rezoning petition RZN 06-2320, for approximately 0.75 acres, located at 904 15th Street from RMF-24, Residential Multi-Family, 24 units per acre to C-2, Thoroughfare Commercial with the Associated Bill of Assurance.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning request. Staff found in favor of this rezoning request and Planning Commission voted 8-0 but did stress that it is with the Bill of Assurance that they are recommending this and without the Bill of Assurance they would have concerns.

Alderman Thiel: I am supportive of this and have not had any calls on it.

Alderman Cook: I am not against what they are proposing but I can not get my mind rapped around the C-2 zoning. How did it get to the point that it is C-2?

Jeremy Pate: None of the other zoning districts would allow all of these uses by right.

Jeremy explained the other zoning's they looked at for this property.

Alderman Reynolds stated this actually fits within the neighborhood.

Alderman Thiel 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 Ferrell was absent.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Cook: I have nothing against the development but I am going to vote against this because I am worried about the precedence the C-2 zoning will establish.

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

Ordinance 4957 as Recorded in the Office of the City Clerk.

VAC 06-2315, Paul: An ordinance approving VAC 06-2315 submitted by Alan Reid & Associates for property located at 2753 East Par Court, vacating a portion of the utility easement located within the subject property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Planning staff and the Planning Commission are recommending that this vacation be approved by the City Council. Jeremy gave a brief summary of the vacation.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Lucas: I get very frustrated with these vacations.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Ferrell was absent.

Ordinance 4958 as Recorded in the Office of the City Clerk.

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.

Jeremy Pate gave a brief description of the dedication variance. He stated the Planning Commission voted 8-0 in favor of the dedication variance. The Street Committee also recommended it with three conditions of approval.

Ron Petrie described the different scenarios they looked at for the street in the future.

Alderman Cook: I support staff's recommendation of the 44 feet. I am glad that someone wants to do something with this building.

A discussion followed on the current setbacks in this area and the green space for the area in the future.

Josh Pettit, the owner gave the Council a presentation regarding the proposed project. He also read a statement to the Council regarding the proposed restaurant for the project and the improvements proposed for the new project. He stated they are willing to dedicate 32 feet of right of way. He voiced his concern about the vagueness of the green space that may be needed for the project. He showed their proposed green space.

A discussion followed on the landscaping that will be needed for the project and the alignment of North Street in the future.

The Council decided to table the resolution until the Street Committee looks at it again.

Alderman Lucas moved to table the resolution to the December 19, 2006 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion to table passed 7-0. Alderman Ferrell was absent.

This resolution was tabled to the December 19, 2006 City Council meeting.

ADM 06-2354 Garland Avenue ROW Dedication Variance: A resolution approving a variance of the Unified Development Code Chapter 164.12(F) Nonconforming Uses and Structures, Repairs and Maintenance, and Chapter 166.18 Master Street Plan Setbacks, allowing the existing structure located at 1305 Garland Avenue to remain within the Master Street Plan right of way and to be improved greater than the 10% allowed by code, within the existing limits of the structure.

Jeremy Pate gave a brief description of the dedication variance. Staff is recommending approval.

Alderman Lucas: I am fairly comfortable with this.

Ron Petrie gave a brief summary of the right of way, the current parking, and the sidewalks.

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

Resolution 207-06 as Recorded in the Office of the City Clerk.

Sales Tax 2006A Construction Fund: A resolution approving the creation of a new fund to be called "Sales Tax 2006A Construction Fund;" and approving a budget adjustment in the amount of \$50,788,406.00 for the Wastewater Systems Improvement Project, the Street Improvements Bond Project, and the Trail Improvements Bond Project.

Paul Becker: This appropriates the money from Phase 1 of the bond issue that was approved. This will let us go forward with the project.

Alderman Cook moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Ferrell** was absent.

Resolution 208-06 as Recorded in the Office of the City Clerk

McClelland Consulting Engineers, Inc: A resolution awarding an engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$108,111.40 for preliminary design services, surveys, and related services associated with the College Avenue Improvement Project.

Ron Petrie gave a brief description of the project.

Alderman Cook moved to approve the resolution. **Alderman Lucas** seconded the motion. Upon roll call the resolution passed 7-0. **Alderman Ferrell** was absent.

Resolution 209-06 as Recorded in the Office of the City Clerk

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the property. Staff and the Planning Commission voted to deny this R-PZD due to compatibility, connectivity and off site street improvements. He also stated all these issues were resolved. The Planning Commission was concerned with the lack of open space, density, compatibility, and increased traffic. Staff recommended approval of the revised lay out and the revised project finding that all the previously detailed issues had been

fully addressed. Jeremy stated they found it compatible in density, land use and meeting many of the goals of our City Plan 2025 and our planned zoning district ordinance.

Jeremy went over the proposed improvements to the street and sidewalks that would be made if this project is approved.

Alderman Jordan: I would suggest we have a meeting with the neighborhood.

Alderman Reynolds asked about the proposed trees for the project.

Jeremy Pate: Based on the tree preservation plan there will be 61 two inch caliber trees planned for the development. The remainder would be paid into the tree escrow account for trees in this area if they can not be put in this subdivision.

A discussion followed on the street and the private street for the proposed subdivision.

Tom Hennelly, H2 Engineering addressed the Council's concerns about the private street and the other streets in the project.

Alderman Allen asked the approximate cost of the homes.

Tom Hennelly: Around \$135,000.

Larry Lames, resident of Sandra Street stated he did not have a problem with this land being developed he has a problem with the density and using Sandra Street as the entrance. He stated Sandra is a narrow street and there are no sidewalks.

Jerry Surles, a resident of Sandra Street agreed with what Mr. Lames said. He is concerned about the traffic and the street being a one lane street. He also voiced his concern about the setbacks for the proposed project.

Alderman Jordan proposed a meeting with the neighborhood and the developer to discuss the proposed project.

This ordinance was Left on the First Reading.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief summary of the vacation request. The Planning Commission voted 7-1 to deny this request. The main reasons given by the Planning Commission to deny this request were traffic and pedestrian safety issues related to the private drive becoming a one way drive into the property. Staff did not find that a dangerous or safety condition would occur with the

right of way vacation as proposed and recommended approval of the vacation request with the conditions.

Albert Stiles, Architect for the project showed the Council a picture of the road. He showed the Council what the street might look like if they had to put a sidewalk and retaining wall along the street. He also showed the Council their proposal that would save the trees along the street.

John McDonald, track coach for the University of Arkansas stated the University uses this property and the trails. He stated the Archers are trying to preserve this property and keep it beautiful.

Kelly O'Mara, high school coach stated his runners go up there on a regular basis. He stated his runners would probably never use a sidewalk because they are dangerous to the runners. He stated he did not feel a sidewalk is necessary.

Felicia Farris, a resident voiced her concern about the pedestrians that will be using Markham Hill. She stated there will be increased traffic on this street in the future. She expressed her concern about the drainage problems from Markham when there are big rains. She asked the Council to build this road right the first time.

Julian Archer, owner of Pratt Place Inn thanked the Council for their time. He stated the issue is not about a sidewalk the issue is about how best to protect the people that are on foot. He stated the Inn is not going to increase pedestrian traffic; they are going to drive there. He stated the people that come up there on foot come up to the property to run. He stated his engineers have spent a lot of time studying the water flow that comes off the hill and they will be putting in new culverts and will widen the road so there will be appropriate drainage.

Alderman Allen stated she has concerns about pedestrians as this area changes. She also said she has to look at how the Planning Commission voted on this.

Jeremy Pate: The discussion at Planning Commission centered primarily on what the property owners would do once the city gave up that right of way. A lot of the discussion came back to pedestrian safety centering on runners and pedestrians utilizing this area. Ultimately in a commercial or multifamily development as the street becomes a private driveway off the public street we don't typically have a sidewalk requirement that goes along that public street into the development. If they choose to do a one way street and loop it back that is something we certainly would allow with most projects. I believe this is 72.1 acres that the majority of which will never be developed unless the zoning changes. We felt the traffic generated by this development was not going to be significant.

Alderman Lucas: I think it is a unique piece of property and I am very glad that we are making an attempt to preserve it but as with anything another Council can change it. The water that comes from that hill is a real concern. There will be people walking going to and from the games and that concerns me. I am not one that likes to vacate city property. In a few years we do not know what is going to be developed and what is going to change on this property. We struggled with this PZD, so I am not in favor of changing anything. I think we need to stick with the PZD that we have. I am not in favor of vacating the street.

Alderman Jordan: I have issues with vacating this road and making it a private drive because the city loses control of it. I think the city should be in control of the road. I have received calls and emails from the neighbors. I am not going to support the appeal. I think it is a good development and the Inn is a fine thing but I think this is a safety issue.

Alderman Cook: If the appeal is denied what is going to be required from this point forward?

Jeremy Pate: The same conditions that were placed on the property from the large scale development. There is a diagram in your packet.

Albert Stiles: I think the issue is not the sidewalk or no sidewalk we can put in a sidewalk, just not where they are showing one. We can save the trees and put it on the other side. The issue is the location of the sidewalk.

Jeremy Pate: With the conditions in the large scale development it is adjacent to the curb.

Alderman Thiel: I don't particularly like the way that looks. Is there any way we can redesign this to be more natural.

Alderman Reynolds: Is there going to be green space between the curb and the sidewalk?

Jeremy Pate: No. In order to try to reduce the amount of disturbance of the tree canopy there is no green space between the curb and the sidewalk.

Alderman Rhoads: I think it is a unique piece of property and it is worthy of making an exception for.

A discussion followed on the project and the location of the sidewalk.

City Attorney Kit Williams: Instead of vacating the entire street they can vacate that section of the street where the sidewalk is to be built and that vacation could be on condition that you build it through the woods so you can save the trees.

Alderman Jordan: I would like for us to settle on something.

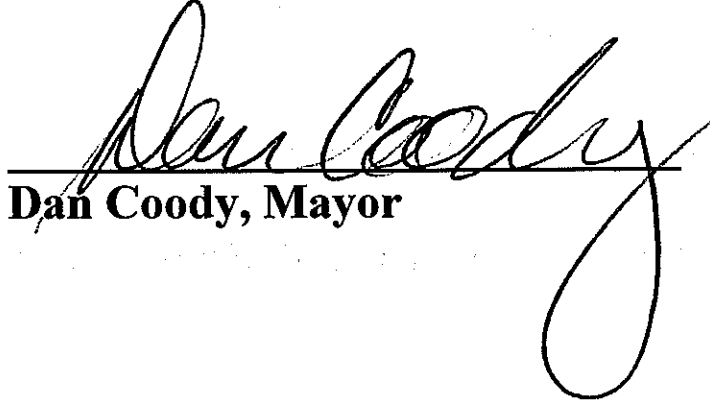
Julian Archer: I would hope this is the last thing we would have come before you. I think it would be a benefit for the city and for us and the neighborhood to not have the curb side sidewalk and allow us to have the sidewalk setback and meander through the trees.

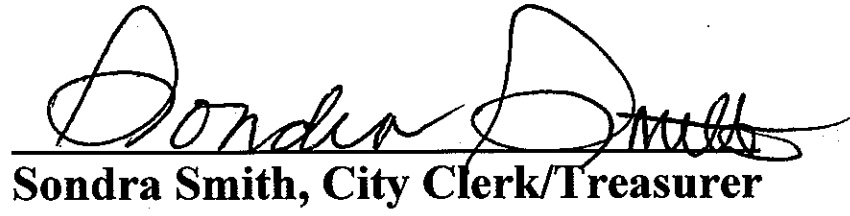
Alderman Lucas moved to suspend the rules and go to the second reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Ferrell was absent.

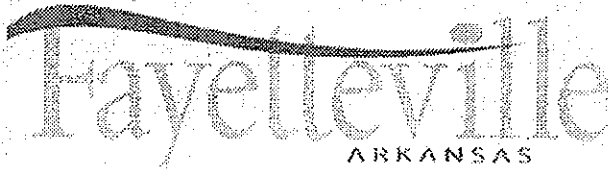
City Attorney Kit Williams read the ordinance.

This ordinance was Left on the Second Reading.

Meeting adjourned at 10:45 PM

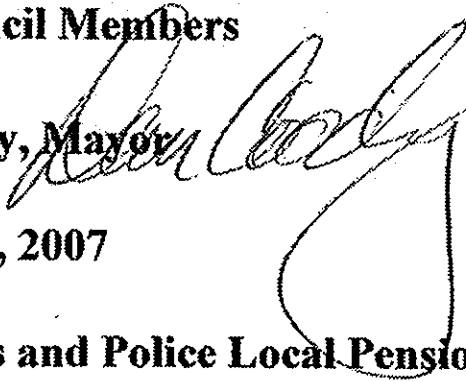

Dan Coody, Mayor


Sondra Smith, City Clerk/Treasurer



THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: City Council Members
From: Dan Coody, Mayor 
Date: January 2, 2007
Subject: Firemen's and Police Local Pension Funds

A biennial actuarial valuation is required to be performed by the Arkansas Pension Review Board pursuant to Arkansas Code Annotated 24-11-2005.

An actuarial valuation matches the projected future value of current assets to the future value of projected liabilities.

The last valuations were conducted as of December 31, 2005. The conclusions reached were that the funds were not actuarially sound under Arkansas State Law.

The unfunded liability for the Fire Pension Fund as of 12/31/05 was \$9,876,369. This represents a funding ratio of 50.9%.

The unfunded liability for the Police Pension Fund as of 12/31/2005 was \$9,568,908. This represents a funding ratio of 52.5%.

The unfunded liabilities of both funds have been increasing since 12/31/99 when the police pension board voted to increase the benefit paid to its retirees from 50% of salary to 90%. In 2001 Fire pension maximums increased from 65% to 90%. Both increases were approved by the State Board on a cash flow analysis basis.

It should be noted that actuarial calculations change due to economic conditions at the time they are performed. This year has been a very good year for investments. Today we would expect the actuarial unfunded liabilities to be much less if they were currently calculated.

There is no immediate danger to pension recipients concerning benefits and as long as revenue streams continue at the same level, benefits can continue at current amounts on a cash flow analysis basis.

An actuarial valuation shows the long term viability of the fund. Any benefit increase at this time would negatively affect this valuation.

On a cash flow analysis basis, as long as current revenue streams continue, current benefit payments can be accommodated, however, a major reduction in the revenue stream in the future, or further increases in benefits, could force benefit payments to be reduced unless sufficient assets are maintained.

The current revenue streams committed to pension fund contributions are a .4 mil Property Tax Levy and State Pension Insurance Turnback.

While there is an interest in increasing pension benefits among board members, using either the cash flow or the actuarial analysis method, I feel it is important to maintain the current level of benefits so we will not have to face a shortfall that would require us to reduce those benefits in the future.

CITY ATTORNEY AGENDA REQUEST

B. 1
Amend Chapter 174 & Chapter 153; Signs
Page 1 of 16

FOR: COUNCIL MEETING OF JANUARY 2, 2007

FROM:

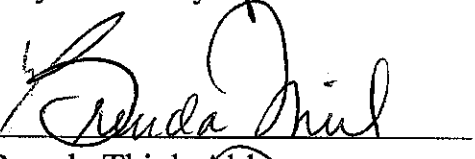
KIT WILLIAMS, CITY ATTORNEY

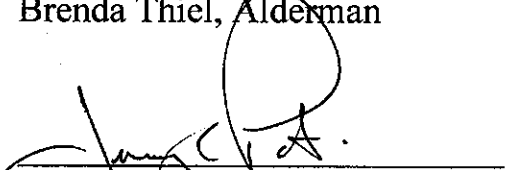
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

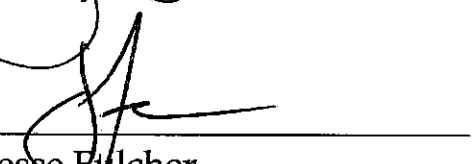
An Ordinance To Enact A Replacement Chapter 174 Signs And §153.08 (G) Signs To Clarify Sign Regulations In Fayetteville

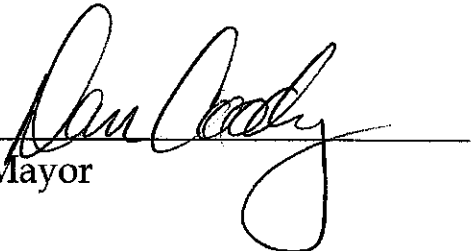
APPROVED FOR AGENDA:


City Attorney
Date Dec 13, 2006


Brenda Thiel, Alderman
Date 12/19/06


Jeremy Pate
Date 12.19.06

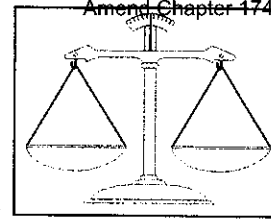

Jesse Pulcher
Date 12-19-06


Mayor
Date 12/19/06

Let Hon first reading 1/2/07
Ord. Review Committee to meet to discuss

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: Alderman Brenda Thiel

CC: Jeremy Pate, Director of Current Planning
Jesse Fulcher, City Planner

FROM: Kit Williams, City Attorney

DATE: December 13, 2006

RE: Sign Ordinance Revision

I believe that we have now found and corrected all the grammatical and numerical mistakes within the existing sign ordinance. Below are summaries of the substantive (most are minor) changes that we propose:

(1) §174.02 (B) *Issuance of a sign permit.*

We provided Jeremy (or designee) with five more days before an inadequate application had to be rejected if not corrected.

(2) §174.03 *Exemptions.*

We removed the language that the exemptions related **only** to the permit requirement and instead authorized the signs within this subsection.

(3) §174.03 (J) *Banners.*

We defined and limited the size of banners to the cross-street banner size (3' by 30'). We provided new authority for election campaign signs of up to 32 square feet (which have been used for years) and lengthened these large signs' duration from 2 to 3 weeks before the election to which they

refer. (Runoff elections are three weeks after the primary/general election.) Election campaign banners were allowed to substitute for a special sales banner.

Special sales event banners were limited to ten days (instead of fourteen plus three) for commercial establishments once a year. We do not need to treat commercial signs (or banners) as leniently as religious/political signs which are the First Amendment's most protected class of signs. If you believe ten days once a year is too limited for special sales event banners (we no longer restrict the normal commercial signs allowed during the banner's display period), you could lengthen the time up to fourteen days, twice a year (to match Public Event Banners).

Public Event Banners include both (a) banners on the nonprofit organization's or government entity's own property (14 days, twice a year) and (b) cross street banners on Dickson Street (two locations). As long as all commercial content, logos and advertising is kept off the banners, the City should be fairly safe from the "billboard lawyers" who seek to install commercial billboards to challenge a city's sign ordinance. That is why these should be allowed only for nonprofit and government entities with no commercial sponsorship identified on the banners. The City will NOT be able to pick and chose what "public festival or event" may be promoted by the cross-street banners if this change is approved. I hope we will continue our good luck with this banner program.

(4) §174.04 Sign Identification.

We clarified this to require that the sign permit number must be so displayed that it is visible from the ground.

(5) §174.05 Sign Removal.

We removed the requirement that **conforming** sign supporting structures had to be removed within 60 days of a business ceasing operations. Now, the sign must still be removed, but a conforming sign structure need not be removed in most circumstances.

(6) *§174.07 Placing Signs on Public and Private Property.*

Some sections involving prohibition of signs were moved to the next section (Prohibited Signs) and subsection (4) *Informational Kiosks* was added pursuant to the previously submitted downtown master plan ordinance. Subsection (5) *Cross street banners* refers back to the banners subsection: §174.03 (J)(3)(b).

(7) *§174.08 Prohibited Signs.*

Subsections (J), (K), and (L) were moved from the preceding section with slight changes.

(8) *§174.09 Sign Illumination.*

The wattage of light for direct illumination of signs was raised from 25 to 150.

(19) *§174.10 On-Site Freestanding Signs.*

This section had the most changes, but primary for clarity and consistency rather than substantive changes. Planning has had some difficulty applying the provision for Joint Identification and Area signs. We added the new residential zone of Neighborhood Conservation throughout this ordinance. Please read this section to ensure it is clear and has continued the appropriate limitations for the various zoning districts.

(10) *§174.12 Wall Signs.*

The display area for wall signs has been increased to a maximum of 200 square feet (from 150) or 20% of the wall, whichever is less.

(11) *§153.08 Miscellaneous Remedies (G) Signs.*

This enforcement provision was changed so that conforming sign structures need not be removed, but nonconforming signs and sign supporting structures could be ordered removed after a business had ceased operations for over 60 days.

ORDINANCE NO. _____

AN ORDINANCE TO ENACT A REPLACEMENT CHAPTER 174
SIGNS AND §153.08 (G) **SIGNS** TO CLARIFY SIGN REGULATIONS
IN FAYETTEVILLE

WHEREAS, clarifications of Chapter 174 **Signs** of the **Unified Development Code** are needed to harmonize and simplify sign regulations in Fayetteville; and

WHEREAS, the length of time the Zoning and Development Administer has before he must reject a non-compliant sign permit application should be extended from five to ten business days to avoid unnecessary paperwork, expense, and delay for sign applicants; and

WHEREAS, wayfinding, informational kiosks and cross-street banners should be regulated and authorized within the Downtown Master Plan District; and

WHEREAS, a conforming sign supporting structure should not be required to be removed within 60 days of the business closure or relocation unless it constitutes a hazard and nuisance; and

WHEREAS, traditional large election campaign signs of up to 32 square feet should be authorized for up to three weeks prior to the election to which the sign applies.

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 Chapter 174 **Signs** of the **Unified Development Code** in its entirety and enacts a new Chapter 174 **Signs** in its stead as shown on Exhibit "A" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §153.08 (G) **Signs** in its entirety and enacts a new §153.08 **Signs** in its stead as shown on Exhibit "B" attached hereto and made a part hereof.

PASSED and APPROVED this 2nd day of January, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 174: SIGNS

174.01 General Regulations

- (A) *Permit required.* It shall be unlawful for any person to erect, repair, alter, relocate or keep within the city any sign or other advertising structure except as exempted herein without first obtaining a sign permit from the Zoning and Development Administrator or designee.
- (B) *Illuminated signs.* All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.
- (C) *Fees.* Every applicant, before being granted a permit hereunder, shall pay to the Zoning and Development Administrator's Office the permit fee set forth in Chapter 159.
- (D) *Maintenance of premises.* All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(Code 1965, 17B-3(a), (c), (e), 4(b); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Ord. No. 2790, 1-18-82; Code 1991, 158.05, 158.20, 158.22, 158.24, 158.38; Ord. No. 3925, 4, 10-3-95; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.02 Permit Application/Issuance

- (A) *Application.* Applications for initial sign permits shall be made upon forms provided by the Zoning and Development Administrator and shall contain or have attached thereto the following information:
 - (1) *Applicant identification.* Name, address and telephone number of the applicant.
 - (2) *Location.* Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
 - (3) *Position.* Position of the sign or other advertising structure in relation to nearby buildings or structures.
 - (4) *Blueprints/drawings.* Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
 - (5) *Person erecting structure.* Name of person, firm, corporation, or association erecting structure.

- (6) *Consent of owner.* Written consent of the owner of the building, structure, or land to which or on which the structure is to be erected.
- (7) *Electrical permit.* Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.
- (8) *Full Compliance With Applicable Code Provisions.* If the proposed sign is subject to the provisions of the Commercial Design Standards (166.14), Design Overlay District (161.21), Certificate of Zoning Compliance or other code provisions, the applicant must show full compliance with all applicable code provisions, including necessary approvals by responsible bodies such as the Planning Commission.
- (B) *Issuance of sign permit.* It shall be the duty of the Zoning and Development Administrator or designee, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure and sign are in full compliance with all the requirements of this chapter and all other laws and ordinances of the city, he shall within five business days issue the sign permit. If the Zoning and Development Administrator or designee fails to reject a completed sign application (that purports to show full compliance with all code requirements) within ten business days of its submission by written explanation of why such application fails to meet all code requirements, the sign application shall be deemed approved and a sign permit shall be immediately issued to the applicant. If the work authorized under a sign permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.
- (C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Zoning and Development Administrator under this Chapter shall be considered final administrative actions for the purpose of the appeals set forth at 155.01.

(Ord. No. 1965, 17B 3(b), (d); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Code 1991, 158.21; 158.23; Ord. No. 4100, 2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04)

Fayetteville Code of Ordinances

174.03 Exemptions

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with certain applicable provisions of this chapter. The exemptions shall apply to the requirement for a sign permit. No sign permit shall be required for the erection of the following signs which are hereby authorized to be erected in compliance with the listed conditions:

- (A) *Professional name plates.* Professional name plates erected flat on walls of building and not exceeding four (4) square feet of display surface area.
- (B) *Building construction signs.* One on-site building construction sign on each construction site in any zoning district, provided that maximum display surface area shall be eight (8) square feet or less in R zoning districts; 32 square feet or less in other zoning districts.
- (C) *Real estate signs.* On a lot in any district, there may be erected one on-site unanimated real estate sign while the lot is for sale. Provided further, such signs shall be limited to wall signs, freestanding signs or platform signs; and freestanding signs or platform signs shall be set back a minimum of 10 feet from the street. Real Estate signs shall be removed within 72 hours following the closing (sale) of the property on which it is located. The permitted illumination and maximum display surface area for a real estate sign shall be as follows:

District	Permitted Illumination	Area (Sq. Ft.)
RA	Nonilluminated	32
R, R-O	Nonilluminated	8
P-1, C and I	Illuminated	32

- (D) *Home occupation signs.* Home occupation signs erected flat against the wall and not exceeding three (3) square feet.
- (E) *Memorial signs, name signs.* Memorial signs or tables, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
- (F) *Traffic signs, etc.* Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs as may be approved by the City Council.
- (G) *Posting bills, repainting signs.* Posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were

legally erected and maintained for such purposes.

- (H) *Non-Commercial Signs.* Non-Commercial signs that do not advertise a product or service for profit or for a business purpose, do not propose a commercial transaction nor relate primarily to economic interests are permitted to be placed on private property in any zoned district subject to the following conditions:

- (1) *Districts where signs not otherwise permitted.* In districts where signs are not otherwise permitted, one political or religious non-commercial sign may be erected subject to the same limitations of real estate signs.
- (2) *Districts where signs are permitted.* In districts where signs are otherwise permitted, non-commercial signs may be placed over or substituted for the permitted commercial sign.

- (I) *Time and temperature displays.* Time and temperature displays without advertising matter, may change their illuminated time and temperature displays as often as reasonably necessary to provide accurate and convenient information to observers without being considered to be in violation of 174.08 B. Fluctuating Illumination.

- (J) *Banners.* Public event, special sales event, and election campaign banners (not to exceed 3' x 30') and large election campaign signs (not to exceed 32 square feet) may be installed under the following terms and conditions:

- (1) *Election campaign banners and large signs.*

(a) *Residential zones including Neighborhood Conservation, R-O, R-A and R-PZD.* In addition to the non-commercial sign allowed in subsection (H), the owner of a residentially zoned parcel may install one large election campaign sign of up to 32 square feet no more than three weeks prior to (and to be removed within three days following) the election to which the sign applies.

(b) *All other zones.* The owner of a parcel may install one election campaign sign of up to 32 square feet no more than three weeks prior to (and to be removed within three days following) the election to which the sign applies or may substitute and install an election campaign banner for an allowed special sales event banner no more

EXHIBIT "A"
TITLE XV UNIFIED DEVELOPMENT CODE

than two weeks prior to (and to be removed within three days following) the election to which the banner applies.

- (2) *Special sales event banner.* In Commercial, Downtown Core, Downtown General, Main Street Central, and C-PZD zones, a commercial retail business may advertise a special sales event by installing a special sales event banner on its property at least 40' from the street right of way and no higher than 30' above street level for a total display time of no more than ten days, no more than one time a year.
- (3) *Public event banners.* Nonprofit organizations and government entities may install public event banners under the following conditions:
- (a) In order to notify or invite the public to attend a public festival or event sponsored by the nonprofit organization or government entity, this organization may install a public event banner (that may not contain advertising or commercial logos) on its property at least 40' from the street right of way and no more than 30' above the street for a total display time of no more than fourteen days twice a year.
- (b) In order to notify or invite the public to attend a public festival or event within the Downtown Master Plan area sponsored by the nonprofit organization or government entity, that organization may pay the costs of the City to install one or two cross street public event banners (with no advertising or commercial logos) at Dickson and Block and/or Dickson and Arkansas for no more than fourteen days once a year. When more than one nonprofit organization or government entity would qualify to pay for the installation of cross street banners during the same period, the number of cross street banners for each organization may be reduced to one and/or the length of display may be shortened to one week so that each qualified applicant is treated equally.
- (K) *Signs located in buildings.* Any sign located within a building that is not visible to the public outside said building is exempt from all regulations in this chapter.
- (L) *Signs on windows.* Signs painted on or affixed to glass surfaces of windows or doors and

pertaining to the lawful business conducted therein are exempt from the permit requirement, but are considered a wall sign to determine allowable square footage. No signs affixed to a window and visible outside shall flash or fluctuate illumination.

- (M) *Directional identification and informational signs.* Directional, identification, and informational signs; provided such signs shall be limited to wall and freestanding signs with a maximum of four (4) square feet of display surface area. Notwithstanding the restrictions on the location and number of freestanding signs prescribed by §174.10, one freestanding sign not exceeding four (4) square feet in display surface area shall be permitted at each entrance or exit on a lot or parcel to identify such entrance or exit and to encourage the use of motor vehicle seatbelts, subject to the following restrictions.
- (1) *Traffic hazard.* No such sign shall be erected which would create a traffic hazard.
- (2) *Seat belt sign.* Any words or symbols encouraging the use of seatbelts shall face the interior of the lot or parcel on which the sign is located and shall not face the street.
- (3) *Advertising.* No advertising or commercial logos may be incorporated into the sign.
- (N) *Collection boxes.* Collection boxes for charitable or nonprofit organizations containing no commercial advertising and located on private property in any Commercial or Industrial zoning districts.
- (O) *Subdivision signs.* In any district, one temporary subdivision identification sign indirectly illuminated, not to exceed 50 square feet in area per surface may be erected at any principal entrance to a subdivision, provided that in no event shall such sign remain for more than six (6) months within 50 feet of a dwelling in a R district occupied as a dwelling.
- (P) *Freestanding bulletin boards.* A freestanding bulletin board shall be set back a minimum of 15 feet from street right-of-way; and any bulletin board having a display surface area in excess of 10 square feet shall be set back from street right-of-way an additional one (1) foot for each two (2) square feet of display surface area in excess of 10 square feet. Bulletin boards may not be electronic message boards.
- (Q) *Fuel price informational signs.* In any district, signs advertising the price of motor vehicle fuel sold from a fuel pump located on the premises

Fayetteville Code of Ordinances

shall be permitted, subject to the following conditions:

- (1) *Price.* Only one fuel price informational sign shall be permitted per fuel pump.
- (2) *Size.* Fuel price informational signs shall be limited in size to an area of 216 square inches.
- (3) *Stationary.* Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
- (4) *Other locations.* Nothing herein shall be construed as to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this chapter.
- (5) *Sign faces.* Only one two-faced, or two one-faced, self service/full service signs not exceeding four (4) square feet in display surface area shall be permitted at each pump island.

- (R) *Fences and scoreboards in city parks.* Signs may be permitted on baseball/softball fences and scoreboards in city parks as provided for in 97.088(B).

(Code 1965, 17B-6; Ord. No. 1893, 12-19-72; Ord. No. 3294, 9-15-87; Ord. No. 3307, 10-20-87; Ord. No. 3313, 11-17-87; Code 1991, 158.08; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.04 Sign Identification

Every sign or other advertising structure hereafter registered shall show the sign permit number in a conspicuous place thereon which is visible to the inspector and is readable by the inspector from the ground.

(Code 1965, 17B-6; Ord. No. 1893, 12-19-72; Ord. No. 3294, 9-15-87; Ord. No. 3307, 10-20-87; Ord. No. 3313, 11-17-87; Code 1991, 158.08; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.05 Sign Removal

In the event a business ceases operation for a period of time in excess of 60 days, the sign permit holder or the property owner shall immediately remove any sign identifying or advertising said business or any product sold thereby and any non-conforming sign supporting structure. A conforming sign supporting structure need not be removed unless a determination is made by the Zoning and Development Administrator that the unoccupied sign structure is a traffic hazard or a substantial detriment to nearby businesses or residents such that the structure's removal is necessary to end a public nuisance.

(Code 1965, 17B-4A; Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298; 10-6-87; Code 1991, 158.35; Ord. No. 4100, 2 (Ex. A), 6-16-98)

Cross reference(s)--Enforcement, Ch. 153.

174.06 Noncommercial Signs

Anywhere a commercial sign is permitted by this code, a noncommercial sign may be placed on or substituted for such sign.

(Code 1965, 17B-5; Ord. No. 1893, 12-19-72; Ord. No. 2109, 6-3-75; Ord. No. 2255, 7-20-76; Code 1991, 158.07; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.07 Placing Signs On Public And Private Property

(A) *Placing signs on public property.*

- (1) *Agencies of government.* No signs other than signs placed by agencies of government shall be erected on any public property; provided, directional signs may be erected upon the city's street name signposts, or upon traffic signposts under the following conditions:

(a) *Public facility/ out-of-town patrons.* The signs direct the reader to the location of a public facility attended principally by out-of-town patrons, to a facility operated by a nonprofit entity and attended principally by out-of-town patrons, to a facility relating to the public health, safety, or welfare, or to scenic or historic trails;

(b) *Traffic Division.* The signs are fabricated, erected and maintained by the city Transportation Division;

(c) *Cost.* The entire cost of the signs is borne by the entity requesting the signs;

(d) *Installation.* The signs are installed at locations where they would not constitute a traffic hazard.

(e) *Traffic control devices.* The signs conform to the manual on uniform traffic-control devices; and

(f) *Directional signals.* The maximum number of directional signs permitted under this section shall be seven (7) for each entity; provided, the limitation provided hereby shall not apply to signs directing the reader to scenic or historic trails.

- (2) *Nonprofit organizations.* Nonprofit organizations shall be allowed to place

EXHIBIT "A"
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temporary signs of a noncommercial nature on public property for the purpose of directing the general public to the location of an event or activity which promotes the general public welfare. The placement of such temporary signs shall be subject to the following conditions:

- (a) *Display surface area.* The maximum display surface area of each sign shall not exceed fifteen (15) square feet;
 - (b) *Number of signs.* No more than three (3) signs directing the general public to such an event or activity shall be placed on public property at the same time by one such organization;
 - (c) *Organization name.* Each such sign shall identify the nonprofit organization by name;
 - (d) *Temporary sign.* No such temporary sign shall be placed on public property for more than five (5) successive days;
 - (e) *Location/approval.* The location of each such sign shall be approved by the Planning and Zoning Administration or designee to ensure that the signs will not constitute a traffic hazard;
 - (f) *Permit/number of signs.* The organization applies for, and is issued, a sign permit; one permit may authorize installation of up to three (3) signs pursuant to the provisions of this division; and
 - (g) *Temporary signs.* No such organization shall install, or be issued a permit to install a temporary sign on public property pursuant to the provisions of this division more often than six (6) times within a 12-month period.
- (3) *Small banners on certain city light poles.* The City may prepare and install banners not exceeding seven square feet on city light poles specially designed and constructed for such banners within the boundaries of the Downtown Master Plan Area. These small banners may include the name of the commercial or noncommercial enterprise sponsoring the banner, but shall contain no advertising or slogans of the sponsor.
- (4) *Informational kiosks.* Informational kiosks with a map of the Downtown Master Plan Area may be placed within city right-of-way by the City. The kiosks shall contain only a map and/or description of the Downtown

Entertainment Zone, public buildings and facilities, parking areas, and entertainment facilities within or near this zone.

- (5) *Cross Street Banners.* Cross Street Banners may be installed pursuant to §174.03 (J)(3)(b).

(Code 1965, 17B-7(c); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Code 1991, 159.37; Ord. No. 3677, 1, 3-2-93; Ord. No. 4100, 2 (Ex. A), 6-16-98; Ord. No. 4622, 9-21-04)

174.08 Prohibited Signs

- (A) *Spot lights and beacons.* It shall be unlawful for any person to continue in operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.
- (B) *Fluctuating illumination.* It shall be unlawful for any person to erect additional attraction devices or signs or to continue in operation an attraction device or sign which flashes, blinks, or is animated. Illumination of attraction devices or signs located in the city that fluctuates in light intensity shall be prohibited. Electronic message boards using flashing, intermittent or moving light or lights are prohibited, provided, however, that electronic message boards displaying only time and/or temperature for periods of not less than 30 seconds are permitted. Electronic message boards may change their message every three hours without violating the prohibition of flashing or blinking.
- (C) *Portable swinger or temporary attraction sign boards.* It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich, or temporary attraction sign board in the city.
- (D) *Revolving, rotating, or moving signs.* It shall be unlawful for any person to erect or to continue using any sign on the exterior of which revolves, rotates or otherwise moves, in whole or part.
- (E) *Windblown signs.* It shall be unlawful for any person to display any windblown sign; provided, windblown signs may be displayed on a lot, at a shopping center, or at a mall one time per year for a period not to exceed 72 hours if a temporary sign permit is first obtained from the Planning Division upon payment of the appropriate fee; provided further, one company flag shall be permitted to be flown in conjunction with the United States Flag or Arkansas Flag or both on a lot, at a shopping center, or mall.
- (F) *Signs that constitute a traffic hazard.* No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any

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street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the wording, position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.

- (G) *Use of vehicle as sign.* It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this chapter.
- (H) *Off-Site Signs.* It shall be unlawful to erect any off-site sign.
- (I) *Roof Signs.* Roof signs shall not be permitted.
- (J) *Placing signs on private property.* No signs shall be placed on any private property without the consent of the owner thereof.
- (K) *Placing signs on trees.* No signs shall be placed or painted on any tree within the city's right-of-way or property.
- (L) *Placing signs on utility poles.* No signs shall be placed on any utility pole except for utility identification or similar purposes.

Cross reference(s)--Variance, Ch. 156, Appeals, Ch. 155.

(Code 1965, 17B-7(b), (e)-(k); 17B-8; Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Code 1991, 158.38, 158.36, 158-39-158.46; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.09 Sign Illumination

Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at 150 watts or less.

(Code 1965, 17B-7(d); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Code 1991, 158.38; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.10 On-Site Freestanding Signs

It shall be unlawful to erect any freestanding sign which total height is greater than 30 feet above the level of the street upon which the sign faces. For any sign located closer to street right-of-way than 40 feet, the maximum height shall be reduced one-half (1/2) foot for each foot of setback less than 40 feet. On-Site Freestanding signs shall be permitted to be erected in the city subject to the following:

(A) R-A District.

- (1) *Number of signs.* Only one on-site freestanding sign shall be permitted on a lot or at a business operating on two or more adjoining lots.
- (2) *Display surface area.* Display surface area shall not exceed 16 square feet.

(3) *Illumination.* Sign may be illuminated by indirect illumination only.

(4) *Setback from right-of-way.* Sign shall be setback 35 feet from existing street right-of-way and 25 feet from any R or R-O District.

(B) *RSF, RT and Neighborhood Commercial Districts.* Except pursuant to 174.03 (C), (H) and (J), freestanding signs shall be prohibited and no freestanding signs shall be erected in RSF, RT and Neighborhood Commercial Districts of the City.

(C) *R-O and RMF Districts.* One freestanding sign shall be permitted on a lot or parcel zoned RMF or R-O subject to the following restrictions:

(1) *Display surface area.* The maximum display surface area shall not exceed four (4) square feet;

(2) *Setback from right-of-way.* The sign shall be setback a minimum of 15 feet from street right-of-way.

(3) *Height.* The height of the sign shall not be greater than six (6) feet above the level of the street upon which the sign faces.

(4) *Setback from R District.* The sign shall be setback a minimum of 25 feet from the boundary of any RSF District and 15 feet from all other zoning districts.

(5) *Illumination.* The sign shall be illuminated by indirect illumination only.

(6) In lieu of the above freestanding sign, one freestanding bulletin board of up to ten square feet may be installed in an RMF district pursuant to the above requirements and §174.03 (P).

(D) C Districts.

(1) *Number of signs.* Only one on-site freestanding signs shall be permitted on a lot, at a shopping center, or at a mall; provided only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.

(2) *Freestanding signs.* Freestanding signs shall be subject to the following:

(a) *Display surface area.* Display surface area shall not exceed 10 square feet; provided, the display surface area may be increased two (2) square feet for each one (1) foot the sign is setback from street right-of-way beyond 15 feet,

EXHIBIT "A"
TITLE XV UNIFIED DEVELOPMENT CODE

provided further, the maximum display surface area for a sign which is setback from street right-of-way 40 feet or more shall be 75 square feet.

- (b) *Setback from right-of-way.* Setback shall be a minimum of 15 feet from street right-of-way.

- (c) *Setback from adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.

- (3) *Joint identification sign.* The display surface area of joint identification signs may be increased to one square foot per 500 square feet of gross leaseable building area over 37,500 square feet located, as approved by the Planning Division, at no more than two (2) remote entrance locations. The permit applicant shall provide a recorded legal document as approved by the Planning Division indicating ownership and responsibility for maintenance of sign and subject to the following:

- (a) *R Districts.* Prohibited.
- (b) *R-O District.* Monument sign permitted with a maximum display surface area of 32 square feet.
- (c) *C and I Districts.* Display surface shall not exceed 300 square feet.
- (d) *Size limitation for freestanding sign if business displayed on joint identification sign.* If a business name or logo is placed upon a joint identification sign, that business's freestanding sign may not exceed 32 square feet.

(E) *I Districts.*

- (1) *Number of signs.* Only one on-site freestanding sign shall be permitted on a lot, at a shopping center, or at a mall; provided only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.
- (2) *Freestanding signs.* Freestanding signs shall be subject to the following:
- (a) *Display surface area.* Display surface area shall not exceed 10 square feet; provided, the display surface area may be increased two square feet for each one foot the sign is setback from street right-of-way beyond 15 feet; provided

further, the maximum display surface area for a sign which setback from street right-of-way 40 feet or more shall be 75 square feet.

- (b) *Setback from right-of-way.* Setback shall be a minimum of 15 feet from street right-of-way.

- (c) *Setback from Adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.

- (F) *P Districts.* One Freestanding sign or bulletin board may be erected.

(G) *Area signs.*

- (1) *Size/location.* The size and location of the fence, wall, or other structure which will contain the area identification sign must be approved by the Planning Division, who will approve such structure upon the criterion of traffic safety sight lines.

- (a) Areas with more than one entrance may not have a sign at more than two locations.
- (b) An area sign with display on one side located on each side of an entrance street may be substituted for a single sign with display on both sides.

(2) *Display surface area.*

- (a) *A, P, R, and R-O Districts.* Display area shall not exceed 32 square feet.
- (b) *C and I Districts.* Display area shall not exceed 75 square feet.

- (H) *Monument signs.* A monument sign shall be set back a minimum of 10 feet from the street right-of-way, 25 feet from adjoining property, and may be substituted for a freestanding sign permitted by §174.10., provided the display surface area meets the following:

- (1) *Neighborhood Conservation and RSF Districts.* Prohibited on individual lots.
- (2) *Other residential districts.* The display surface shall not exceed 16 square feet.
- (3) *R-A and P Districts.* The display surface area shall not exceed 32 square feet.

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- (4) *C and I Districts.* The display surface area shall not exceed the maximum permitted by §174.10.

(Code 1965, 17B-9; Ord. No. 1893, 12-19-72; Ord. No. 3008, 5-1-84; Ord. No. 3029, 8-21-84; Ord. No. 3294, 9-15-87; Code 1991, 158.47; Ord. No. 4100, 2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00)

174.11 Projecting Signs

- (A) *Sidewalks.* It shall be unlawful to erect any projecting sign that projects from the wall of a building upon which it is erected a distance of more than two-thirds of the width of the sidewalk (in those instances where there is a sidewalk next to the building) or within two feet of street right-of-way (in those instances where there is no sidewalk next to the building); provided, no projecting sign shall project more than six (6) feet from the wall of the building upon which it is erected.
- (B) *Location.* Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eave or rafter line, whichever is higher. Projecting signs shall clear grade level below the sign by a minimum of eight (8) feet.
- (C) *Display surface area.* The display surface area of a projecting sign shall not exceed 16 square feet. Only one (1) projecting sign per business shall be permitted and a projecting sign shall not be permitted on property which has a freestanding sign.
- (D) *Off-site.* Off-site projecting signs shall be prohibited in all zoning districts.
- (E) *On-site.* On-site projecting signs shall be prohibited in R-A, RSF, RT, RO and Neighborhood Conservation zoning districts.

(Code 1965, 17B-10; Ord. No. 1893, 12-19-72; Ord. No. 2255, 7-20-76; Code 1991, 158.48; Ord. No. 4100, 2 (Ex. A.), 6-16-98)

174.12 Wall Signs

- (A) *Projection.*

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

- (B) *Number of signs.*

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to one wall sign on the front facade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall.

- (C) *Display surface area.*

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.
- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In RMF and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, 17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, 158.49; Ord. No. 4100, 2 (Ex. A), 6-16-98)

Cross reference(s)—Boards and Commissions, Ch. 33, General Provisions, Ch. 150; Definitions, Ch. 151; Enforcement, Ch. 153; Appeals, Ch. 155; Variances, Ch. 156; Fees, Ch. 159.

(Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03)

EXHIBIT "B"

TITLE XV UNIFIED DEVELOPMENT CODE

153.08 MISCELLANEOUS REMEDIES

(G) Signs.

(1) *Removal of nonconforming, dilapidated or dangerous signs.*

If the Zoning and Development Administrator shall find that any sign or the sign supporting structure is unsafe or insecure, is a menace to the public, is abandoned or maintained in a dilapidated condition, or has been constructed or is being maintained in violation of the provisions of *Chapter 174* or other provisions of the *Unified Development Code*, the Administrator shall give written notice of the violation or problem to the sign permittee or owner of the property on which the sign is located. The notice shall require removal of the sign and/or structure within seven days. If the permittee or owner fails to remove or alter the sign or sign supporting structure so as to comply with the standards set forth in *Chapter 174* within seven (7) days of the receipt of said notice, the City may remove or alter such sign or sign supporting structure to comply with the *Unified Development Code*. All expense incidental to such removal or alteration shall be charged to the owner of the property upon which the sign is or was located and shall constitute a lien upon the property.

(2) *Summary removal of signs and sign supporting structures which constitute an immediate and substantial peril.*

The Zoning and Development Administrator may cause any sign or sign supporting structure which is an immediate and substantial peril to persons or property to be removed summarily without notice. Such signs or other sign supporting structures are hereby declared to be a public nuisance. When any sign or sign supporting structure is removed summarily without notice, the owner or lessee thereof shall have the right to be heard at the post-seizure administrative hearing before the Planning Commission to determine whether there was probable cause to remove the sign summarily.

The Planning Commission may affirm the Zoning and Development Administrator's decision and place a lien upon the property for the City's expense in removing the sign and/or structure or it may order the City to replace the sign and/or structure at the City's expense if it determines that there was no substantial and immediate peril justifying summary removal of the sign or sign structure.

(3) *Removal of sign after business cessation for sixty (60) days.*

If a property owner fails to remove the sign and/or nonconforming sign supporting structure of the business that has ceased operation for a period of time in excess of 60 days, the Zoning and Development Administrator shall issue a written notice to the sign permittee and to the property owner, which notice shall state that such sign and/or nonconforming sign supporting structure must be removed within seven days. If the sign permittee owner or property owner fails to comply with such written notice to remove, the Zoning and Development Administrator is hereby authorized to cause removal of such sign and/or nonconforming sign supporting structure, and any expense incidental to such removal shall be charged to the owner of the property upon which the sign and/or nonconforming sign supporting structure is located and shall constitute a lien upon the property.

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy 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
January 2, 2007**

A meeting of the Fayetteville City Council will be held on January 2, 2007 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**

Oaths of Office of the 2007 Elected Officials – Judge Rudy Moore

Report on the Firemen's and Policemen's Pension and Relief Fund – Mayor Coody

Election of Vice Mayor

A. CONSENT:

- 1. Approval of the December 5, 2006 City Council meeting minutes.**
- 2. WSIP Deed Restriction Covenant:** A resolution approving the filing of a deed restriction for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by U.S. Army Corps of Engineers Section 404 Permit Number 14207.
- 3. Adjustable Frequency Drive Unit Purchase:** A resolution approving the purchase of one (1) Adjustable Frequency Drive Unit from _____ in the amount of _____ for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station.

4. **Bell-Corley Construction, LLC Contract:** A resolution awarding a contract to Bell-Corley Construction, LLC in the amount of \$1,270,000.00 for the construction of two (2) corporate hangars at the Fayetteville Municipal Airport; approving a project contingency in the amount of \$63,500.00; and approving a budget adjustment in the amount of \$33,500.00 for same.
5. **Assistance to Firefighter's Fire Prevention and Safety Grant:** A resolution authorizing the Fayetteville Fire Department to apply for and accept a Department of Homeland Security FY2006 Assistance to Firefighters Fire Prevention and Safety Grant in the amount of \$12,000.00.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the December 19, 2006 City Council meeting.*

C. NEW BUSINESS:

1. **Northwest Arkansas Economic Development District Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$62,500.00 to provide public recreation services for the senior citizens of Fayetteville for 2007.
2. **Amend Chapter 174 & Chapter 153; Signs:** An ordinance to enact a replacement Chapter 174 Signs and § 153.08 (G) Signs to clarify sign regulations in Fayetteville.
3. **Amend Chapter 159; Road Impact Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159: Fees by enacting § 159.05 Road Impact Fees of the Unified Development Code and to refer this ordinance to the voters for their adoption or rejection.
4. **RZN 06-2366 (Wonnacott):** An ordinance rezoning that property described in Rezoning Petition RZN 06-2366, for approximately 1.50 acres, located at 655 and 657 north Genevieve Street from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.
5. **RZN 06-2344 (Dunnerstock and Windsor SD):** An ordinance rezoning that property described in Rezoning Petition RZN 06-2344, for approximately 34.44 acres located at the northeast corner of Double Springs Road and Sellers Road, from R-A, Residential Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

- 6. R-PZD 06-2349 (Westbrook Village II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2349, Westbrook Village II, located at Salem Road and Clabber Creek Drive; containing approximately 1.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 7. VAC 06-2362 (Springwoods):** An ordinance approving VAC 06-2362 submitted by H2 Engineering for property located at Lot 2 of the Springwoods C-PZD to vacate sewer and electric easements a total of 0.48 acres, in order to develop the Arbors at Springwoods Large Scale Development.
- 8. 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.

D. INFORMATIONAL:

City Council Tour: None

City Offices will be closed December 25, 2006, December 26, 2006 and January 1, 2007.

City Council Agenda Session for this agenda will be on Thursday, December 28, 2006 at 4:30 PM in Room 326.

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

A. 2
WSIP Deed Restriction Covenant
Page 1 of 18

2-Jan-06

City Council Meeting Date

David Jurgens
Submitted By

Wastewater Sys Imprvmnt Project
Division

Water/Wastewater
Department

Action Required:

Approval of a Deed Restriction Covenant for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by Corps of Engineers Section 404 Permit number 14207.

\$ 47
Cost of this request
4480.9480.5315.00
Account Number
02133-0314
Project Number

\$ 118,765,766.00
Category/Project Budget
\$ 107,923,028.89
Funds Used to Date
\$ 10,842,737.11
Remaining Balance

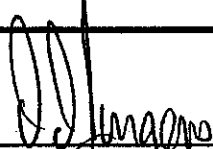
Wastewater System Imp Project
Program Category / Project Name
Water and Wastewater
Program / Project Category Name
Water/Sewer
Fund Name

Budgeted Item

☒ XX

Budget Adjustment Attached

☐

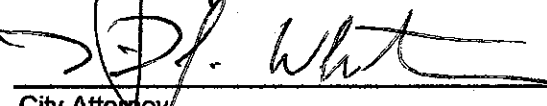

Department Director

12 Dec 06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

12/15/06
Date

Received in City Clerk's Office

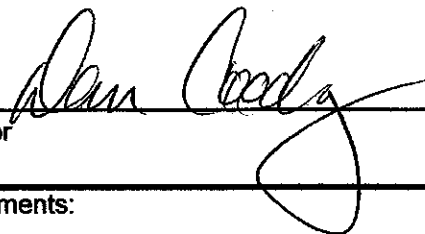
ENTERED
12/12/06


Finance and Internal Service Director

12-18-06
Date

Received in Mayor's Office

ENTERED
12/18/06
PH


Mayor

12/19/06
Date

Comments:

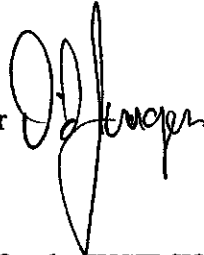
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CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water & Wastewater Director



Date: December 12, 2006

Subject: Approval of a Deed Restriction Covenant for the WSIP Wetland Compensatory Mitigation Site, as Required by Corps of Engineers Section 404 Permit Number 14207

RECOMMENDATION

Fayetteville City Administration recommends approval of a Deed Restriction Covenant for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by Corps of Engineers Section 404 Permit number 14207, attached.

BACKGROUND

Corps of Engineers Section 404 Permit Number 14207, issued for the work associated with the Wastewater System Improvement Project, requires that the wetlands mitigation site deed contain a restrictive covenant by which the site must be held in perpetuity as a wetlands area.

DISCUSSION

The attached deed restriction was modified from its original draft verbiage in order to allow the wetlands to be used as a bird watching and natural trail area, per the language that allows, in addition to required maintenance related activities, "the limited use and management of public access that is restricted to pedestrian foot-traffic only on earthen berms that surround wetland cells, for wet prairie plant community and wildlife observation and viewing, educational, and recreational purposes that would be conducted in a manner to not adversely impact the targeted natural state, or use, of the Property for compensatory mitigation, and as wildlife habitat." Originally, the draft restriction was written such that no public was allowed, and only maintenance activities could be conducted on the land. This change has been coordinated with and approved by the Corps of Engineers.

The wetlands site is under construction, and conforms to all Corps requirements in all ways. With the construction of the berms that have already been built, the area is naturally reverting to its original wetlands state, with wetlands plants and birds showing up as early as August, 2006.

BUDGET IMPACT

The only cost is the county filing fee of less than \$50.00.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE FILING OF A DEED RESTRICTION FOR THE WASTEWATER SYSTEM IMPROVEMENT PROJECT (WSIP) WETLAND COMPENSATORY MITIGATION SITE, AS REQUIRED BY U. S. ARMY CORPS OF ENGINEERS SECTION 404 PERMIT NUMBER 14207.

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 filing of a Deed Restriction for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by U. S. Army Corps of Engineers Section 404 Permit Number 14207. A copy of the Deed Restriction, marked Exhibit A, is attached hereto and made a part hereof.

PASSED and APPROVED this 2nd day of January, 2006.

APPROVED:

By: _____

DAN GOODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

DRAFT

NOTICE OF DEED RESTRICTION

STATE OF ARKANSAS
COUNTY OF WASHINGTON

KNOW ALL MEN BY THESE PRESENTS THAT: The City of Fayetteville is the owner of the real property more particularly described in the attached legal description and shown in the attached map of the mitigation site based on a survey performed by a registered professional land surveyor; the legal description and the map are made a part hereof. For all purposes throughout this document, that real property will be referred to as the "Property". As of the date executed, the Property has been designated as a mitigation site associated with U.S. Army Corps of Engineers Section 404 Permit No. 14207; said permit relating to the planned construction of Fayetteville's wastewater system improvements project. A copy of the U.S. Army Corps of Engineers Section 404 Permit No. 14207 will be attached to and recorded with this notice. The permit grants authorization to City of Fayetteville for the placement of fill material in wetlands, to perform work in waters of the United States and approves compensatory mitigation for the wastewater project's environmental impacts. Any purchaser of all or any part of the Property or any person having an interest in or proposing to acquire an interest in all or any part of the Property, or any person proposing to develop or improve all or any part of the Property, is hereby notified of the following development restriction affecting the Property:

Any activity on the Property must comply with the terms and special conditions described in U.S. Army Corps of Engineers Section 404 Permit No. 14207, or a revision thereof. It should be noted that the Property has been designated to be preserved, in perpetuity, as compensatory mitigation for environmental impacts to wetlands and wildlife habitat mitigation as a result of the wastewater project, and may not be converted to another use.

Prohibited activities on the Property may include, but are not limited to: clearing, logging, bush hogging, mowing, spraying with herbicides, filling, leveling, draining, dumping, construction of any structure and any other activity that would adversely impact the targeted natural state, or use, of the Property for compensatory mitigation, and as wildlife habitat; unless the activity is necessary to enhance wildlife habitat or for wetland/upland buffer area enhancement. This specific deed-restriction, however, does not prohibit or preclude the use of bush hogging; mowing; spraying with herbicides to control invasive, non-native, and undesirable plant species; controlled burning; selective cutting and/or spraying with herbicides to control woody plant species within vegetational zones designated for upland prairie, wet meadow, marsh, and/or open water habitats; hydrological control and management; construction of structures, or any other upland/wet prairie management tools necessary to enhance and maintain the biological integrity of the site to meet targeted wetland compensatory mitigation goals specified within the Wetland Compensatory Mitigation Plan submitted to, and approved by, the Little Rock District U.S. Army Corps of Engineers by the City of Fayetteville, and as

required by Section 404 Permit No. 14207. Prior to utilizing the aforementioned prairie management tools, or conducting other natural resource management of wildlife enhancement activities involving alteration of the Property would require prior approval from the Little Rock District Corps of Engineers

Prohibited activities on the Property do not include; and the targeted natural state, or use, of the Property for compensatory mitigation, and as wildlife habitat specified within the Wetland Compensatory Mitigation Plan submitted to, and approved by, the Little Rock District U.S. Army Corps of Engineers by the City of Fayetteville, and as required by Section 404 Permit No. 14207, does not prohibit or preclude, the limited use and management of public access that is restricted to pedestrian foot-traffic only on earthen berms that surround wetland cells, for wet prairie plant community and wildlife observation and viewing, educational, and recreational purposes that would be conducted in a manner to not adversely impact the targeted natural state, or use, of the Property for compensatory mitigation, and as wildlife habitat. Restrictions for use by the public shall prohibit access by any motorized vehicle or bicycle; any access within wetland cells; access by dogs (even on leashes) or other pets; tampering or adjusting water level retention structures; littering; hunting; collection of any plant or animal specimens; or the removal or destruction of any natural or man-made feature located at the mitigation site.

Prohibited activities on the Property do not include; and the targeted natural state, or use, of the Property for compensatory mitigation, and as wildlife habitat specified within the Wetland Compensatory Mitigation Plan submitted to, and approved by, the Little Rock District U.S. Army Corps of Engineers by the City of Fayetteville, and as required by Section 404 Permit No. 14207, does not prohibit or preclude access to wetland cells within the Property by parties and/or entities approved by the City of Fayetteville and the Little Rock District U.S. Army Corps of Engineers for the purpose of academic endeavors, wet prairie ecological research, and/or wet prairie monitoring and management that would be conducted in a manner to not adversely impact the targeted natural state, or use, of the Property for compensatory mitigation, and as wildlife habitat.

EXECUTED this _____ day of _____, 2006

BY:

SUBSCRIBED AND SWORN TO BEFORE ME by _____, on this
the _____ day of _____, 2006, to certify which witness my hand and seal of office.

Notary Public in and for the State of Arkansas

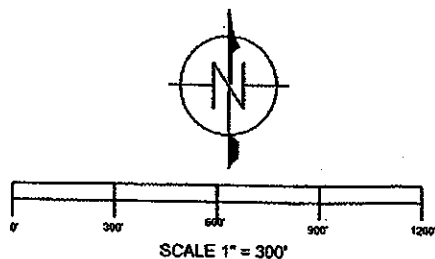
My Commission expires:

Printed Name of Notary:

CITY OF FAYETTEVILLE PROPERTY

EAST HALF OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 31 WEST

LSD BOUNDARY, WETLANDS MITIGATION SITE DEDICATION, STREET DEDICATIONS AND EASEMENTS



BASIS OF BEARINGS, CITY OF FAYETTEVILLE, MAPPING CONTROL
ARKANSAS STATE PLANE COORDINATE SYSTEM-NORTH ZONE
NAD 83 APPROXIMATE LAT/LONG OF SITE IS: 36°03'46"N, 94°14'03"W
ALL MEASUREMENTS SHOWN ARE ON GROUND DATUM +/- 1230' MSL

FEMA defined 100 Year Flood Plain (Zones A/AE) Special Flood Hazard Areas
inundated by the 100 year Flood as determined from the FIRM Map of
Washington County, Ark. and Incorporated Areas, Map # 05143C0091 C
Effective Date JULY 21, 1999

LEGEND

- = SET 5/8" STEEL PIN WITH CAP
- = COMPUTED POINT
- ◆ = SET STEEL PIN
- ⊙ = FOUND STEEL PIN
- ⚡ = FOUND RAIL ROAD SPIKE
- = FAYETTEVILLE WEST
SIDE WASTEWATER
TREATMENT PLANT SITE
LSD TRACT C BOUNDARY
- = CITY OF FAYETTEVILLE
PROPERTY, SEC. 14,
TWP 16 N, RNG 31 W
- - - = PROPOSED BROYLES
STREET
- · - · - = ARK. WESTERN GAS EASEMENT BOUNDARY
- = EASEMENT BOUNDARY
- = WETLANDS MITIGATION
SITE

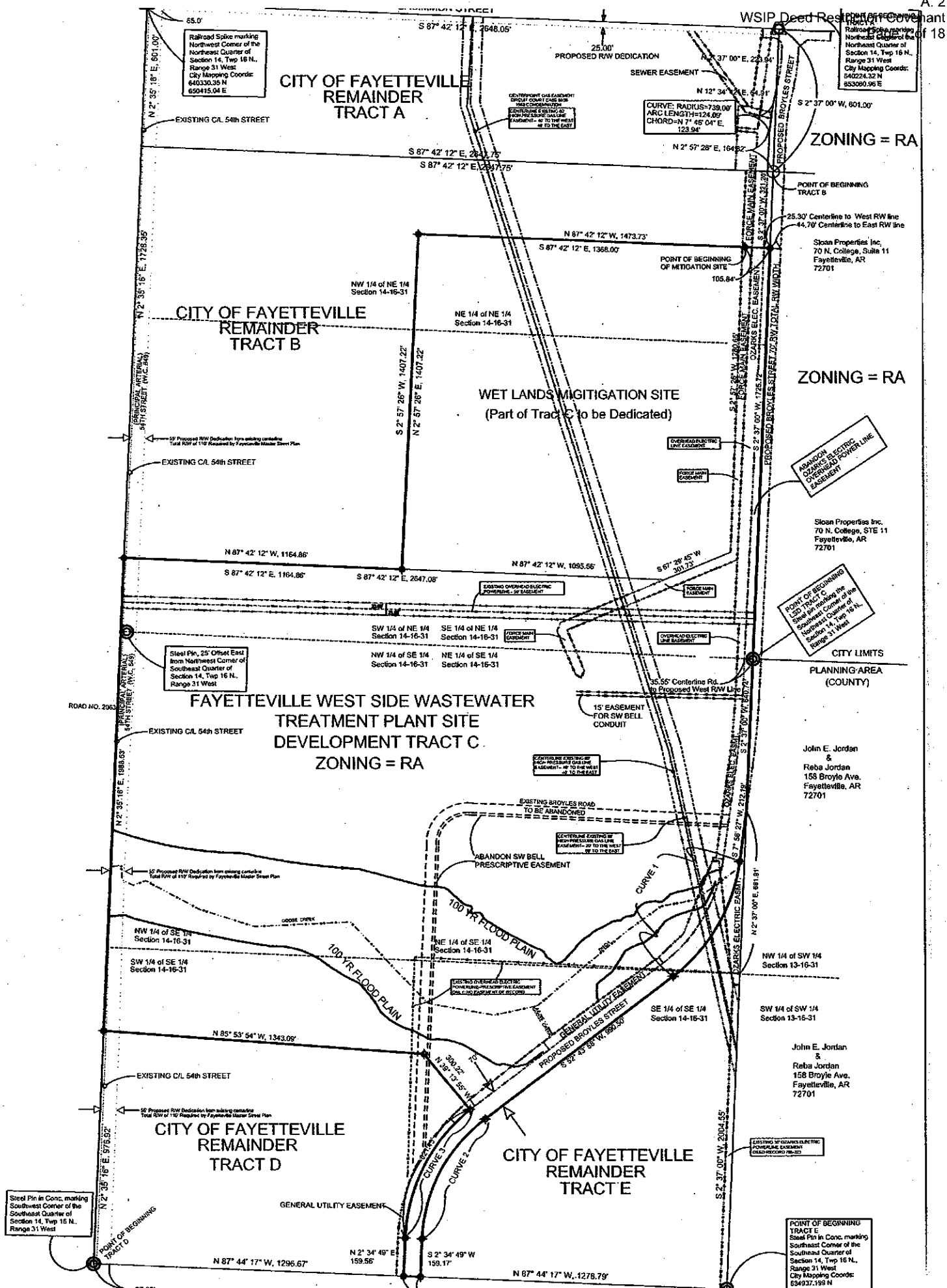
LSD-DEVELOPMENT TRACT BOUNDARY

A part of the Northwest Quarter of the Northeast Quarter (NW 1/4 of NE 1/4), a part of the Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4), a part of the Southwest Quarter of the Northeast Quarter (SW 1/4 of NE 1/4), a part of the Southeast Quarter of the Northeast Quarter (SE 1/4 of NE 1/4), a part of the Northwest Quarter of the Southeast Quarter (NW 1/4 of SE 1/4), a part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of SE 1/4) and a part of the Southeast Quarter of the Southeast Quarter (SE 1/4 of SE 1/4) of Section Fourteen (14), Township Sixteen North (Twp 16 N), Range 31 West (Rng 31 W), Washington County, Arkansas described as follows: begin at the found steel pin which marks the Southeast corner of the Northeast Quarter of Section 14, Twp. 16 N., Rng 31 W., Washington County, Arkansas as shown on Tyrone Vinson's plat found at Washington County Land Title Record 2000 75843-51, said steel pin being the POINT OF BEGINNING and run thence South 2° 37' 00" West a distance of 640.74 feet to a set steel pin; thence South 7° 56' 27" West a distance of 212.19 feet to a set steel pin and the beginning of a curve to the right, said curve having a radius of 731 feet and a central angle of 44° 47' 31", thence along the arc of said curve a distance of 571.47 feet to a set steel pin; thence South 52° 43' 58" West a distance of 990.50 feet to a set steel pin and the beginning of a curve to the left said, curve having a radius of 669 feet and a central angle of 60° 09' 09", thence along the arc of said curve a distance of 585.59 feet to a set steel pin; thence South 2° 34' 49" West a distance of 159.17 feet to a set steel pin; thence North 87° 44' 17" West a distance of 70.00 feet to a set steel pin; thence North 2° 34' 49" East a distance of 159.56 feet to a set steel pin and the beginning of a curve to the right, said curve having a radius of 739 feet and a central angle of 46° 10' 43", thence along the arc of said curve a distance of 621.43 feet to a set steel pin; thence North 39° 13' 55" West a distance of 300.22 feet to a set steel pin; thence North 85° 53' 54" West a distance of 1343.09 feet to a set steel pin on the west line of the Southeast Quarter of said Section 14; thence North 2° 35' 16" East along the west line of said Southeast Quarter and the west line of the Northeast Quarter of said Section 14 a distance of 1968.53 feet to a set steel pin; thence leaving said west line of said Northeast Quarter of Section 14, South 87° 42' 12" East a distance of 1164.86 feet to a set steel pin; thence North 2° 57' 26" East a distance of 1407.22 feet; thence South 87° 42' 12" East a distance of 1473.73 feet to a steel pin set on the east line of said Section 14; thence South 2° 37' 00" West along said east line a distance of 1725.72 feet to the POINT OF BEGINNING, containing 7,319,210 square feet of 168.026 acres, more or less.

WETLANDS MITIGATION DEDICATION TRACT BOUNDARY

A parcel of land being a part of the Southeast Quarter of the Northeast Quarter (SE 1/4 of NE 1/4), a part of the Southwest Quarter of the Northeast Quarter (SW 1/4 of NE 1/4), a part of the Northwest Quarter of the Northeast Quarter (NW 1/4 of NE 1/4), and a part of the Northeast Quarter of the Northeast Quarter (NE 1/4 of NE 1/4) of Section Fourteen (14), Township Sixteen (16) North, Range Thirty-one (31) West, Washington County, Arkansas, described as follows: commence at a found steel pin that marks the Southeast corner of the Northeast Quarter of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas as shown on Tyrone Vinson's plat found in Washington County Land Title Record 2000 75843-51, thence North 2° 37' 00" East a distance of 1725.72 feet; thence North 87° 42' 12" West a distance of 105.84 feet to the POINT OF BEGINNING and run thence South 2° 57' 26" West a distance of 1280.65 feet; thence South 67° 29' 45" West a distance of 301.73 feet; thence North 87° 42' 12" West a distance of 1095.56 feet; thence North 2° 57' 26" East a distance of 1407.22 feet; thence South 87° 42' 12" East a distance of 1368.00 feet to the POINT OF BEGINNING containing 1,907,772 square feet or 43.80 acres, more or less.

The wetlands Mitigation Site described above is part of Large Scale Development, Tract C. The site is subject to a recorded Deed Restriction which limits activity on the site in perpetuity in conformity with the special conditions described in the US Army Corps of Engineers Section 404 Permit numbered 14207. Subject to easements and rights-of-way of record, if any.



DEPARTMENT OF THE ARMY PERMIT

Permittee: **City of Fayetteville**

Permit No.: **14207**

Issuing Office: Department of the Army
Little Rock District
PO Box 867
Little Rock, Arkansas 72203-0867

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Construction of a wastewater treatment facility involving the placement of fill material in 5.6 acres of wetlands and construction of an outfall structure in Goose Creek. Improvements to approximately 1.1 miles of the adjacent Broyles Road involving fill placement in 2.7 acres of wetlands and construction of box culverts for three road crossings - two crossings of Goose Creek and one of Owl Creek. Installation of approximately 17.6 miles of new sewerlines involving 36 stream crossings and 15 separate wetland crossings impacting a total of 12.6 acres of wetlands. Sewerline crossing areas in streams and wetlands would be restored after construction. The project shall be constructed and/or accomplished as shown on the attached drawings, sheets 1 through 7 of 7, dated March 2005.

Project Location: The treatment plant site is in the E 1/2 of section 14, T. 16 N., R. 31 W., in Fayetteville, Washington County, Arkansas. Sewerline routes are throughout the western side of Fayetteville, crossing several streams and wetlands within the Illinois River watershed.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **December 31, 2008**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this

requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. After installation of sewerline crossings, you shall restore stream channels and wetland surfaces to original contours. In wetlands, ruts or similar features from equipment must be repaired to create a level surface to improve revegetation of the wetland area.

2. During installation of authorized stream and wetland crossings, if a cave or fracture is encountered during excavation activities, all work shall cease and the Corps of Engineers shall be contacted. The Corps will assess the situation, coordinate with the U.S. Fish and Wildlife Service, and provide further consultation before work can proceed.

3. You shall install and maintain appropriate erosion control methods (silt fences, hay bales, etc.) during construction to prevent erosion and sedimentation into streams and wetlands. After construction, all disturbed areas and exposed slopes shall be adequately stabilized to prevent subsequent erosion.

4. You shall ensure that all elements of the Final Wetland Compensatory Mitigation Plan, dated January 2005, are fully implemented within the East and West Mitigation Sites totaling 26.62 acres. The following conditions are included as part of this mitigation:

a. You shall establish 4.05 acres of wet meadow wetlands and 3.06 acres of forested wetlands, restore and enhance 7.29 acres of existing emergent wetlands, and enhance 12.22

acres of existing upland prairie as buffering. This shall be accomplished through construction of small berms and overflow weirs to form wetland cells with various hydrological zones.

b. You shall plant native woody and herbaceous vegetation within the constructed mitigation sites according to the appropriate hydrological zones, as indicated in the Mitigation Plan. The survival rate of planted species must be at least 75% by year three, and the overall vegetative coverage of the mitigation sites must be at least 75% by year five. Desirable native volunteers may account for up to 25% of vegetative coverage.

c. All components of the required mitigation proposal shall be constructed prior to, or concurrently with, the discharge of the authorized fill material.

d. Prohibited activities within the mitigation areas include, but are not limited to: clearing, logging, bushhogging, mowing, grazing, spraying with herbicides, filling, leveling, ditching, draining, dumping, construction of any structure, or any other activity that would adversely impact the natural state of the area without obtaining a revision of this Department of the Army permit. Specific activities for wildlife enhancement or any other activities involving alteration of this mitigation tract must have prior approval from the Corps of Engineers.

5. A total of five annual reports on the status of the mitigation sites shall be submitted to the Corps of Engineers. The first report is due on December 31st after the first growing season following completion of the mitigation work, and subsequent reports shall be submitted on or before December 31st of each year thereafter. These reports shall include inventories of all plant species, along with their estimated relative frequency and percent cover, and photographs showing all representative areas of the mitigation sites.

6. Corps of Engineers approval is required for completed work within the mitigation site to ensure that sufficient wetland and riparian mitigation is provided. If the Corps of Engineers determines that the mitigation site does not adequately satisfy required wetland mitigation, you shall be responsible for any corrective work determined to be necessary by the Corps of Engineers. This corrective work may include, but is not limited to, grading the site or manipulating water levels to achieve necessary wetland hydrology, or replanting the mitigation site. This responsibility shall extend for a period of five years, unless extended by the District Engineer, beginning upon completion of the mitigation work.

7. A perpetual deed restriction, including the restrictions specified in Special Condition No. 4 of the permit, shall be placed on the mitigation sites to guarantee preservation of the wetlands and upland buffers. A certified copy of the Notice of Deed Restriction, as well as a copy of this Department of the Army permit, shall be recorded with the Registrar of Deeds for Washington County. It is your responsibility to attach to the deed restriction, a clear map, and legal description of the mitigation sites based on a survey performed by a registered professional land surveyor. Documentation of the deed restriction recording shall be provided to the Corps no later than 120 days from the date of issuance of this permit.

8. The corners of the mitigation sites shall be clearly and permanently marked in the field for easy identification. Signs shall be placed around the boundaries of the mitigation area no further than 200 feet apart indicating that this is a protected wetland area and that no prohibited activities shall be conducted beyond this point. The specific wording of the signs shall be approved by the Corps of Engineers.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☐ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

☒ Section 404 of the Clean Water Act (33 U.S. Code 1344).

☐ Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization:

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. **Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions:** General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

 3/14/05
(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Pursuant to the direction from Colonel Wally Z. Walters, District Engineer:

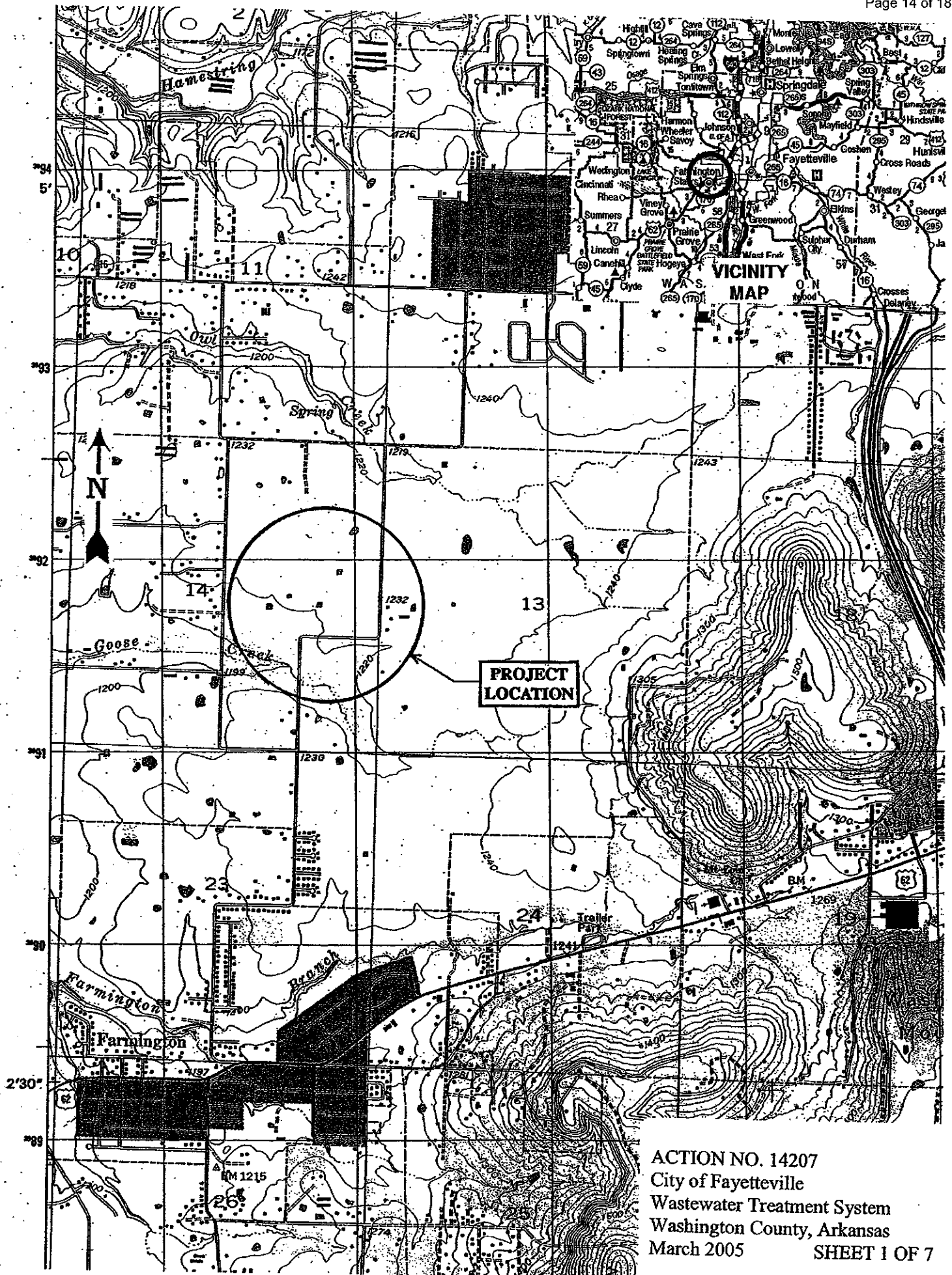
Jerry L. Harris
Jerry L. Harris, P.E.
Chief, Regulatory Branch

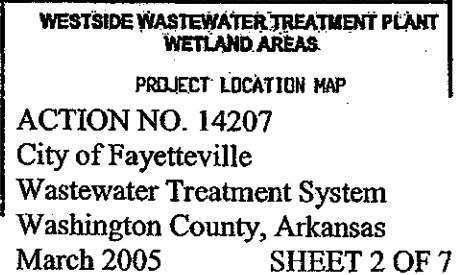
3/17/05
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE)

(DATE)





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McGowan Williams & Yates
 Engineering Confidence
 © 2004 Fayetteville, Arkansas

DESIGNED

DETAILED

ELH

FAYETTEVILLE
 THE CITY OF FAYETTEVILLE, ARKANSAS



**WESTSIDE WASTEWATER TREATMENT PLANT
 WETLAND AREAS**

OVERALL SITE LAYOUT

ACTION NO. 14207

City of Fayetteville

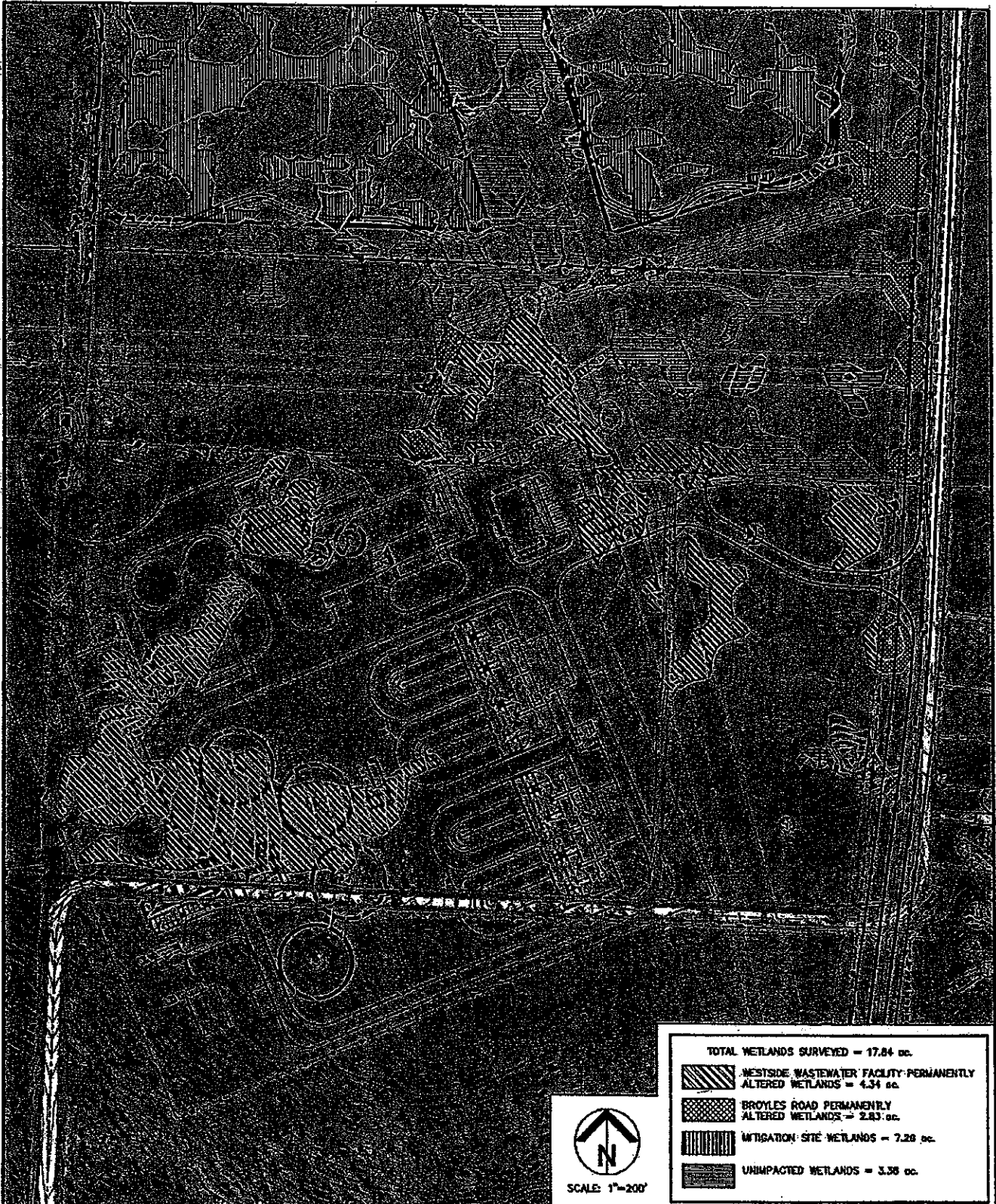
Wastewater Treatment System

Washington County, Arkansas

March 2005

SHEET 3 OF 7

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TOTAL WETLANDS SURVEYED = 17.84 ac.	
	WESTSIDE WASTEWATER FACILITY-PERMANENTLY ALTERED WETLANDS = 4.34 ac.
	BROYLES ROAD PERMANENTLY ALTERED WETLANDS = 2.83 ac.
	MITIGATION SITE WETLANDS = 7.28 ac.
	UNIMPACTED WETLANDS = 3.38 ac.




McGoodwin Williams & Yates
 Engineering Confidence
 © 2005 McGoodwin Williams & Yates

DESIGNED	DETAILED ELH
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FAYETTEVILLE
 THE CITY OF FAYETTEVILLE, ARKANSAS



**WESTSIDE WASTEWATER TREATMENT PLANT
 WETLAND AREAS**

IMPACTED AND UNIMPACTED WETLAND AREAS
ACTION NO. 14207
 City of Fayetteville
 Wastewater Treatment System
 Washington County, Arkansas
 March 2005 **SHEET 4 OF 7**

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

1/2/2006

City Council Meeting Date

David Jurgens
Submitted By

Wastewater Sys Imprvmnt Project
Division

Water/Wastewater
Department

Action Required:

Approval of a \$?????? purchase for an Adjustable Frequency Drive Unit from ?????????? for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station. The bid letting will be 21 December, 2006; bids are expected to be below \$75,000. Funds are available in the 2007 WSIP project budget.

???

Cost of this request

4480.9480.5315.00

Account Number

02133-0314

\$ 118,765,766.00

Category/Project Budget

\$ 107,923,028.89

Funds Used to Date

\$ 10,842,737.11

Wastewater System Imp Project

Program Category / Project Name

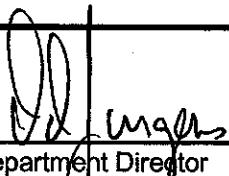
Water and Wastewater

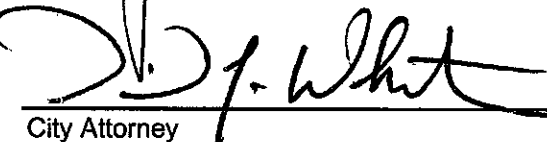
Program / Project Category Name

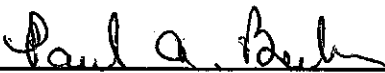
Water/Sewer

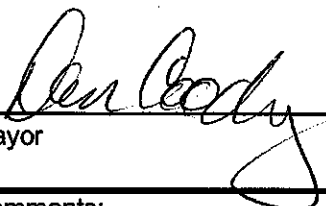
Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director 14 Dec 06
Date


City Attorney 12/15/06
Date


Finance and Internal Service Director 12-18-06
Date


Mayor 12/18/06
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office


Received in Mayor's Office

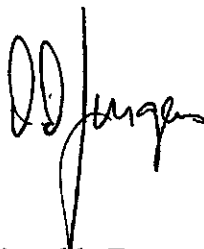

Comments:

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water/Wastewater Director



Date: 14 December 2006

Subject: Approval of a \$?????? purchase for an Adjustable Frequency Drive Unit from ?????????? for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station. The bid letting will be 21 December, 2006; bids are expected to be below \$75,000.

RECOMMENDATION

Fayetteville City Administration recommends approval of a purchase totaling \$??,???.00, for an Adjustable Frequency Drive (AFD) Unit from ?????????? for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station. Funds are available in the 2007 WSIP project budget.

BACKGROUND

Large wastewater pumps are operated most efficiently by the use of adjustable frequency drive units that essentially act like a dimmer switch for the pump, controlling the flow to match the upstream and downstream requirements. This AFD will be used for two independent purposes.

While the new Gregg Avenue lift station, subproject WL-7, is being constructed, portions of the old lift station will have to be taken out of service to make room for the new structure. Only the larger pumps will be able to remain in service. These pumps are currently only used in wet weather, and must have the AFD in order to pump during low flow periods. Failure to use the AFD will result in significant and costly pipe and pump failures as well as increased odors at the Gregg and Old Wire Road lift stations.

For the new Hamestring pump station, these drives will be critical for safe and efficient operation of the pump station itself and for controlling the flow entering the West Side WWTP. The lift station has three of these drives being built in as part of the WL-6 project. After the new Gregg Avenue lift station is completed, this drive shall be used as a critical shelf spare for the new Hamestring lift station.

DISCUSSION

Publicly advertised bids will be opened on 21 December, 2006. Results of that bid will be added in a supplemental memo. The bids are expected to be below \$75,000.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) ADJUSTABLE FREQUENCY DRIVE UNIT FROM ?????????? IN THE AMOUNT OF ?????????? FOR WSIP SUBPROJECTS WL-6, HAMESTRING PUMP STATION, AND WL-7, GREGG AVENUE PUMP STATION.

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 one (1) Adjustable Frequency Drive Unit from ?????????? in the amount of ?????????? for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station.

PASSED and APPROVED this 2nd day of January, 2007.

APPROVED

By: _____

DAN COODY, Mayor

ATTEST:

By: _____

SONDRA SMITH, City Clerk

City Of Fayetteville

(Not a Purchase Order)

Requisition No.: 1214/2006
 Date: 3/3/2006
 P.O. Number: 3/3/2006
 Expected Delivery Date:

Vendor #: Vendor Name:

Address: Fob Point:

City: State: Zip Code: Ship to code: Division Head Approval: No: XX Yes: XX

Requester: Requester's Employee #: 490 Extension: 330

David Jurgens Account Numbers 4480-9480-5801.00 Project/Subproject # 2133-0362 Inventory # Fixed Asset #

Item Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1 WSIP - Subproject WL-6, Adjustable Frequency Drive Unit	1	EA		\$0.00	4480-9480-5801.00	2133-0362		
2				\$0.00				
3				\$0.00				
4				\$0.00				
5				\$0.00				
6				\$0.00				
7				\$0.00				
8				\$0.00				
9				\$0.00				
10				\$0.00				
Shipping/Handling		Lot		\$0.00				
Special Instructions:								

Subtotal: \$0.00
 Tax: \$0.00
 Total: \$0.00

Approvals:

Mayor: Department Director:

Finance & Internal Services Director: Budget Manager:

Dispatch Manager: Utilities Manager:

Purchasing Manager:

IT Manager:

Other:

City of Fayetteville
Bid 06-67, Variable Frequency Drive
Bid Form – (must be included with bid submittal documentation)

DATE REQUIRED AS A COMPLETE UNIT: 60 days from Date of Order

F.O.B. 1400 N. Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
-------	--------------	-----------	--------------	--------------

1. **Cutler-Hammer Adjustable Frequency Drive :**

(or pre-approved equal):

- Catalog Number CPX35014AAK2PF*L1
- CPX Series
- 480V AC Volts
- 350 HP FLA: 414 IVT
- Enclosure: CPX NEMA Type 1
- Variable torque
- Standard software

1 \$ _____ \$ _____

Please Specify for Unit(s) Bid: *MANUFACTURER: _____ MODEL: _____

TOTAL BID PRICE: \$ _____

EXECUTION OF BID -

Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: _____

*BUSINESS ADDRESS: _____

*CITY: _____ *STATE: _____ *ZIP: _____

*PHONE: _____ FAX: _____

*BY : (PRINTED NAME) _____

*AUTHORIZED SIGNATURE: _____

*TITLE: _____

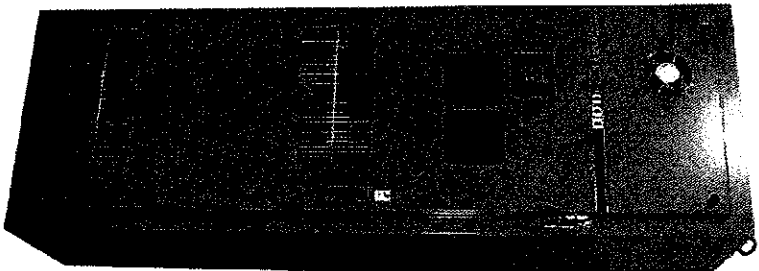
EATON

Cutler-Hammer

CPX9000 Adjustable Frequency Drives

Technical Data

November 2005
New Information



CPX9000 — 150 hp VT

Product Description

The Cutler-Hammer® CPX9000 Clean Power Drives from Eaton's electrical business uses advanced 18-pulse, clean power technology that significantly reduces line harmonics at the drive input terminals, resulting in one of the purest sinusoidal waveforms available.

Enhancements to the CPX9000 Clean Power Drives include smaller enclosures and higher temperature ratings than CP9000 for selected drives.

The CPX9000 drive also delivers True Power Factor — in addition to reducing harmonic distortion, the CPX9000 drive prevents transformer overheating and overloading of breakers and feeders, which enables the application of adjustable frequency drives on generators and other high impedance power systems.

CPX9000 Enclosed Products

Program

■ **Standard Enclosed** — covers a wide range of the most commonly ordered options. Pre-engineering eliminates the lead time normally associated with customer specific options. Available configurations are listed on **Pages 9 – 14**.

■ **Modified Standard Enclosed** — applies to specific customer requirements that vary from the Standard Enclosed offering, such as the need for an additional indicating light or minor modifications to drawings. *Contact your local sales office for assistance in timing and lead time.*

Contents

<i>Description</i>	<i>Page</i>
Product Selection	1
Features and Benefits	1
Application Description	2
Technical Data and Specifications	7
Catalog Number Selection	8
Product Selection	9
Options	11
Dimensions	15
Wiring Diagrams	18

Features and Benefits

New CPX9000 Clean Power Drive features include:

- 25 – 150 hp VT drives available in 30" enclosure
- 200 and 250 hp VT drives available in 48" enclosure
- 300 – 400 hp VT drives available in 60" enclosure
- NEMA Type 1, NEMA Type 1 with Gaskets and Filters
- Input Voltage: 480V
- Complete range of control, network and power options
- Horsepower range:
 - 480V, 25 – 700 hp CT;
 - 25 – 800 hp VT
- Over ten years of 18-pulse Clean Power experience

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

2-Jan
City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Action Required: Approve a Contract with Bell-Corley Construction, LLC; Contact: Jeffery Hibbard; 100 Gamble Rd, Little Rock, AR, 72211; Phone: 501-280-3433; email: jhibbard@bell-corley.com; in the amount of \$1,270,000 to construct two corporate hangars; Approve a 5% project contingency in the amount of \$63,500; Approve a Budget Adjustment.

\$1,333,500.00
Cost of this request
5550.3960.5804.00
Account Number
06023 1
Project Number

\$ 1,405,500.00
Category/Project Budget
\$ 105,450.00
Funds Used to Date
\$ 1,300,050.00
Remaining Balance

West GA Hangars
Program Category / Project Name
Airport Capital
Program / Project Category Name
Airport
Fund Name

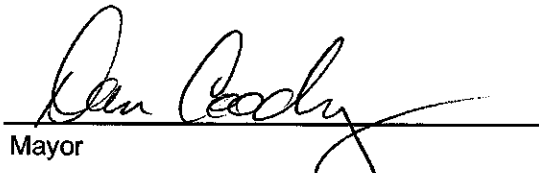
Budgeted Item ☐

Budget Adjustment Attached ☒


Department Director 12/15/06
Date


City Attorney 12/15/06
Date


Finance and Internal Service Director 12-18-06
Date


Mayor 12/18/06
Date

Previous Ordinance or Resolution # 83-06, 109-06

Original Contract Date: _____

Original Contract Number: _____

Received in City Office


Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and Members of the City Council
THRU: Staff/Contract Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: December 15, 2006
SUBJECT: Approval to award contract for construction of two corporate hangars on the executive apron with Bell-Corley Construction, LLC. of Rogers, Arkansas. Signature of the Mayor.

RECOMMENDATION: Approval of Construction Contract with Bell-Corley Construction, LLC of Rogers, Arkansas for the construction of two corporate hangars on the executive apron at Fayetteville Municipal Airport, Drake Field. Signature of the Mayor.

BACKGROUND: The City Council awarded Task Order #14 to McClelland Consulting Engineering for the design and oversight for the construction of two corporate hangars on the Executive Apron adjacent to the U of A hangar. Staff leased the hangars to Million Air Fayetteville and SkyVenture Aviation Inc. With signed leases, staff petitioned City Council for financing of the buildings in order to apply for grant support from the Arkansas Department of Aeronautics (ADOA). Two grants were received for a total of \$600,000.00 from the ADOA. The City Council approved up to \$700,000.00.

DISCUSSION: Fayetteville Municipal Airport continues to develop as a first class general aviation airport and the air portal to Fayetteville and all of Northwest Arkansas. These two buildings will be the fourth and fifth hangars constructed on the airport to support the new and expanded mission of the airport as the preferred business option for NWA. Million Air, the fuel, line and customer service fixed base operator must turn down requests for space as there is none available. They are working with several business and corporate aircraft owners wishing to move to Fayetteville Drake Field.

BUDGET IMPACT: Loan from the general fund of \$700,000.00 to be repaid from lease proceeds. Two Grants from the Arkansas Department of Aeronautics for \$600,000.00. Task Order #14 with McClelland Consulting Engineers for design and engineering and construction management from the airport fund \$105,450.00.

Attachments: Staff Review Form
Construction Contract with Bell-Corley Construction LLC

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT TO BELL-CORLEY CONSTRUCTION, LLC IN THE AMOUNT OF \$1,270,000.00 FOR THE CONSTRUCTION OF TWO (2) CORPORATE HANGARS AT THE FAYETTEVILLE MUNICIPAL AIRPORT; APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$63,500.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$33,500.00 FOR SAME.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards a contract to Bell-Corley Construction, LLC in the amount of \$1,270,000.00 for the construction of two (2) corporate hangars at the Fayetteville Municipal Airport.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a project contingency in the amount of \$63,500.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$33,500.00 for same.

PASSED and APPROVED this 2nd day of January, 2007

APPROVED

By

DAN GOODY, Mayor

ATTEST:

By:

SONDRA SMITH, City Clerk

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

A. 4
Bell-Corley Construction, LLC Contract
Page 4 of 14

Budget Year 2006	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 1/2/2007	Adjustment Number
----------------------------	--	-----------------------------------	-------------------

Project or Item Added/Increased: \$33,500 in the Building Costs account	Project or Item Deleted/Reduced: Reduce Project # 05022 Fire Sprinkler System - Air Museum \$548 Increase Use of Fund Balance \$32,952
--	--

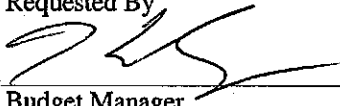
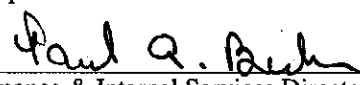
Justification of this Increase: Will provide for construction of two 124' X 80' corporate hangars on the South Corporate Apron	Justification of this Decrease:
---	---------------------------------

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Building costs	5550	3960	5804	00	33,500	06023	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Building & grounds maint	5550	3960	5400	00	548	05022	1
Use of fund balance	5550	0955	4999	99	32,952		

Approval Signatures		Budget Office Use Only					
Requested By	Date	Type:	A	B	C	<u>D</u>	E
	12-15-07						
Budget Manager	Date	Posted to General Ledger				Initial	Date
Department Director	Date	Posted to Project Accounting				Initial	Date
	12-18-06	Entered in Category Log				Initial	Date
Finance & Internal Services Director	Date						
Mayor	Date						



P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

December 14, 2006

Mr. Ray Boudreaux
Airport Department
City of Fayetteville
4500 S. School Ave., Suite F
Fayetteville, AR 72701

Re: Corporate Hangars
Fayetteville Municipal Airport, Drake Field

Dear Mr. Boudreaux:

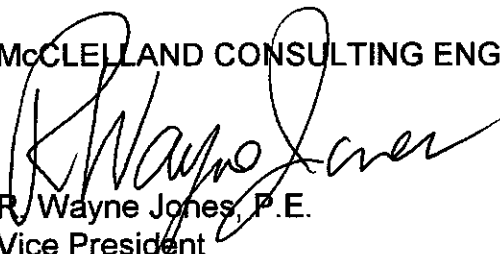
Bids were received on the above referenced project on Thursday, December 14, 2006, with nine Contractors submitting a bid for this project. The low bidder is Bell-Corley Construction, LLC., of Rogers, Arkansas, in the amount of \$1,270,000.00 for the Total Lump Sum Base Bid amount. There were eleven General Contractors who had plans and were considering bidding on this project and who were asking questions. A copy of the certified Bid Tabulation is enclosed. The Engineer's estimate of the Construction Cost was in the amount of \$1,300,000.00. The Total Lump Sum Base Bid amount is below our estimate and within the current funding available for this project including the City funds and the Grants from the State Aeronautics Department. If necessary an additional grant can be requested from the State Aeronautics Department for the site work including the road, parking and water line relocation.

We have worked with Bell-Corley Construction, LLC, on several commercial projects in northwest Arkansas and have had very excellent results. We recommend the City accept the low bid submitted by Bell-Corley Construction, LLC, Inc. for the Total Lump Sum Base Bid in the amount of \$1,270,000.00.

If there are any questions regarding the bids or this recommendation, please contact us.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.



R. Wayne Jones, P.E.
Vice President

Enclosure: Bid Tabulation

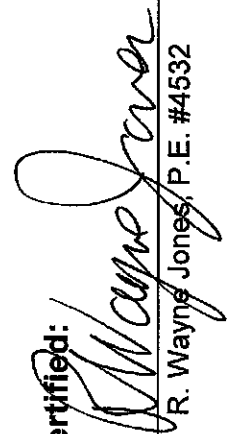
BID TABULATION
CORPORATE HANGARS
FAYETTEVILLE MUNICIPAL AIRPORT
CITY OF FAYETTEVILLE
DECEMBER 14, 2006, 4:00 P.M.
BID NO. 06-65
MCE PROJECT # FY062158

CONTRACTOR	Total Lump Sum Base Bid	Site Work	Trench and Excavation Safety System, Required by Act 291 of 1993	UNIT COST for Undercut/Backfill
Bell-Corley Construction, LLC	\$ 1,270,000.00	\$ 162,562.00	\$ 1,000.00	\$ 21.25 per CY
Benchmark Construction of NWA, Inc.	\$ 1,341,000.00	\$ 70,000.00	\$ 50.00	\$ 14.75 per CY
Bossler Contracting, Inc.	\$ 1,291,000.00	\$ 92,972.70	\$ 1,000.00	\$ 18.24 per CY
C. R. Crawford Construction, LLC	\$ 1,455,000.00	\$ 82,500.00	\$ 23,774.00	\$ 16.95 per CY
Don Peters Construction, Inc.	\$ 1,708,000.00	\$ 139,000.00	\$ 9,000.00	\$ 20.00 per CY
LJB Construction, Inc.	\$ 1,486,000.00	\$ 350,000.00	\$ 2,500.00	\$ 20.00 per CY
Midland Construction, Inc.	\$ 1,413,000.00	\$ 220,000.00	\$ 100.00	\$ 19.50 per CY
Southern Building Services, Inc.	\$ 1,328,300.00	\$ 65,000.00	\$ 500.00	\$ 16.50 per CY
SSI Incorporated of Northwest Arkansas	\$ 1,316,000.00	\$ 198,000.00	\$ 2,000.00	\$ 22.00 per CY

Engineer's Estimate

\$ 1,300,000.00

Certified:


R. Wayne Jones, P.E. #4532

12/14/06
Date

Ray Boudreaux - Corporate Hangars

From: Wayne Jones <wjones@mcclelland-engrs.com>
To: Jeffery Hibbard <jhibbard@bell-corley.com>
Date: 12/14/2006 6:52 PM
Subject: Corporate Hangars
CC: Ray Boudreaux <rboudreaux@ci.fayetteville.ar.us>

Jeffery,

I have attached a pdf copy of the Construction contract for this project. Please print 4 copies and have them signed and return the signed copies to Mr Ray Boudreaux at his office at the Airport. These contracts are needed for the packet being presented to the City Council for Approval.

We are forwarding our letter of recommendation to the City recommending awarding the contract to your company.

If you have any question please contact me.

R. Wayne Jones, P.E.
McClelland Consulting Engrs., Inc.
P.O. Box 1229
Fayetteville, AR 72702
(479) 443-2377, ext 20 (Office)
(479) 443-9241 (Fax)
(479) 409-7061 (Mobile)
wjones@mcclelland-engrs.com

ORIGINAL TO FOLLOW
RJ

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of January 2007, by and between Bell-Corley Construction, LLC, herein called the Contractor and the City of Fayetteville, Arkansas.

WITNESSETH:

That Bell-Corley Construction, LLC, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville, Arkansas as follows:

1. That Bell-Corley Construction, LLC, shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled Corporate Hangars for Fayetteville Municipal Airport, dated December, 2006.

Advertisement for Bids	Payment Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplementary Conditions
Performance Bond	Specifications
	21 Drawings (Bound Separately)
2. That the City of Fayetteville, Arkansas hereby agrees to pay to Bell-Corley Construction, LLC, for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of One Million, Two hundred Seventy Thousand Dollars (\$1,270,000.00)
3. The Work will be substantially completed within 160 days after the date when the Contract Time commences to run as provided in the Notice to Proceed.
3. Liquidated Damages: The City of Fayetteville, Arkansas and Bell-Corley Construction, LLC, recognize that time is of the essence of this Agreement and the City of Fayetteville, Arkansas will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville, Arkansas if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville, Arkansas and Bell-Corley Construction, LLC, agree that as liquidated damages for delay (but not as a penalty) Bell-Corley Construction, LLC, shall pay the City of Fayetteville, Arkansas Four Hundred Forty Dollars (\$440.00) for each day that expires after the time specified in Paragraph 3 for Substantial Completion.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville, Arkansas shall make partial payments to **Bell-Corley Construction, LLC**, on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by **Bell-Corley Construction, LLC**, LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville, Arkansas until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville, Arkansas.
6. That upon submission by **Bell-Corley Construction, LLC** of evidence satisfactory to the City of Fayetteville, Arkansas that all payrolls, material bills, and other costs incurred by **Bell-Corley Construction, LLC** in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by **Bell-Corley Construction, LLC** of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville, Arkansas.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville, Arkansas shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, **Bell-Corley Construction, LLC** shall, at its expense, within 5 days after the receipt of notice from the City of Fayetteville, Arkansas, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville, Arkansas. In such event, no further payment to **Bell-Corley Construction, LLC** shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville, Arkansas.
8. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
9. This Contract shall be governed by the law of the State of Arkansas.
10. **Freedom of Information Act.** The City of Fayetteville, Arkansas contracts and documents prepared while performing City of Fayetteville, Arkansas contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Arkansas, **Bell-Corley Construction, LLC** will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.C. §25-19-101 et. Seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first above written, in three (3) counterparts, each of which shall, without proof or accounting for the other counterpart be deemed an original Contract.

SEAL:

Bell-Corley Construction, LLC

CONTRACTOR

WITNESSES:

By _____
Title

ATTEST:

CITY OF FAYETTEVILLE, ARKANSAS

Clerk

By _____
Mayor

Approved as to form:

Attorney for Owner.

DOCUMENT 00500

CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of January 2007, by and between **Bell-Corley Construction, LLC**, herein called the Contractor and the City of Fayetteville, Arkansas.

WITNESSETH:

That, **Bell-Corley Construction, LLC**, for the consideration hereinafter fully set out, hereby agrees with the City of Fayetteville, Arkansas as follows:

1. That **Bell-Corley Construction, LLC** shall furnish all the materials, and perform all of the work in manner and form as provided by the following enumerated Drawings, Specifications, and Documents, which are attached hereto and made a part hereof, as if fully contained herein and are entitled **Corporate Hangars for Fayetteville Municipal Airport**, dated December, 2006.

Advertisement for Bids	Payment Bond
Instructions to Bidders	General Conditions
Bid and acceptance thereof	Supplementary Conditions
Performance Bond	Specifications
	21 Drawings (Bound Separately)
2. That the City of Fayetteville, Arkansas hereby agrees to pay to **Bell-Corley Construction, LLC** for the faithful performance of this Agreement, subject to additions and deductions as provided in the Specifications or Bid, in lawful money of the United States, the amount of **One Million, Two hundred Seventy Thousand Dollars (\$ 1,270,000.00)**
3. The Work will be substantially completed within 160 days after the date when the Contract Time commences to run as provided in the Notice to Proceed.
3. Liquidated Damages: The City of Fayetteville, Arkansas and **Bell-Corley Construction, LLC** recognize that time is of the essence of this Agreement and the City of Fayetteville, Arkansas will suffer financial loss if the Work is not completed within the times specified in above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City of Fayetteville, Arkansas if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City of Fayetteville, Arkansas and **Bell-Corley Construction, LLC** agree that as liquidated damages for delay (but not as a penalty) **Bell-Corley Construction, LLC** shall pay the City of Fayetteville, Arkansas **Four Hundred Forty Dollars (\$440.00)** for each day that expires after the time specified in Paragraph 3 for Substantial Completion.

5. That within 30 days of receipt of an approved payment request, the City of Fayetteville, Arkansas shall make partial payments to **Bell-Corley Construction, LLC**. on the basis of a duly certified and approved estimate of work performed during the preceding calendar month by **Bell-Corley Construction, LLC**., LESS the retainage provided in the General Conditions, which is to be withheld by the City of Fayetteville, Arkansas until all work within a particular part has been performed strictly in accordance with this Agreement and until such work has been accepted by the City of Fayetteville, Arkansas.
6. That upon submission by **Bell-Corley Construction, LLC**. of evidence satisfactory to the City of Fayetteville, Arkansas that all payrolls, material bills, and other costs incurred by **Bell-Corley Construction, LLC**. in connection with the construction of the work have been paid in full, final payment on account of this Agreement shall be made within 60 days after the completion by **Bell-Corley Construction, LLC**. of all work covered by this Agreement and the acceptance of such work by the City of Fayetteville, Arkansas.
7. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bond hereto attached for its faithful performance and payment, the City of Fayetteville, Arkansas shall deem the Surety or Sureties upon such bond to be unsatisfactory or if, for any reason such bond ceases to be adequate to cover the performance of the work, **Bell-Corley Construction, LLC**. shall, at its expense, within 5 days after the receipt of notice from the City of Fayetteville, Arkansas, furnish an additional bond or bonds in such form and amount and with such Surety or Sureties as shall be satisfactory to the City of Fayetteville, Arkansas. In such event, no further payment to **Bell-Corley Construction, LLC**. shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the City of Fayetteville, Arkansas.
8. Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
9. This Contract shall be governed by the law of the State of Arkansas.
10. **Freedom of Information Act.** The City of Fayetteville, Arkansas contracts and documents prepared while performing City of Fayetteville, Arkansas contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, Arkansas, **Bell-Corley Construction, LLC**. will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.C.\$25-19-101 et. Seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

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

A. 5
Assistance to Firefighter's Fire
Prevention and Safety Grant
Page 1 of 34

January 2, 2007
City Council Meeting Date

Tony Johnson
Submitted By

Fire
Division

Fire
Department

Action Required:

This request is for the approval to apply for and accept if awarded a 2006 Assistance to Firefighter's Fire Prevention and Safety Grant in the amount of \$12,000. The city's cost share portion of this grant is 20% or \$2,400.

\$ 2,400.00
Cost of this request

\$ -
Category / Project Budget

Fixed Assets
Program Category / Project Name

1010.3020.5801.00
Account Number

\$ -
Funds Used to Date

Fixed Assets
Program / Project Category Name

Project Number

\$ -
Remaining Balance

General Fund
Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director 12.13.06
Date

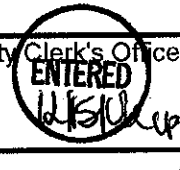
Previous Ordinance or Resolution # _____

Original Contract Date: _____


City Attorney 12/15/06
Date

Original Contract Number: _____


Finance and Internal Service Director 12.18.06
Date

Received in City Clerk's Office



Mayor 12/18/06
Date

Received in Mayor's Office


Comments:



Fayetteville Fire Department

303 W. Center St. Fayetteville AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

December 13, 2006

To: Fayetteville City Council
From: Fire Chief Tony Johnson *Tony*
Subject: Request For Resolution to Approve Grant Submittal
Copy: Mayor Coody

I am requesting the Council to consider and approve the fire department's request to submit a grant application to the U.S. Department of Homeland Security Assistance to Fire Departments – Fire Prevention Grants Program, for the purpose of purchasing a Fire Extinguisher Training Simulator and Transportation Trailer. The dollar amount for the request is \$12,000 which will require a 20 percent (\$2,400) match from the fire department. The funding for the match will come from the Arkansas ACT 833 Turn Back Funds. Act 833 was established to provide fire departments in the state with a means to purchasing fire fighting and other associated equipment.

Through the efforts of our Fire Marshal's Division, the department is charged with providing fire safety education and presenting other public relations programs associated with safety to the general public. It has been our goal to expand this service to the business, industrial and educational institutions in our service jurisdiction. The purchase of the aforementioned equipment and subsequent incorporation of a fire extinguisher training program, have the potential of reducing injury and property loss due to an unwanted fire.

Currently, the State of Arkansas is one of the leading states in the country for fatal fires. I strongly believe that the implementation of a fire extinguisher training program, coupled with our existing fire prevention efforts, would provide a means for reducing the number of lives and property lost and alleviating us from the dubious honor of our high ranking in this category.

Please feel free to contact me if you should have any questions or concerns regarding this request.

Attachments: Staff Review Form
DHS Grant Information
Equipment Specifications

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE FIRE DEPARTMENT TO APPLY FOR AND ACCEPT A DEPARTMENT OF HOMELAND SECURITY FY2006 ASSISTANCE TO FIREFIGHTERS FIRE PREVENTION AND SAFETY GRANT IN THE AMOUNT OF \$12,000.00.

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 authorizes the Fayetteville Fire Department to apply for and accept a Department of Homeland Security FY2006 Assistance to Firefighters Fire Prevention and Safety Grant in the amount of \$12,000.00.

PASSED and APPROVED this 2nd day of January, 2007

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

City of Fayetteville 2006 Assistance to Firefighters Grant Program-

Fire Prevention and Safety

The City of Fayetteville's Fire Prevention Division has the strategic goal of having 70 percent of the City of Fayetteville's population trained in the safe and appropriate use of fire extinguishers by the year 2010. We anticipate accomplishing this goal by targeting certain focus groups starting in 2007. These groups include all public and private schools (teachers, staff and students thirteen years of age and above), health and daycare providers, commercial and industrial businesses as well as various public venues. We currently provide this training on a limited basis due to our means of presentation. The use of a gasoline and diesel mixture presents an unsafe environment and sends a conflicting message about fire safety. Our request is for the purchase of a Fire Extinguisher Training system which would allow us to safely bring younger groups into our training sessions while providing a safer environment for the training.

Use of Grant Funds:

1. Purchase a fire extinguisher training system. The budget for this item is \$5,000.
2. Purchase an enclosed trailer for transporting the above referenced equipment. The budget for this item is \$4,500.
3. Purchase additional necessary small equipment to work in conjunction with the fire extinguisher training system. The budget for these items is \$2,500.

Need For Increased Public Awareness Efforts:

Through analysis of historical data, incident critiques, and regional surveys, many risks to the community have been identified. Based on a fire risk analysis, in 2005, 61.5% of fires were started from sources that greater public awareness could have prevented. These include incidents involving children, improper use of candles, improper disposal of smoking materials, furnace and fireplace maintenance. Also of concern is that 60% of the residences where fires occurred did not have working smoke alarms.

Currently, fire service agencies in northwest Arkansas are only able to administer a limited number of deliveries of general prevention/awareness programs. Estimated population growth in northwest Arkansas cities since January 2001 is on average 15,195 or 33.2%. With this growth has come an explosion of multi-family dwellings. Also, of concern is that demographic factors related to population growth are preventing both the elderly and minorities from receiving proper fire safety and prevention education. Lastly, northwest Arkansas's rapid increase in business and industry development in relation to population growth all too often make fire prevention and public safety programs a challenge both to deliver and to develop new mitigation programs to meet

target populations. Currently, no formal education programs exist, or are being developed and implemented to address fire prevention and safety in the workplace.

When resources permit, local agencies are able to provide the following opportunities: Portable Fire Extinguisher Training, Junior Fire Marshal Program, Juvenile Fire Stopper Programs, Survive Alive Safety Programs, and Senior Fire Safety Programs. Based on a formal risk assessment and a fire station concept deployment plan, figures reported by two leading agencies indicate that only 5.95% of their populations are receiving these general prevention/awareness public education programs. This is an insufficient number of people receiving fire safety and prevention education. Consequently, there needs to be an increase of general prevention/awareness public education programs in order to reach at least 25% of the population.

Financial Need and Local Funding Issues:

In our city, most of the funding for essential services comes from sales tax revenues. The Fire Department is in constant competition with the Police Department for the same resources. With the amount of growth experienced over the past few years, the needs in both departments far out pace the resources available. According to the US Census Bureau, in 2000 the population of Fayetteville was 58,000 up 15,000 from the 1990 census. In a special census conducted in 2006, the population was determined to be 67,158. Over the past sixteen years, Fayetteville has experienced a 66% growth in population. By the year 2025, the population is expected to increase by an additional 40,000 people. In spite of the level of growth experienced, the Fire Department has only added two new stations since 1979. The fire department's budget has only experienced a 3.75% increase in 2006 from 2005. The budget for personnel services expenses for 2006 has increased by 4.7% from 2005. Actual spending has outpaced budgetary projections over the past few years due to an increase in the number of personnel and rising health care costs. This means that our department is seeing decreased funding for normal operating expenses even though the department is adding personnel and stations. For example, the department's budget for materials and supplies has decreased by 8% going from \$158,600 in 2005 to \$145,700 in 2006. The capital budget went from \$95,800 in 2005 to \$0 in 2006. Meeting the personnel cost burden has and will continue to be a challenge for the department. For this reason, funds are decreasing for normal operating expenses and non-existent for expansion equipment. This kind of expense for a valuable prevention education tool is far beyond our fiscal capabilities for the foreseeable future.

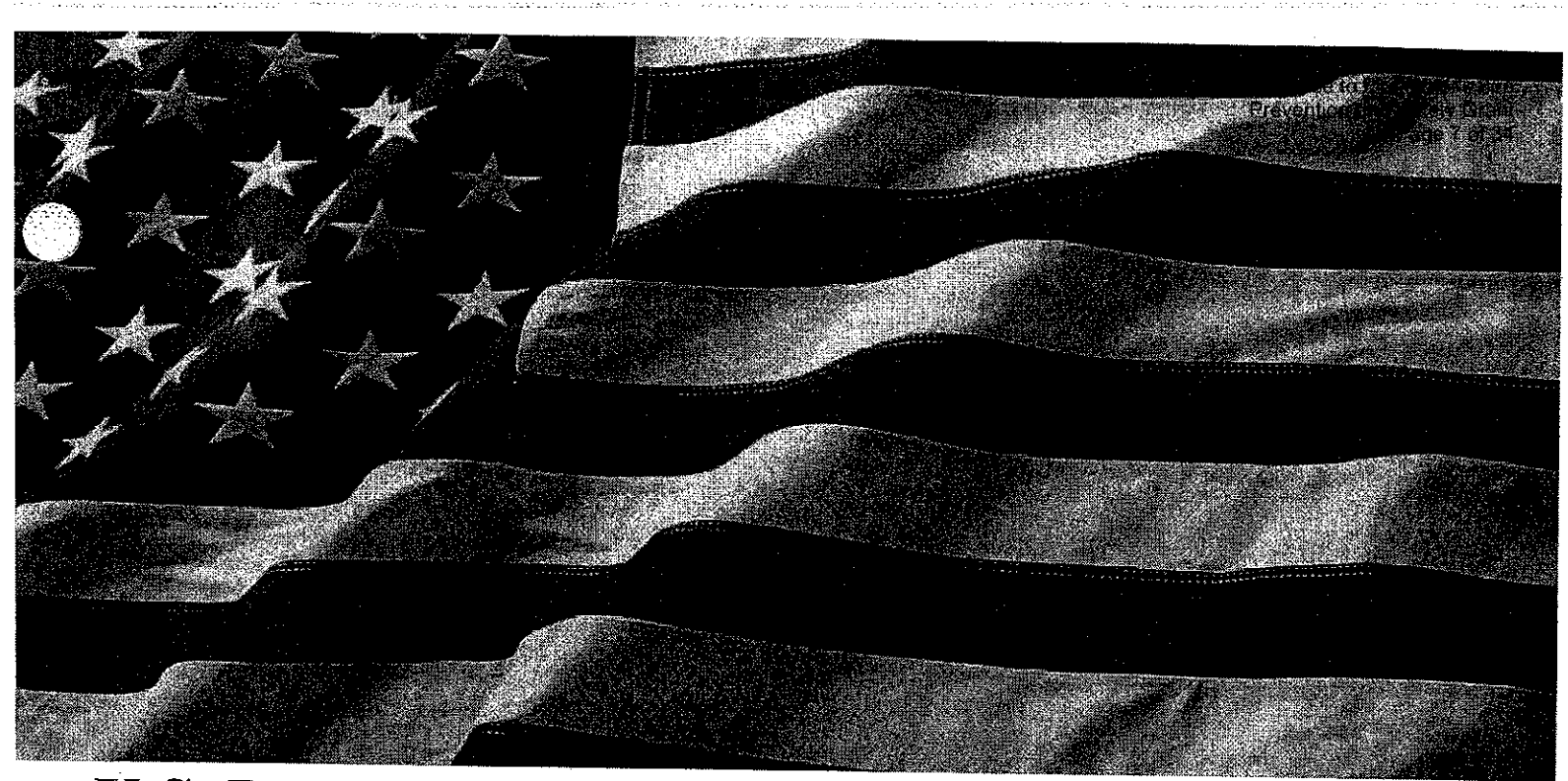
The City of Fayetteville's annual budget includes very little discretionary spending and is primarily dedicated to: apparatus, maintenance, fuel, building costs, supplies and personnel. The requested grant of \$12,000 dollars would purchase a Fire Extinguishing Training System that includes the following components: propane fueled live fire simulator, three rechargeable fire

extinguishers, handheld controller, controller cable with connector, power cable (that can plug into a cigarette lighter or a battery pack), propane supply kit, recharging accessories, various carrying cases, air compressor, air regulator with accessories, battery power pack, and an enclosed trailer.

The Opportunity

To support the rapid growth and the prevalent need for fire and life safety education, the Fayetteville Fire Department added a Fire and Life Safety Educator to the Prevention Division in June, 2006. Some of the fire and life safety education programs currently in operation include: Juvenile Fire Setters, Junior Fire Marshals' Club, Exit Drills in the Home (EDITH), free smoke detectors and installation, and fire extinguisher training. The Prevention Division intends to improve fire and life safety education by placing special training emphasis on the following target groups: public and private schools (both teachers and students), medical and health facilities (to include nursing and retirement homes), commercial and industrial businesses and various public venues

This grant would allow us to cost effectively train the target groups described above. This training system would not be limited to the City of Fayetteville Fire Department but would be shared in joint education ventures with neighboring rural fire departments, the Washington County Fire Marshal's office, the Northwest Arkansas Regional Training Association (Rookie School), and the University of Arkansas' public safety division. The rapid growth occurring in the City of Fayetteville and its surrounding suburbs has already warranted such joint training efforts.



U.S. Department of Homeland Security
Office of Grants and Training

**FY 2006 Assistance to Firefighters
Grant Program: *Fire Prevention
and Safety Grants***

Program Guidelines and Application Information



Foreword

I am pleased to provide these program guidelines and application materials for the Department of Homeland Security Fire Prevention and Safety (FP&S) Grants program. A component of our broader Assistance to Firefighters Grants (AFG) program, the FP&S grants focus on reducing fire and fire-related losses, especially injuries or deaths among firefighters and other high-risk groups.

Fire prevention and safety is an important part of the Department's preparedness mission. The Department administers the AFG program through its Preparedness Directorate, Office of Grants and Training, in close cooperation with the U.S. Fire Administration.

In this program, \$27 million is available for competitive awards to fire departments, and fire prevention, and firefighter safety research organizations for initiatives to prevent deaths, injuries, and property losses from fire and fire-related hazards. A critical program focus is on reducing death and injury among high-risk groups such as children, adults over 65, and firefighters.

Each year in the United States, thousands of people are killed and thousands more are injured in fires, many of which are preventable. Through the FP&S Grants program, the Department provides critical support to help firefighters throughout the country improve fire safety and protect children, families, their colleagues, and their communities from tragedies due to fires and other hazards. This is an integral part of our homeland security mission.



Michael Chertoff
Secretary
U.S. Department of Homeland Security

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I. Overview

This document provides a summary of the Department of Homeland Security's FY2006 Fire Prevention and Safety Grants. It explains how to apply for the grant, what items can be requested, what activities or projects can be proposed, and how applications will be evaluated. Please read this guidance carefully. Additional information will be available in Frequently Asked Questions and an online tutorial on the www.firegrantsupport.com website. Together, these resources provide you with the information you need to complete the online application. The online application will be available at www.firegrantsupport.com from 8:00 a.m. EST on December 4, 2006 until 5:00 p.m. EST on January 12, 2007.

The Department of Homeland Security's Office of Grants and Training is responsible for the implementation and administration of the Assistance to Firefighters Grant (AFG) program. The purpose of the AFG is to enhance the safety of the public and firefighters with respect to fire and fire-related hazards. The AFG offers grants for activities under Fire Prevention and Safety (FP&S) in order to reach high-risk target groups and mitigate incidences of deaths and injuries caused by fire and fire-related hazards. Funding under FP&S also supports Firefighter Safety Research and Development activities. This guidance provides details regarding how to apply for financial assistance in either of these areas. Except in the case of fire departments and non-affiliated EMS organizations, there is no cost share requirement for the FY 2006 Fire Prevention and Safety Grants.

The authority of this program is derived from the Federal Fire Protection and Control Act of 1974 (15 U.S.C. §§ 2229 et seq.), as amended. In fiscal year 2006, Congress appropriated a total of \$539,550,000 to carry out the activities of the Assistance to Firefighters Grant (AFG) Program. The governing statute includes a requirement that no less than five percent of the appropriated funds support fire prevention activities. As such, no less than \$27,000,000 of the appropriation has been reserved for the Fire Prevention and Safety Grants. The grants under FP&S will be awarded on a competitive basis. The appropriated funds are available for obligation by DHS until September 30, 2007.

II. Eligible Applicants

There are two areas of activity that can be funded through the Fire Prevention and Safety grants: The Fire Prevention and Safety Activity and the Firefighter Safety Research and Development Activity. Applicants may submit only one application per application period and include either one or both activities. Applicant eligibility requirements for each activity are stated below.

A. Fire Prevention and Safety Activity

Eligible applicants for this activity include fire departments, and national, regional, State, local, or community organizations that are recognized for their experience and expertise in fire prevention or safety programs and activities. Both private and public non-profit organizations are eligible to apply for funding in this activity. For-profit organizations are not eligible to receive a FP&S grant award. For all grantees the federal share of the grant is limited to \$1,000,000 per application.

Fire departments that have received funding through the FY2006 AFG program for training, equipment, vehicles, etc., are eligible to receive funding for the fire prevention grants in this application period. However, in addition to the \$1,000,000 limitation on FP&S grants, the combined funding level of grant awards through the AFG and FP&S grants to any single fire department is limited to an amount of Federal share (shown below) for each year, and is based on the population that the fire department protects.

- Populations greater than 1 million: Maximum Federal Share: \$2,750,000
- Populations from 500,000 to 1 million: Maximum Federal Share: \$1,750,000
- Populations less than 500,000: Maximum Federal Share: \$1,000,000

Fire departments are subject to the same cost share requirements applied under the Assistance to Firefighters program. Grantees must share in the costs of the projects funded under this grant program. 15 U.S.C. 2229(b)(6). Fire departments that serve populations of less than 20,000 must match the Federal grant funds with an amount of non-Federal funds equal to five percent of the total project cost. Fire departments serving areas with a population between 20,000 and 50,000, inclusive, must match the Federal grant funds with an amount of non-Federal funds equal to ten percent of the total project cost. Fire departments and nonaffiliated EMS organizations that serve populations of over 50,000 must match the Federal grant funds with an amount of non-Federal funds equal to twenty percent of the total project costs. All non-Federal funds must be in cash, i.e., in-kind contributions are not eligible. No waivers of this requirement will be granted except for applicants located in Insular Areas as provided for in 48 U.S.C. 1469a. **Please Note: There is no cost share for grants under this activity to eligible national, regional, State, local, or community organizations**

B. Firefighter Safety Research and Development Activity

Eligible applicants for this activity include national, regional, State, and local organizations that are recognized for their experience and expertise in firefighter safety research and development programs. Under the governing statute, fire departments are not eligible to apply for funding in this activity. Private and public non-profit organizations, academic institutions, non-federal governmental organizations, non-governmental organizations, and individual researchers (e.g. doctoral candidates) are eligible to apply for funding. For-profit organizations are not eligible to receive funding under this activity. The Federal share for research and development grants is limited to \$1,000,000 per application. **Please Note: There is no cost share for grants under the Firefighter Safety Research and Development activity.**

III. Automated Application Process

A. Automated Application and Tutorial for 2006

Shortly before the start of the application period, a tutorial will be available for applicants at www.firegrantsupport.com to provide guidance regarding the grant application and the FP&S application requirements. All applicants are strongly encouraged to complete the applicant tutorial prior to beginning their application, even if they have successfully received previous awards from the AFG Program. The tutorial explains the eligible activities by illustrating many of the application screens. It provides tips for navigating the application screens and summarizes the changes in the FP&S program for fiscal year 2006. In addition, the tutorial also provides a review of the lessons learned from previous years.

B. Application Process

The Fire Prevention and Safety Grant application will be directly accessible online from the grants program office website (www.firegrantsupport.com). The automated application has been designed with "help screens" and "drop-down menus" to assist the applicant throughout the application process. The application can be saved and retrieved for update and revision up to the point of submittal or to the end of the application period. ***Please note, once an application has been completed and submitted, no changes can be made.*** The automated system does not allow an applicant to submit an incomplete application, i.e., the system alerts the applicant when required information was not entered. By submitting an application online, the applicant will automatically receive confirmation via e-mail that their application has been successfully submitted. Do not submit multiple applications. Multiple applications submitted on behalf of any one applicant will all be deemed ineligible.

The online system will allow one authorized representative of an eligible organization or entity to log in and create a user name and password. The selection of the authorized representative is at the discretion of each applicant. ***If you have a user name and password from a previous AFG, SAFER, or FP&S application, you should use the same user name and password. Failure to use your existing user name and password could delay the processing of your application.***

Paper applications are available; however, they are discouraged because of the inherent delays associated with their processing. Additionally, paper applications do not have the advantage of the built-in assistance of the electronic application or the assurance that the application has been accurately completed before mailing. Applicants who wish to apply for FP&S by paper may request a paper application by calling the Helpdesk at 1-866-274-0960. ***Paper application forms will not be sent to prospective applicants via overnight delivery, fax, or email.***

All applications must be completed and submitted electronically, or postmarked on or ***before the close of business, by 5:00 p.m. EST on January 12, 2007.*** Only electronic applications submitted via the online automated grant application system will receive a confirmation of receipt. Applicants should print a copy of the confirmation for their records upon receiving verification that their application has been successfully submitted. Applicants should also record their user name and password for future access to their application. No confirmation will be issued for paper applications. Incomplete applications or applications submitted via any other electronic means, including email or fax, will automatically be deemed ineligible. Paper applications should be mailed to DHS/G&T, Fire Grant Program Office, 810 Seventh Street, NW, 5th Floor, Washington, DC 20531. Applications mailed to any other address may miss the appointed closing date and will be disqualified and ineligible for funding.

Applicants are allowed to hire, or otherwise employ the services of, a grant writer to assist in the application process. However, the applicant is responsible for ensuring that the information contained in their submitted application is a true and accurate reflection of their organization and represents the scope of effort being proposed and the time and cost required to achieve it. Therefore, applicants are strongly encouraged to review all work produced by grant writers, or other third-parties, on their behalf ***prior*** to submission of their application. Applicants who falsify their application, or misrepresent their organization or proposal in any manner will have their application deemed ineligible by the program office and referred to the Office of Inspector General for further action, as appropriate. Specific requirements with respect to the use of grant writers are outlined below (Section VI (8)).

All applicants are required to provide details of their projects in a written narrative as well as a specific description of the supporting budget. The narrative should correlate the proposed projects to the evaluation criteria defined below in this Program Guidance.

Application narratives for the Fire Prevention and Safety projects will be limited to a maximum of five (5) pages per project. The narrative for the Research and Development activity will be limited to ten (10) pages. As the applicant enters information into the narrative box, the applicant should click the "save" button periodically to ensure information has been stored. Please note the electronic application includes a "time-out" feature to help ensure activity usage of the servers. If no "save" activity is detected for a period of time, the "time-out" feature is activated, and all information entered, but not saved, could be lost. It is a good idea to type the narrative off-line using a word processing program, such as Word, Word Perfect, Notepad, etc., to avoid losing any information. Once the narrative is completed, an applicant can then "cut-and-paste" their proposal narrative into the narrative block of the application.

As of October 1, 2003, all applicants applying for Federal grants are required to have a Data Universal Numbering System (DUNS) number. The DUNS number is a unique nine-character identification number provided by the commercial company Dun & Bradstreet. Applicants are encouraged to obtain the DUNS number either prior to the start of the application period or early in the application period since it may take up to 14 business days to obtain one. There is no charge for a DUNS number, which can be

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requested by registering online at www.dnb.com/US/duns_update/index.html or by calling 1-800-333-0505. Applicants who already have a DUNS number for the Fire Grants Program or any other Federal Program should use the same number on their FY2006 application.

IV. Eligible Activities and Projects

A. Eligible Projects Under the Fire Prevention and Safety Activity:

Applicants may submit only one FP&S grant application per FP&S application period. Under the Fire Prevention and Safety Activity, the applicant may request financial assistance for as many as three projects. Applicants should formulate FP&S applications that contain multiple projects and associated budgeted items based on strategic risks and common goals. The following are two example approaches for organizing one application.

Example 1) A community has the strategic goal of reducing the number of fires caused by the use of barbecue grills on the balconies of apartments. This goal will be supported through two projects. The applicant plans to launch a public education program and strengthen code enforcement activities. In this instance, the public education items should be listed as one supporting project and code enforcement items should be listed as the second supporting project. Both projects will be included in ONE application. The narrative statements will explain how accomplishing these two projects will help achieve the goal. While the projects are related, each project requires a separate supporting budget and narrative statement.

Example 2) A community or organization may have more than one strategic goal depending on their audience or risk. For example, a National organization may have a goal to reduce firefighter fatalities through a national outreach project. They may also have a goal to study the effectiveness of public education messages. The organization would create one project for firefighter safety initiatives and an additional project for national public education efforts.

The following are examples of eligible projects. This list is not an all-inclusive list of projects that will be considered. Applicants are requested to develop their projects based on their determined risks. Original, creative and/or new approaches to enhance the safety of the public and firefighters are encouraged. Be advised that applications should only consist of FP&S projects that can be completed within the one-year grant performance period. The following programs are not listed in order of importance:

- **Public Education:** National or local projects that promote the reduction of injury due to fire or other safety hazards. Activities may include burn prevention, media/PR campaigns, injury prevention or other community hazards that could be justified in the narrative. Education props (educational tools) are eligible as part of a comprehensive and detailed public safety education campaign. Please note that projects that deliver training to the public in the area of automatic external defibrillators (AED), Cardio-Pulmonary Resuscitation (CPR) or fire extinguishers will be considered. However, if the projects are for operational staff these items should be requested under the AFG program.

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- **Smoke Alarms:** Projects that promote the installation of smoke alarms and/or check to assure that previously installed smoke alarms are operational. Applicants who will not perform installation of the alarms should discuss in their application narrative the methodology for ensuring that the alarms will be installed.
- **Sprinkler Awareness:** Projects that affect the entire community such as educating the public about residential sprinklers, promoting residential sprinklers, and demonstrating working models of residential sprinklers; Installation of sprinkler systems is eligible if it includes an educational component.
- **Code Enforcement/Awareness:** Projects that promote the adoption or awareness of building codes, enforcement of codes to improve engineering, or enact fire-related ordinances for new construction. Projects may also include support for conducting inspections, including personnel costs, equipment or training.
- **Firefighter Safety:** National or regional projects that promote the reduction of line of duty deaths (LODD) through National mitigation strategies.
- **Training:** Local or regional projects to educate or train personnel in the area of public education, code enforcement and arson prevention.
- **Wildfire Prevention Programs:** Education and awareness programs that protect lives, property and natural resources from fire in wildland/urban interface including Community Wildfire Protection Plans (CWPP) or Firewise programs. Fuel reduction demonstrations as part of an awareness and education effort would be considered.
- **Arson Prevention Programs:** Arson investigation trailers, equipment and costs related to arson investigator training, arson-related surveillance equipment, personnel costs, educational materials and media equipment, and juvenile fire-setter intervention programs.
- **Risk Assessments:** Applicants may request assistance to conduct formal or informal risk assessments. Note: Applications that are requesting a risk assessment are precluded from applying for additional projects.
- **General Prevention/Awareness:** Projects that include general prevention initiatives including studies, alarm system installation, knock-box installation, address marker, etc.

Ineligible Activities and Items Under the Fire Prevention and Safety Activity:

- Fire suppression equipment, supplies, vehicles, firefighting training tools or equipment, personal protective gear, fitness equipment or immunizations;

- AED, CPR or fire extinguisher training for operational staff;
- Installation of sprinkler systems that do not include an educational component;
- Fire hydrant/dry hydrant installation;
- Suppression related training including Firefighter I, Firefighter II, wildland firefighting, training exercises or drills for suppression or disasters activities;
- Fuel reduction projects such as prescribed burns;
- Communication equipment including portable radios, mobile data terminals (MDT) or computer aided dispatch (CAD) systems;
- Weather/disaster notification devices (sirens etc.);
- Community projects that include the use of tot finder/child finder, elderly or pet finder decals.

B. Eligible Projects for the Firefighter Safety Research and Development Activity:

The purpose of this funding activity is to improve firefighter health and life safety through research and development projects. The following are examples of initiatives that we deem to be of high importance. This is not an all-inclusive list of projects that will be considered, however, any project must address firefighter safety, wellness, fitness or health. A proposal may combine projects. An example of such as a sociological study of fire service culture may include a focus on data collection systems. These projects are not listed in order of importance.

Data collection and analysis projects that propose to achieve the following:

- Seek to enhance current data collection strategies pertaining to gathering of information, systems to support ongoing or periodic data analysis, and timely dissemination and implementation of recommendations for improved safety. The focus of data collection enhancements may be about, but is not limited to, Firefighter safety behaviors, departmental or fire service organizational safety policies and practices, and community risk and protective factors. Analysis aims to facilitate identification of contributors to high risk behavior, cultural values for risk taking, and other circumstances that may be predictors of or associated with Firefighter near injury, injury, and death.
- Involve research into the effectiveness of firefighting equipment or personal protective equipment. Such research may examine the relationship between the equipment, the user, and the fire and environmental circumstances. Study questions may address non-use, inconsistent use, equipment barriers and limitations, and the influence of cultural or social norms for equipment use. Outcomes may include process events such as equipment use but also must address near injury, injury, and death.
- Review the effectiveness of training and first response systems. Study questions must link elements of the training and first response systems to Firefighter safety outcomes. For instance, training that involves assessment of building structure would involve follow-up of Firefighter safety-related behavior prior to entry and during the fire, but also data collection on building

outcomes and circumstances of Firefighter near injury, injury, and death, facilitating analysis that addresses training effectiveness.

Sociological projects that propose to achieve the following:

- Contribute to the understanding of Firefighter behavior and Fire Service culture with respect to the protective and risk factors associated with Firefighter health and safety, including individual, organizational, and environmental aspects that may be linked to incidents involving near injury, injury, and death.
- Improve understanding of the demographics and other characteristics of firefighters, fire service, and fire-related situations that will be useful for sample selection in future studies, or tailoring of programs for various populations and settings. For instance, would it be useful to study/tailor programs for younger vs older firefighters with respect to near injury, injury, or death; urban-suburban-rural; staff-volunteer; those with more training vs. less.

Problem Focused Technology Studies that propose to achieve the following:

- Develop new equipment or technology that can be incorporated into the Fire Service;
- Improve firefighters safety through an enhanced understanding of hazards posed by various incidents, buildings, and environments to which firefighters respond.

The National Institute for Standards and Technology awarded a grant to the National Fallen Firefighters Foundation (NFFF) to facilitate the development of a research agenda for the Nations Fire Service. In June 2005, NFFF hosted a working group to establish this agenda. The projects that meet the intent of the research and development agenda with respect to firefighter health and safety, as identified by this working group, will be given consideration. However, the applicant is not limited to these specific projects. All proposed projects, regardless of whether they have been identified by this working group, will be evaluated on their relevance to firefighter health and safety. A copy of the research agenda is available on the NFFF website www.firehero.org website.

Multi-year projects will be considered for this activity. Applicants can propose projects with up to three years of performance requirements. Each year must include measurable goals. Subsequent year funding would be contingent upon satisfactory progress, availability of funds and continued worthiness of the project.

Multiple year requests must address the following:

- Over-all project goals and target outcomes;
- Specific goals, objectives and outcomes for each project year with particular emphasis and detail on the coming project year;
- Include contingency planning with the examples of what may be key challenges and plans to address and overcome them;

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- Monitoring plan that identifies progress toward achieving established goals and ensure costs are monitored;
- A spending plan that corresponds with over-all project and specific year goals and objectives.

V. Evaluation Criteria

A. Evaluation Criteria for Projects under the Fire Prevention and Safety Activity

The characteristics listed below are interrelated and will be used as the guidelines in making funding decisions. Priority is given to projects that focus on the prevention of injury to an identified vulnerability and measured through the extent to which projects reflect the characteristics below will impact the likelihood that they will be funded.

- **Vulnerability Statement:** The assessment of risk is a critical component of the DHS risk analysis target capability. As such, the presence of a process that takes into account the characteristics of a jurisdiction (e.g., population features) are important in an objective or reasoned approach to addressing the fire hazard in a community. Therefore, the applicant should summarize the vulnerability the project will address in a concise statement including how the vulnerability was determined and how the target population was identified. The methodology for identification of the vulnerability should be discussed. Identification of the vulnerability that will be addressed with the proposed project can be established through a formal or informal risk assessment. However, an assessment is not a requirement. The methodology for identification of the vulnerability should be discussed in depth in the application narrative. For the purpose of this application, formal assessments consist of employing software programs or recognized expert analysis to assess risk trends. Informal assessments could include, for example, a manual study of fire loss, burn injuries, or loss of life over a period of time and the causative factors for each occurrence. With respect to risk assessments, eligible costs include outsourcing the risk assessment.
- **Implementation Plan:** Projects that have an implementation plan that clearly describes the applicant's ability to execute the proposed project and the methods that they will use to reach the target audience. This information may include examples of marketing efforts to promote the project, who will deliver the project, and how the deliverables will be disbursed.
- **Partnerships:** Projects that incorporate partnerships with other organizations or groups to enhance the development or delivery of the project. Partnerships should increase the organizations ability to deliver the project and/or facilitate the involvement of target audience. For example, the use of Fire Corp citizen advocates facilitating or implementing activities outlined in the program.
- **Evaluation Plan:** Projects should incorporate an evaluation of their effectiveness and identify measurable goals. Specifically, applicants should identify how they intend to evaluate that the proposed project leads to

attitudinal or behavioral changes. Examples include pre/post testing of the project recipients.

- **Cost-Benefit:** Projects that demonstrate a high benefit for the cost incurred and maximize the level of funding that goes directly into the delivery of the project. The costs associated with the project must also be reasonable for the target audience that will be reached.
- **Sustainability:** Projects that propose a program that will be sustained beyond the grant performance period and has a greater potential for long-term benefits. Partnerships may also contribute to the longevity of the benefit realized from the project.
- **Financial Need:** Applicants that illustrate in their narrative the need for Federal financial assistance.
- **Performance:** Applicants that demonstrate a proven track record for timely project completion and performance in similar projects, AFG and SAFER awards.
- **Props:** Applications that request "Props" for education campaigns **must include** specific goals with measurable results. Applicants should include information indicative of the various outreach efforts that will be conducted and/or the number of people reached through the proposed campaign.

B. Evaluation Criteria for Projects under the Firefighter Safety Research and Development Activity

The characteristics listed below are interrelated and will be used as the guideline in making funding decisions. The extent to which projects reflect these characteristics will impact the likelihood that they will be funded.

- **Partnerships:** Projects that incorporate partnerships with other organizations or groups to enhance the development or delivery of the project. For example, an awardee conducting a cardiovascular health study could partner with fire service for the study participants.
- **Study Design:** Projects include a brief review of the pertinent literature, to indicate the need for the proposed research and development activity, including the importance of the problem or study question, and how addressing the question will impact Firefighter safety. Study design indicates how the selected research approach will address the problem or question, and describes the benefits of the proposed design relative to other strategies.
- **Study Methods:** Where appropriate, projects will utilize rigorous research practices -- such as a defined universe, control group, tests for statistical significance, measurable results, and so on -- to allow confidence that the research findings are due to the program activity or planned intervention. For

projects where this is not appropriate or feasible, best practices may call for quasi-experimental or case methods.

- **Human Subjects:** Where applicable, issues such as recruitment, consent, retention (especially with multi-year study), process and timeline for Institutional Review Board (IRB) are described.
- **Dissemination and Implementation:** Projects whose results would be disseminated broadly or made available for implementation throughout the fire service and the methodology used to transfer results into practice that would enhance the distribution of the results.
- **Timeline:** Projects that include a plan for transferring the results to the fire service as part of the implementation phase of their activities. Projects that would have near-term results that can be placed into practice within the fire service. For example, partnerships may contribute to the dissemination of results at little or no cost.
- **Cost-Benefit:** Projects that demonstrate a high benefit realized for the cost incurred with a maximum level of funding that goes directly into the conduct of the research and development, i.e., the costs associated with the project must be reasonable.
- **Financial Need:** Applicants that illustrate in their narrative the need for Federal financial assistance.
- **Experience:** The degree to which the applicant is qualified and experienced with conducting research and/or development projects as indicated by articles in peer review literature, technical reports, and other products. Narratives should include curriculum vitae (cv) of the principal investigator.

VI. Other Eligible Costs

Both the Fire Prevention and Safety activity, and the firefighter Safety Research and Development Activity, have other costs that are eligible to be included in the grant request.

(1) **Administrative Costs:** Administrative costs are allowable under the program areas listed above, in accordance with Cost Principles for Educational Institutions (OMB Circular A-21), Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87), Cost Principles for Nonprofit Organizations (OMB Circular A-122) and, Contracts with Commercial Organizations (Federal Acquisition Regulation (FAR) Subpart 31.2, codified at 48 CFR 31.2), as applicable. (For more information about the Circulars, go to www.whitehouse.gov/omb/circulars.) Administrative costs are identifiable costs that are directly associated with the implementation and management of the grant. Applicants can apply for administrative costs only if the expenses are directly related to the implementation of their proposed project. The costs should be listed under the "other" category in the budget and explained in the project narrative. DHS will only reimburse costs that are based on actual expenses and not on a percentage of the overall grant. Examples of eligible administrative costs would be shipping, office supplies, computers and software associated with the National Fire Incident Reporting System (NFIRS) reporting requirements (see Grantee's Responsibilities, below), etc. Grant writers fees, if specifically listed on your application, are eligible and can be charged to the grant as an administrative cost in accordance with the provisions outlined (see (8) below). The Program Office has the option to assess the reasonableness of requested administrative costs in each application and will determine what is appropriate and in the best interest of the program.

(2) **Indirect Costs:** An indirect cost rate is an expense based on a percentage of the overall operational costs of an organization. The rate is established by a Federal department or agency for a grantee organization that the grantee uses to compute the dollar amount they charge to the grant for indirect costs incurred during the execution of the grant project.

Applicants can charge indirect costs to the grant only if they have an approved indirect cost rate. Prior to submitting any claims for reimbursement of indirect costs, applicants must first submit documentation that supports the indirect cost rate to DHS for review and approval. The appropriate documentation for an approved indirect rate is a negotiated indirect cost agreement. The indirect rate is applicable as long as it is consistent with the established terms of the agreement. For example, some indirect cost rates may not apply to capital procurements. In these cases, indirect cost rates would not apply for grant equipment.

Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified within a particular final cost objective. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same

purpose, in like circumstances, has been assigned to an award as a direct cost. Typical examples of indirect costs for many non-profit organizations may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, general administration, and other general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

Indirect costs shall be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation and use allowances on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel, library expenses and all other types of expenditures not specifically chargeable to the grant.

(3) **Audit Costs:** Grantees with large awards may be required to undergo an audit in accordance with OMB Circular A-133. Specifically, recipients of Federal funding that spend in excess of \$500,000 of Federal funds in one year must undergo an audit. (For more information about the Circular, go to www.whitehouse.gov/omb/circulars.) Reasonable costs incurred for such an audit would be an eligible expenditure if included in the proposal's budget. Applicants should consider including anticipated costs of an audit if applying for a significant level of funding. DHS does not require any other type of audit; therefore, no other audit costs are eligible.

(4) **Renovation Costs:** Renovations to an existing facility are allowable only if the costs comply with the final rule as published in the Federal Register (i.e., limited to minor interior alterations costing less than \$10,000). In order to be eligible, renovations must be essential to the successful completion of the grant scope of work. Environmental and historic preservation requirements may also apply to grants involving renovation activities. Construction costs are not eligible under the Fire Prevention and Safety Grant Program. Construction includes major alterations to a building that changes the profile or footprint of the structure. Note: Installation of fire suppression, fire alarms or detection systems are not considered renovations and accordingly not subject to the limits outlined for renovation costs. The costs, however, must be reasonable and justified. Fire departments who are considering installation of suppression, fire alarm or detection systems in a fire department facility are encouraged to apply under the Assistance to Firefighters Grant Program under Modification to Facilities.

(5) **Transportation Costs:** Tow vehicles or other means of transport may be eligible as a transportation expense, if adequately justified in the proposal. Transportation expenses are limited to \$6,000 per application.

(6) **Pre-award Costs:** Generally, grantees cannot use grant funds to pay for products and contracted services, or purchases, prior to the effective date of the grant. However, expenses incurred after the application deadline, but prior to award, may be eligible for reimbursement if the expenses were justified, unavoidable, consistent with the grant's scope of work, and specifically approved by DHS. DHS will consider requests for reimbursement for pre-award costs on a case-by-case basis.

(7) **Pre-application Costs:** Expenses, obligations, commitments or contracts incurred, or entered into, prior to the application deadline are *not* eligible as a grant expense with the exception of grant preparation costs (see (8) below).

(8) **Grant Writer Fees:** Fees for grant writers may be included as a pre-award or pre-application expenditure. However, fees payable on a contingency basis are not an eligible expense. For grant writers' fees to be eligible as a pre-award expenditure, the fees must be specifically identified and listed in the application. In order to be eligible, the fees must also be paid prior to award, (i.e., paid within 60 days of the end of the application period). Applicants may be required to provide documentation to support these pre-award expenditures. The hiring of a grant writer, or use of any other third parties in the preparation of the application, does not eliminate the applicant's responsibilities for assuring that the information contained in the application is true and correct.

(9) **Personnel Costs:** Due to the maintenance of expenditure requirement, personnel costs are eligible as long as the personnel costs are "new" to the grantee (i.e. the costs would not be incurred if it not for the grant.) For example, in a fire prevention program, the grantee might ask staff or firefighters to work overtime to deliver the program during off-duty hours. In this case, the overtime would not have been required if it was not for the fire prevention program. Another example might be hiring of a new staff person to deliver the program. The grantee would only incur this cost as a result of the fire prevention program. The Department of Homeland Security will not fund any existing positions, i.e., current staff reassigned to the grant.

(10) **Cost Share Requirement:** There is no cost share requirement for the applicant for the FY 2006 Fire Prevention and Safety Grants with the exception to fire departments. **Fire departments and non-affiliated EMS organizations are subject to the same cost share requirements applied under the Assistance to Firefighters program.** Grantees must share in the costs of the projects funded under this grant program. 15 U.S.C. 2229(b)(6). Fire departments and non-affiliated EMS organizations that serve populations of less than 20,000 must match the Federal grant funds with an amount of non-Federal funds equal to five percent of the total project cost. Fire departments and non-affiliated EMS organizations serving areas with a population between 20,000 and 50,000, inclusive, must match the Federal grant funds with an amount of non-Federal funds equal to ten percent of the total project cost. Fire departments and nonaffiliated EMS organizations that serve populations of over 50,000 must match the Federal grant funds with an amount of non-Federal funds equal to twenty percent of the total project costs. All non-Federal funds must be in cash, i.e., in-kind contributions are not eligible. No waivers of this requirement will be granted except for applicants located in Insular Areas as provided for in 48 U.S.C. 1469a.

VII. Decisions on Applications

A. Awards Procedure

A panel of reviewers will assess each application's merits with respect to the detail provided in the narrative on the activity, including all of the evaluation elements listed above. The panel evaluators will independently score each application, and, if necessary, discuss the merits/shortcomings of the application in order to reconcile any major discrepancies. A consensus is not required.

The rankings will be summarized in a Technical Report prepared by the grants program office and provided to the Assistant Secretary of the Office of Grants and Training for final determination. If necessary, the grants financial staff will contact the proposed awardee to finalize the content of the proposed budget before making the final award decision.

B. Turndown Procedure

The fire prevention and safety grants are competitive. Some of the applications will not be successful. All applicants will receive a decision. For those applicants who are not successful, the Department of Homeland Security's Office of Grants and Training will prepare a letter that briefly describes the shortcomings and weaknesses of the application, as articulated to us by the peer review panelists. Due to the number of turndowns that have historically been experienced for these grants, detailed debriefs will not be possible.

VIII. Grantees Responsibilities

Recipients (Grantees) must agree to do the following:

- (1) During the relevant period of performance, maintain annual operating expenditure (not including award or matching funds) in the areas funded by this grant activity at a level equal to, or greater than, the yearly average for those operating expenditures during the two years preceding the year in which this assistance is received. This program is meant to supplement rather than replace or supplant the applicant's regular expenses.
- (2) Retain grant files and supporting documentation for three years after the closeout of the grant.
- (3) Grantees are required to follow their own established procurement policies to ensure that all procurement actions are conducted in a manner that provides, to the maximum extent possible, open and free competition. If the organization has no established policies, at least two quotes/bids for procurement must be obtained. Documentation of the process used must be maintained in a grant file for the period of three years.
- (4) Report performance progress made on your grant activities after six months. At grant closeout, applicants need to report how the grant funding was used and what benefits were realized from the award in a final report. An accounting of the funds should also be included.
- (5) Make grant files and all records available if requested for DHS's review to ensure compliance with requirements of the grant program.
- (6) **If the applicant is a fire department**, they must agree to provide information, through established reporting channels, to the U.S. Fire Administration's National Fire Incident Reporting System (NFIRS) for the period covered by the assistance. If a fire department does not currently participate in the incident reporting system and does not have the capacity to report at the time of the award, that grantee must agree to provide information to the system for a twelve-month period commencing as soon as they develop the capacity to report.
- (7) **If the applicant is a fire department**, they must comply with Homeland Security Presidential Directive-5 (HSPD-5). Starting October 1, 2004, HSPD-5 requires that all recipients of Federal preparedness funding – including recipients of Federal grants and contracts – adopt the National Incident Management System (NIMS) as a condition for receipt of the Federal funds. Recipients of FY2006 AFG funds must comply with this directive (see appendix A). AFG recipients will be considered in compliance with this NIMS requirement if the grantee has an operational knowledge of the Incident Command System (ICS) and an understanding of NIMS' principles and policies. Organizations that have already been trained in ICS do not need re-training if the

previous training was consistent with DHS standards. In order for the Department of Homeland Security to document compliance, grantees will be required to self certify their recognition of NIMS/ICS as part of their grant closeout process.

DHS offers ICS and NIMS training for those organizations that have not implemented the Incident Command System or those that are unfamiliar with the principles and policies of NIMS. For example, the Federal Emergency Management Agency (FEMA) offers ICS training from introductory courses to advanced ICS training. For more information regarding ICS and NIMS training, visit the NIMS website at www.fema.gov/nims. For more information about ICS training, contact DHS's Centralized Scheduling and Information Desk (CSID) at 1-800-368-6498, or visit the website of DHS's Emergency Management Institute (EMI) and the National Fire Academy (NFA) at www.usfa.fema.gov. Your State emergency management training office may also be a source of information in this regard.

(8) Follow the audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-profit Organizations, which call for grantees who expend \$500,000 or more in Federal funds in the organizations' fiscal year (from all Federal sources) and perform a single audit. (For more information about the Circulars, go to www.whitehouse.gov/omb/circulars.)

INTELLIGENT TRAINING SYSTEM™

Makes OSHA extinguisher training **clean, safe, and effective** while saving your company money.



With over 30 years experience with the fire service, including 20 years in training, I have seen a number of **fire extinguisher training systems** and the Intelligent Training System™ is the **best one that I have seen.**

-Rick Emery, Emery & Associates



The Intelligent Training System™ senses where the trainee aims and sweeps the SmartExtinguisher™ and varies the flames automatically. The SmartExtinguishers™ are recharged quickly and easily with only compressed air and water.



Extinguisher Sensing Control System

The Intelligent Training System™ is a revolutionary live-fire extinguisher training simulator. I.T.S. senses where the user aims and sweeps the air / water SmartExtinguisher and™ automatically varies the flames in response. This allows your trainees to learn how to effectively use a fire extinguisher without the cost and clean-up associated with using dry-chemical or CO₂ extinguishers. The I.T.S. electronic control™ system responds to the trainees' actions, putting the fire out only when the extinguisher is used correctly.

Only 1% of the population has been adequately trained on fire extinguisher usage

An extinguisher in the hands of a trained individual is 250% more effective

Intelligent Training System™ Features

CLEAN

Eliminates the discharge of any dry-chemical or CO₂ extinguishant. I.T.S.™ utilizes clean burning propane.

SAFE

Has sensors that automatically shut-off the flames if the system is bumped, knocked or set-up improperly. Flames go out instantly when the safety switch is released.

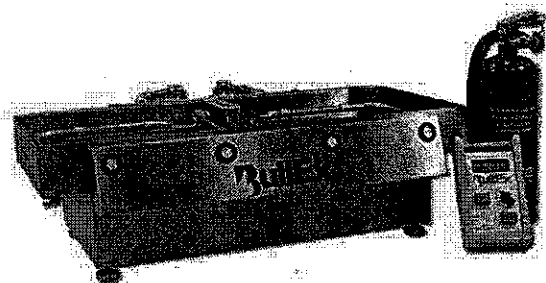
EFFECTIVE

Provides a realistic and engaging training experience.



Intelligent Training System™ Advantages

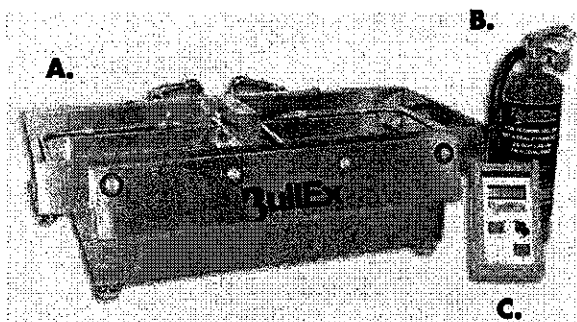
- Safely train to OSHA requirements.
- Rechargeable SmartExtinguishers™ make training easy and reduces training costs significantly.
- Has the ability to grade users making it easy to monitor improvement and proficiency.



Intelligent Training System™ Base Package

Price: \$4,895.18

P/N: ITS004A



A. Intelligent Training System™ Base Unit

Rugged, non-corrosive stainless steel construction.

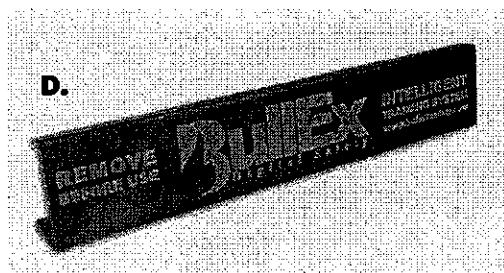
B. 3X SmartExtinguisher™

Rechargeable training extinguisher with gauge and Shrader recharge valve. Discharges 3 times before requiring a water refill.

7X SmartExtinguisher™ Upgrade

Upgrade the I.T.S. Base Package to include a 7X SmartExtinguisher™ instead of the 3X SmartExt. Discharges 7 times before requiring a water refill.

Upgrade Price: \$79.00 P/N: UG07X

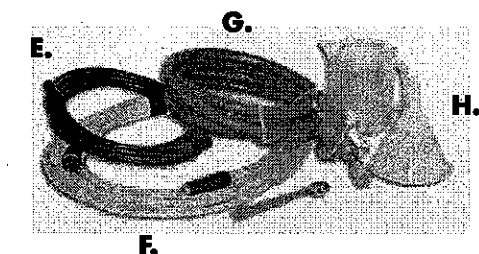


C. Handheld Controller

Start and stop training evolutions, select class of fire to simulate and change fire difficulty. Includes an LCD display that shows the status of the system and displays trainee's score.

D. Sensor Guard (for transporting I.T.S.)

Slides over the front sensor housing on the I.T.S. Base Unit.



E. Controller Cable

25 ft. black cable with locking connectors.

F. Power Cable

50 ft. yellow 12VDC power cable. Plugs into any standard 12V "cigarette lighter" plug.

G. Propane Supply Kit

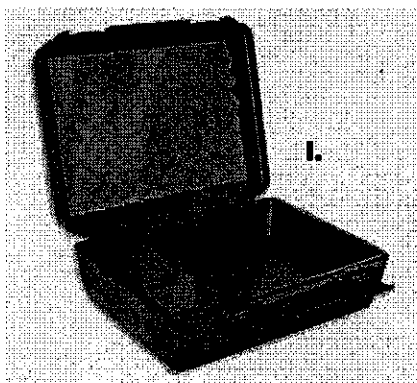
Low pressure propane hose with quick disconnect fittings and propane regulator. Connects directly to a standard 20 lb. "gas grill" propane tank.

H. Recharge Accessories

Funnel, measuring cup and air chuck are included for recharging the SmartExtinguisher™ with air/water.

I. Accessories Carrying Case

Foam-lined black carrying case for handheld controller, cables, measuring cup, funnel, air chuck and (2) 3X SmartExtinguishers.™



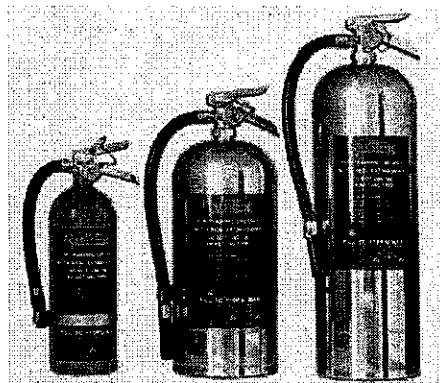
Warranty

User Manual and "How To Operate" Training CD

Bullex
Digital Safety

105 Jordan Road
Troy, NY 12180
Phone: 518.833.0432
Fax: 518.833.0467

Accessories Information Sheet



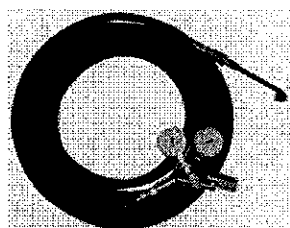
J.

K.

L.



M.



N.



O.



P.

J. 3X SmartExtinguisher™

Aluminum rechargeable training extinguisher.
Discharges 3 times before requiring a water refill.
Price: \$125.00 **P/N:** SE003X

K. 5X SmartExtinguisher™

Stainless Steel rechargeable training extinguisher.
Discharges 5 times before requiring a water refill.
Price: \$179.00 **P/N:** SE005X

L. 7X SmartExtinguisher™

Stainless Steel rechargeable training extinguisher.
Discharges 7 times before requiring a water refill.
Price: \$199.00 **P/N:** SE007X

M. Air Compressor (8 gal.) w/ accessories

8 Gallon upright air compressor with a maximum 125 PSI. (Fill SmartExtinguishers™ to 100-110 PSI). Equipped with a 3 HP motor. Ships with premium air hose (50 ft.) and brass fitting kit.
Price: \$360.00 **P/N:** AC110

N. Air Regulator w/ accessories

Recharge SmartExtinguishers™ from an SCBA tank (2,216 or 4,500 PSI) with this premium brass high pressure regulator assembly. Also includes brass fittings, and a high quality rubber 50 ft. air hose.
Price: \$259.34 **P/N:** PRO01

O. Battery Power Packs (12 Amp hr and 22 Amp hr)

Power I.T.S. without a vehicle using these portable, rechargeable power packs. 12 Amp hr powers I.T.S. for 5 hours, 22 Amp hr powers I.T.S. for 10 hours.

12 Amp hr. Price: \$64.73 **P/N:** BP012

22 Amp hr. Price: \$109.32 **P/N:** BP022

P. NFPA Fire Extinguishers at Work DVD/VHS

This presentation draws on the requirements in NFPA 10, the Standard referenced by OSHA in developing its regulations. Virtually everything your employees need to know is covered, from portable extinguisher basics to advanced strategies for workers in industrial environments. A Presenter's Guide helps you lead discussions about equipment in your facility. (17 min.)

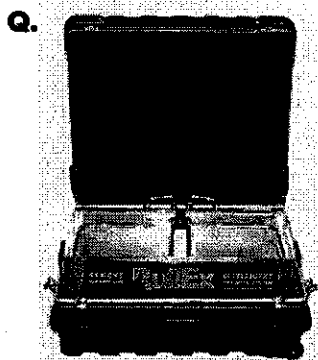
VHS: \$429.50 **P/N:** NFPA01V

DVD: \$469.50 **P/N:** NFPA02D



105 Jordan Road
Troy, NY 12180
Phone: 518.833.0432
Fax: 518.833.0467

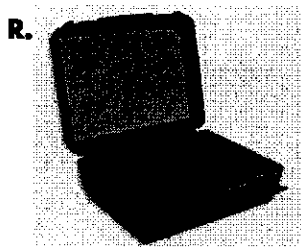
Transport Case Information Sheet



Q. I.T.S. Transport Case

This black industrial grade high impact plastic wheeled case can be used to quickly and easily transport I.T.S. to and from various sites to conduct training. Includes a retractable pull handle and built in wheels. Locking latches provide safe and secure storage of the system when not in use. **Transports:** I.T.S. Base Unit, handheld controller, funnel and measuring cup.

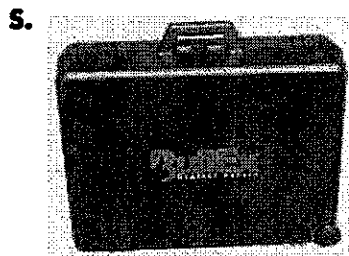
Price: \$795.23 **P/N:** IC001



R. Accessories Carrying Case

Foam-lined black carrying case for handheld controller, cables, measuring cup, funnel, air chuck and (2) 3X SmartExtinguishers™.

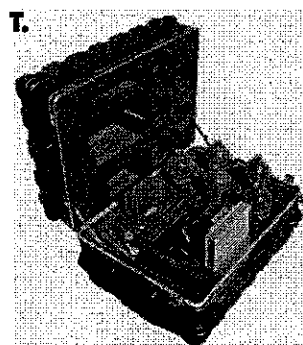
Price: \$94.85 **P/N:** TC005



S. 5X / 7X Carrying Case

Foam-lined black carrying case with wheels and pull strap. Holds (2) 5X SmartExtinguishers™ or (2) 7X SmartExtinguishers™.

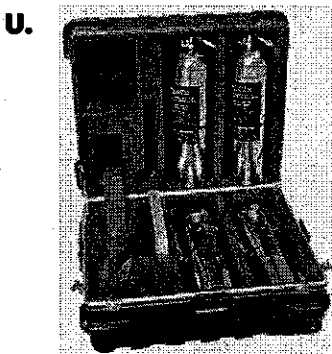
Price: \$109.52 **P/N:** TC57X01



T. 3X Accessories Transport Case

This black industrial grade high impact plastic wheeled case can be used to conveniently transport five (5) 3X SmartExtinguishers™, 22Ah battery pack, toolbox and aluminum clipboard. Locking latches provide safe and secure storage of the accessories and SmartExtinguishers™ when not in use.

Price: \$722.71 **P/N:** TC3X01



U. 5X / 7X Accessories Transport Case

This black industrial grade high impact plastic wheeled case can be used to conveniently transport four (4) 7X SmartExtinguishers™, 22Ah battery pack, toolbox and aluminum clipboard. Locking latches provide safe and secure storage of the accessories and SmartExtinguishers™ when not in use.

Price: \$795.23 **P/N:** TC57X50

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

B. 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 ☐

[Signature]
Department Director

12-1-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

12-1-06

Received in City Clerk's Office



Paul A. Bush
Finance and Internal Service Director

12-1-06
Date

Received in Mayor's Office



[Signature]
Mayor

12/3/06
Date

Comments:

Left on the second reading 12/19/06

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning [§]

Date: 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"

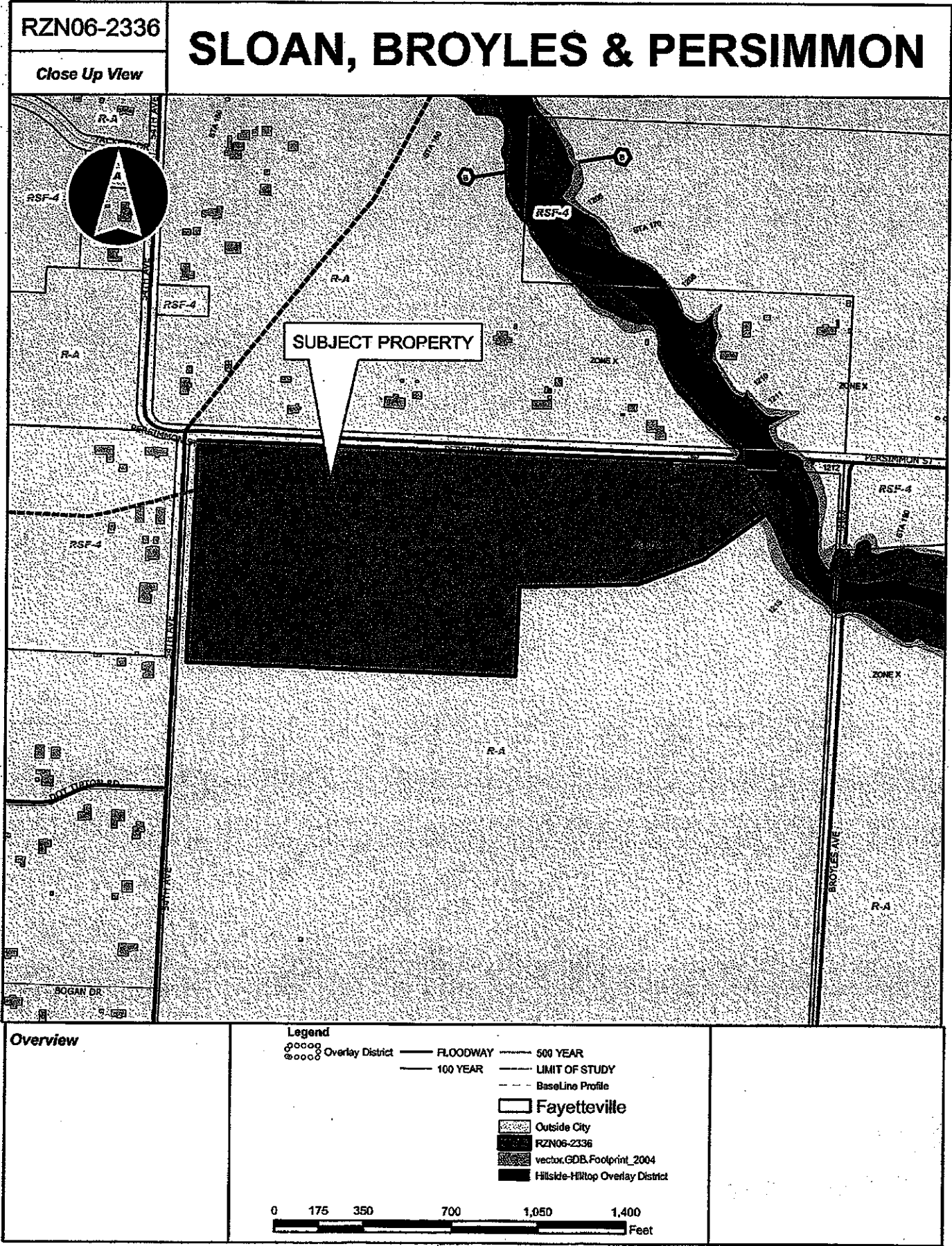


EXHIBIT "C"

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 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

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 MASONIC DRIVE
Address
Pay - 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: <u>November 27, 2006</u>			
Motion: <u>Clark</u>			
Second: <u>Trumbo</u>			
Vote: <u>8-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>December 19, 2006 (1st reading if recommended)</u>			

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.
-------------------------	--------

- (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 MASOPIC 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.

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 Ruppel 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 Ruple 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.

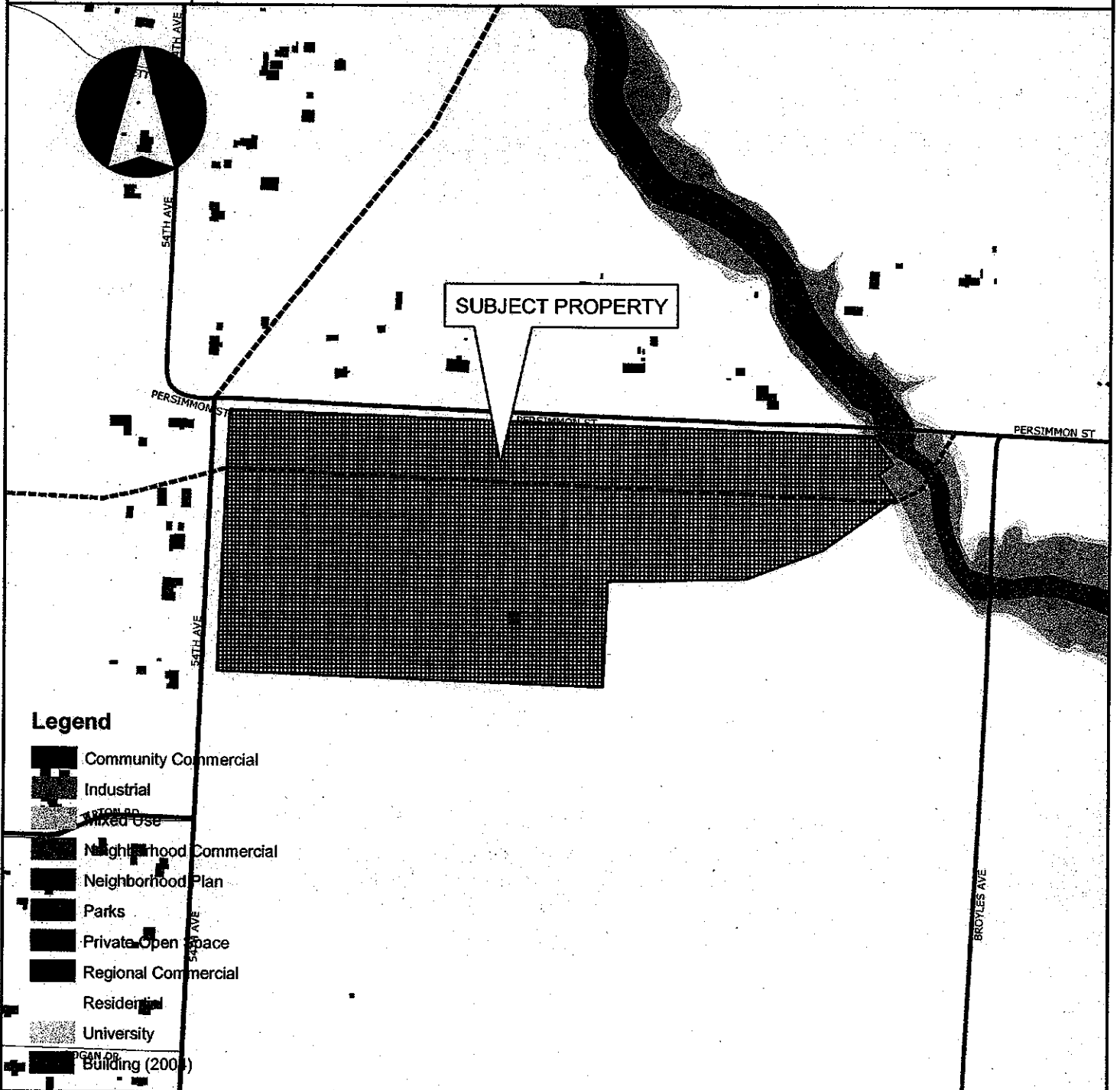
I'm sure putting in another Persimmon South of us will do nothing for the problem because our street is a straight shot to the new school. Why can't they just add another lane to our street instead? That would help all the traffic we have with a 2 lane Road. I would appreciate you asking this question for the Planning Commission.

Thank you
Mrs Priest

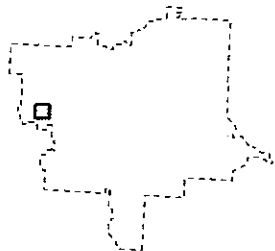
RZN06-2336

Future Land Use

SLOAN, BROYLES & PERSIMMON



Overview



Legend

Subject Property

RZN06-2336

Streets

Existing

Planned

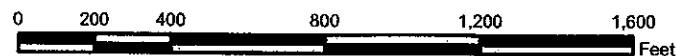
Boundary

Planning Area

Overlay District

Outside City

Legend



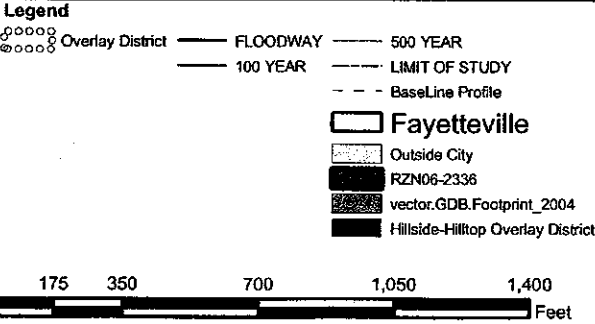
RZN06-2336

Close Up View

SLOAN, BROYLES & PERSIMMON



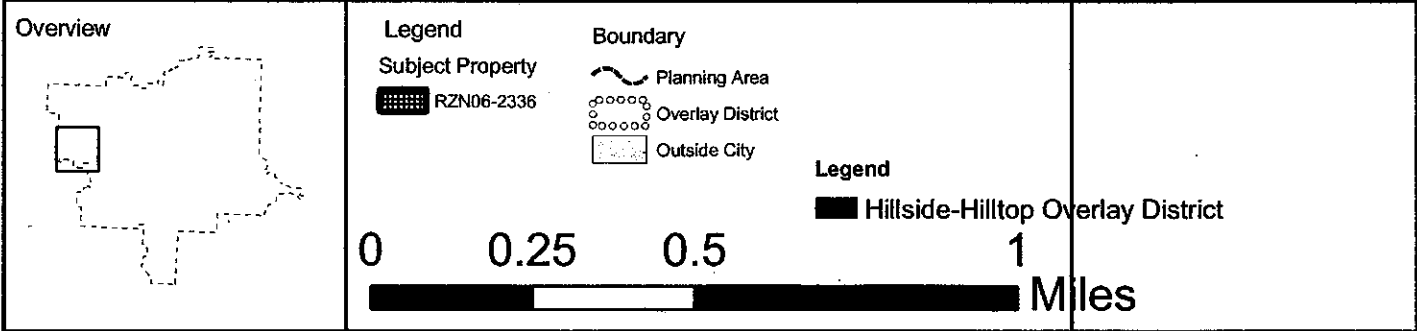
Overview



RZN06-2336

One Mile View

SLOAN, BROYLES & PERSIMMON



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

C. 1
Northwest Arkansas Economic
Development District Contract
Page 1 of 14

1/2/2007

City Council Meeting Date

Connie Edmonston *C.E.*
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$62,500 to provide public recreation services for the senior citizens of Fayetteville for 2007.

\$62,500.00	\$25,000	Transfer to Council on Aging
Cost of this request	\$37,500	Program Category / Project Name
1010.6600.5718.01	Category/Project Budget	
2250.9250.5718.01	n/a	Parks Development Program
Account Number	Funds Used to Date	Program / Project Category Name
	Remaining Balance	Parks Development
Project Number		Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

Previous Ordinance or Resolution # 4799

Original Contract Date:

Original Contract Number:

[Signature]
Department Director

12-18-06
Date

[Signature]
City Attorney

12/15/06
Date

Received in City Clerk's Office

Received in Mayor's Office

[Signature]
Finance Director

12-18-06
Date

[Signature]
Mayor

12/18/06
Date

Comments:

NWAEDD
p. 1 of 2

City Council Meeting of January 2, 2007

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation *C.E.*

DW
From: David Wright, Recreation Superintendent

Date: December 14, 2006

Subject: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville and the Northwest Arkansas Economic Development District in the amount of \$62,500 to provide public recreation services for senior citizens of Fayetteville for 2007.

RECOMMENDATION

Fayetteville Parks and Recreation Staff recommends approving the contract with Northwest Arkansas Economic Development District (NWAEDD) to provide public recreation services for the citizens of Fayetteville and waive competitive bid for services.

BACKGROUND

In 1972, The City of Fayetteville began providing financial support for the Council on Aging, Inc., to provide recreation services to senior citizens at the Hillcrest Towers and the Fayetteville Senior Center. This was the beginning of a very successful agreement that continued until the NWAEDD assumed the responsibilities of the Council on Aging last year.

Like the Council on Aging, the NWAEDD will provide recreational programs, meeting the needs of our senior citizen residents at the Hillcrest Towers and the Fayetteville Senior Center. It is the intent of both parties to work in cooperation to enhance the recreation facilities and programs in our City, while not duplicating services in efforts to spend tax payers' money as effectively as possible. If the NWAEDD were not serving our senior citizen population, the City would need to assume responsibility.

DISCUSSION

The 2007 budget includes a total of \$62,500 to be transferred to the NWAEDD. Of this transfer, \$37,500 comes from the Parks and Recreation Division, Parks Development Program and \$25,000 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 NWAEDD 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 NWAEDD has adequately served our citizens since it was created.

BUDGET IMPACT

The 2007 budget includes a total of \$62,500 for the transfer to the NWAEDD. 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 NORTHWEST ARKANSAS ECONOMIC DEVELOPMENT DISTRICT IN THE AMOUNT \$62,500.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR THE SENIOR CITIZENS OF FAYETTEVILLE FOR 2007.

WHEREAS, providing quality recreational opportunities to the senior citizens of our community is of mutual interest to the City of Fayetteville and the Northwest Arkansas Economic Development District, and;

WHEREAS, the Northwest Arkansas Economic Development District is uniquely qualified to provide the continuity of services vital to the efficient provision of recreational opportunities to the senior citizens of Fayetteville, and;

WHEREAS, were it not for the services offered by the Northwest Arkansas Economic Development District, the City of Fayetteville would be required to assume the duty of providing staff, programming, promotion, and development for senior citizen recreational services.

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 formal competitive bidding and approves a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$62,500.00 to provide public recreation services for the senior citizens of Fayetteville for 2007. A copy of said contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 2nd day of January, 2007.

APPROVED:

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA SMITH, City Clerk

CONTRACT

*Between The City of Fayetteville and the
Northwest Arkansas Economic Development District (NWAEDD)*

WHEREAS, the Northwest Arkansas Economic Development District (NWAEDD) is uniquely qualified to provide the full range of public recreation opportunities to the senior citizens of Fayetteville; and,

WHEREAS, it is in the best interest of the City of Fayetteville and its citizens to provide operating, promotion and development revenues to the NWAEDD in consideration for the substantial recreational programs provided by the NWAEDD to the senior citizens of Fayetteville.

NOW, THEREFORE, IT IS AGREED:

The City of Fayetteville shall provide the sum of **\$5,208.33** monthly to the NWAEDD throughout the year of 2007 in consideration of the following duties and obligations to be preformed by the NWAEDD:

- A. The NWAEDD shall be responsible for providing staff, programming, promotion, and development for the Hillcrest Towers and Walker Park Community Centers. NWAEDD agrees to use funding from the City to pay for the promotion and development of recreational programs designed specifically for senior citizens.
- B. NWAEDD shall make substantial portions of its programs or facilities available to Fayetteville citizens (the public) at little or no cost for the needy senior citizens. NWAEDD shall report on a quarterly basis the approximate number of Fayetteville citizens served by its programs.
- C. The NWAEDD shall follow the general Working Procedures and Responsibilities for the City of Fayetteville Parks and Recreation Division and the NWAEDD which is attached as Exhibit A, and is made a part hereof, as if set forth word for word in it's entirety.

City of Fayetteville, Arkansas

**Northwest Arkansas Economic
Development District**

By: _____
DAN COODY, Mayor

By: _____
J. Michael Norton, Executive Dir.

ATTEST:

Witness:

By: _____
SONDRA SMITH, City Clerk

By: _____
Kaye Curtis,

Director of Senior Services
Title

EXHIBIT A

RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE NORTHWEST ARKANSAS ECONOMIC DEVELOPMENT DISTRICT

This agreement is made and entered into between the City of Fayetteville Parks and Recreation Division (Parks and Recreation) and the Northwest Arkansas Economic Development District (hereinafter referred to as NWAEDD).

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 Parks and Recreation Director and the Executive Director of the NWAEDD; 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, increased 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 NWAEDD 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 NWAEDD, the following set of detailed operating procedures and responsibilities are hereby established.

1. NWAEDD shall be responsible for providing staffing, programming, promotion and development of recreational programs for senior citizens which includes, but not limited to, recreational trips, arts and crafts, music and games.
2. Parks and Recreation shall be responsible for providing or approving the staffing, programming, maintenance, promotion and development of the parks system within the city and the recreational events occurring within the city for all ages.
3. The NWAEDD Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

4. It is understood and agreed that the City's annual purchase of services will be negotiated on a yearly basis.

5. The NWAEDD Board of Directors is responsible for the management and operation of annual funding allocation to NWAEDD from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 60 percent of the funding shall be expended for promotion and development of recreation.

6. NWAEDD shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director no more than thirty (30) days after the end of the NWAEDD fiscal year, which ends on June 30, 2007. Such report shall detail NWAEDD's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated in number eight (8).

7. NWAEDD shall comply with the schedules and procedures established by the Budget & Research Division of the City of Fayetteville for annual funding requests.

8. Quarterly reports shall be submitted to the Parks and Recreation Director on, or before, the following dates: April 10, July 10, October 10, and January 10 (2008). These reports shall detail the following performance measures:

- A. Establish a full service senior center at Hillcrest Towers to include socialization (recreation) by hosting daily social activities, such as bingo, table games, exercise classes, and wellness programs. During the course of the year, 85 participants will participate in programs at Hillcrest Towers.
- B. Upgrade the quality and quantity of all services at the Fayetteville Senior Center by twenty – five percent (25%).
- C. Recreation opportunities will be expanded to provide more wellness programs such as PEPPI, Strong Women program and formal exercise classes that will be offered weekly. Twelve social dances will be provided during the year, scheduled on a monthly basis.
- D. Transportation will be added to the recreation programs to allow trips to other sites for recreational opportunities. A minimum of two recreation trips per month will be offered to other areas. Senior citizens will be transported to the annual Senior Games event held in Harrison in May of each year.

9. The working procedures and responsibilities contained herein shall become effective January 1, 2007.

10. NWAEDD shall acknowledge the City of Fayetteville's contribution on general marketing flyers, brochures and other general marketing materials.

CONTRACT

*Between The City of Fayetteville and the
Northwest Arkansas Economic Development District (NWAEDD)*

WHEREAS, the Northwest Arkansas Economic Development District (NWAEDD) is uniquely qualified to provide the full range of public recreation opportunities to the senior citizens of Fayetteville; and,

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City of Fayetteville, Arkansas

**Northwest Arkansas Economic
Development District**

By: _____
DAN COODY, Mayor

By: 
J. Michael Norton, Executive Dir.

ATTEST:

Witness:

By: _____
SONDRA SMITH, City Clerk

By: 
Kaye Curtis,

Director of Senior Services
Title

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RECREATION IN FAYETTEVILLE

WORKING PROCEDURES AND RESPONSIBILITIES FOR THE CITY OF FAYETTEVILLE PARKS AND RECREATION DIVISION AND THE NORTHWEST ARKANSAS ECONOMIC DEVELOPMENT DISTRICT

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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 Parks and Recreation Director and the Executive Director of the NWAEDD; 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, increased 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 NWAEDD 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.

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3. The NWAEDD Executive Director and Parks and Recreation Director shall have periodic meetings to ensure communication between the two entities.

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5. The NWAEDD Board of Directors is responsible for the management and operation of annual funding allocation to NWAEDD from the City of Fayetteville and shall have the responsibility for prioritizing the use of such funds. However, 60 percent of the funding shall be expended for promotion and development of recreation.

6. NWAEDD shall schedule a meeting and submit an annual financial report to the Parks and Recreation Director no more than thirty (30) days after the end of the NWAEDD fiscal year, which ends on June 30, 2007. Such report shall detail NWAEDD's use of the City of Fayetteville's funding allocation and accomplishment of performance measures as stated in number eight (8).

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City of Fayetteville, Arkansas

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Development District**

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By: _____
J. Michael Norton, Executive Dir.

ATTEST:

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By: _____
SONDRA SMITH, City Clerk

By: _____
Kaye Curtis,

Director of Senior Services
Title

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CITY ATTORNEY AGENDA REQUEST

C. 2
Amend Chapter 174 & Chapter 153; Signs
Page 1 of 16

FOR: COUNCIL MEETING OF JANUARY 2, 2007

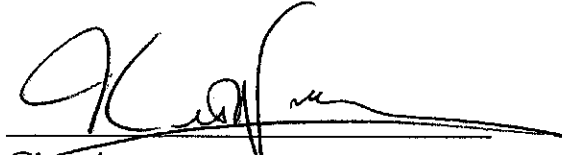
FROM:

KIT WILLIAMS, CITY ATTORNEY

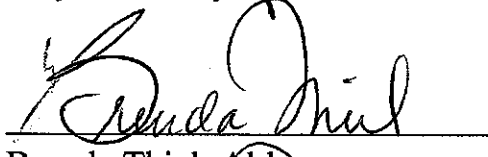
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Enact A Replacement Chapter 174 *Signs* And §153.08 (G) *Signs* To Clarify Sign Regulations In Fayetteville

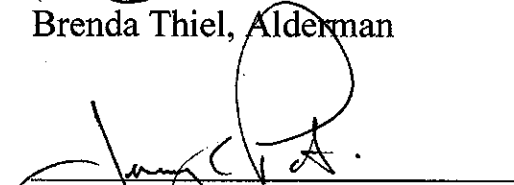
APPROVED FOR AGENDA:



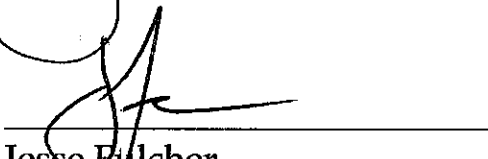
City Attorney
Date Dec 13, 2006



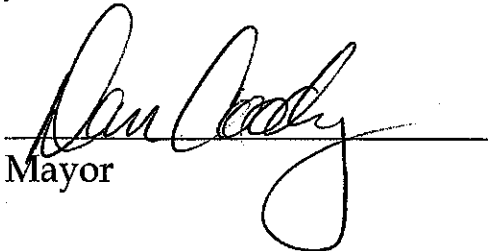
Brenda Thiel, Alderman
Date 12/19/06



Jeremy Pate
Date 12.19.06



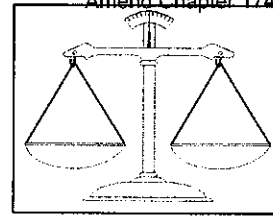
Jesse Fulcher
Date 12-19-06



Mayor
Date 12/19/06

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Alderman Brenda Thiel**

CC: **Jeremy Pate**, Director of Current Planning
Jesse Fulcher, City Planner

FROM: **Kit Williams**, City Attorney

DATE: **December 13, 2006**

RE: **Sign Ordinance Revision**

I believe that we have now found and corrected all the grammatical and numerical mistakes within the existing sign ordinance. Below are summaries of the substantive (most are minor) changes that we propose:

(1) §174.02 (B) *Issuance of a sign permit.*

We provided Jeremy (or designee) with five more days before an inadequate application had to be rejected if not corrected.

(2) §174.03 *Exemptions.*

We removed the language that the exemptions related **only** to the permit requirement and instead authorized the signs within this subsection.

(3) §174.03 (J) *Banners.*

We defined and limited the size of banners to the cross-street banner size (3' by 30'). We provided new authority for election campaign signs of up to 32 square feet (which have been used for years) and lengthened these large signs' duration from 2 to 3 weeks before the election to which they

refer. (Runoff elections are three weeks after the primary/general election.) Election campaign banners were allowed to substitute for a special sales banner.

Special sales event banners were limited to ten days (instead of fourteen plus three) for commercial establishments once a year. We do not need to treat commercial signs (or banners) as leniently as religious/political signs which are the First Amendment's most protected class of signs. If you believe ten days once a year is too limited for special sales event banners (we no longer restrict the normal commercial signs allowed during the banner's display period), you could lengthen the time up to fourteen days, twice a year (to match Public Event Banners).

Public Event Banners include both (a) banners on the nonprofit organization's or government entity's own property (14 days, twice a year) and (b) cross street banners on Dickson Street (two locations). As long as all commercial content, logos and advertising is kept off the banners, the City should be fairly safe from the "billboard lawyers" who seek to install commercial billboards to challenge a city's sign ordinance. That is why these should be allowed only for nonprofit and government entities with no commercial sponsorship identified on the banners. The City will NOT be able to pick and chose what "public festival or event" may be promoted by the cross-street banners if this change is approved. I hope we will continue our good luck with this banner program.

(4) §174.04 Sign Identification.

We clarified this to require that the sign permit number must be so displayed that it is visible from the ground.

(5) §174.05 Sign Removal.

We removed the requirement that **conforming** sign supporting structures had to be removed within 60 days of a business ceasing operations. Now, the sign must still be removed, but a conforming sign structure need not be removed in most circumstances.

(6) *§174.07 Placing Signs on Public and Private Property.*

Some sections involving prohibition of signs were moved to the next section (Prohibited Signs) and subsection (4) *Informational Kiosks* was added pursuant to the previously submitted downtown master plan ordinance. Subsection (5) *Cross street banners* refers back to the banners subsection: §174.03 (J)(3)(b).

(7) *§174.08 Prohibited Signs.*

Subsections (J), (K), and (L) were moved from the preceding section with slight changes.

(8) *§174.09 Sign Illumination.*

The wattage of light for direct illumination of signs was raised from 25 to 150.

(19) *§174.10 On-Site Freestanding Signs.*

This section had the most changes, but primary for clarity and consistency rather than substantive changes. Planning has had some difficulty applying the provision for Joint Identification and Area signs. We added the new residential zone of Neighborhood Conservation throughout this ordinance. Please read this section to ensure it is clear and has continued the appropriate limitations for the various zoning districts.

(10) *§174.12 Wall Signs.*

The display area for wall signs has been increased to a maximum of 200 square feet (from 150) or 20% of the wall, whichever is less.

(11) *§153.08 Miscellaneous Remedies (G) Signs.*

This enforcement provision was changed so that conforming sign structures need not be removed, but nonconforming signs and sign supporting structures could be ordered removed after a business had ceased operations for over 60 days.

ORDINANCE NO. _____

AN ORDINANCE TO ENACT A REPLACEMENT CHAPTER 174
SIGNS AND §153.08 (G) **SIGNS** TO CLARIFY SIGN REGULATIONS
IN FAYETTEVILLE

WHEREAS, clarifications of Chapter 174 **Signs** of the **Unified Development Code** are needed to harmonize and simplify sign regulations in Fayetteville; and

WHEREAS, the length of time the Zoning and Development Administer has before he must reject a non-compliant sign permit application should be extended from five to ten business days to avoid unnecessary paperwork, expense, and delay for sign applicants; and

WHEREAS, wayfinding, informational kiosks and cross-street banners should be regulated and authorized within the Downtown Master Plan District; and

WHEREAS, a conforming sign supporting structure should not be required to be removed within 60 days of the business closure or relocation unless it constitutes a hazard and nuisance; and

WHEREAS, traditional large election campaign signs of up to 32 square feet should be authorized for up to three weeks prior to the election to which the sign applies.

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 Chapter 174 **Signs** of the **Unified Development Code** in its entirety and enacts a new Chapter 174 **Signs** in its stead as shown on Exhibit "A" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §153.08 (G) **Signs** in its entirety and enacts a new §153.08 **Signs** in its stead as shown on Exhibit "B" attached hereto and made a part hereof.

PASSED and APPROVED this 2nd day of January, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 174: SIGNS

174.01 General Regulations

- (A) *Permit required.* It shall be unlawful for any person to erect, repair, alter, relocate or keep within the city any sign or other advertising structure except as exempted herein without first obtaining a sign permit from the Zoning and Development Administrator or designee.
- (B) *Illuminated signs.* All illuminated signs shall, in addition, be subject to the provisions of the electrical code, and the permit fees required thereunder.
- (C) *Fees.* Every applicant, before being granted a permit hereunder, shall pay to the Zoning and Development Administrator's Office the permit fee set forth in Chapter 159.
- (D) *Maintenance of premises.* All freestanding signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(Code 1965, 17B-3(a), (c), (e), 4(b); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Ord. No. 2790, 1-18-82; Code 1991, 158.05, 158.20, 158.22, 158.24, 158.38; Ord. No. 3925, 4, 10-3-95; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.02 Permit Application/Issuance

- (A) *Application.* Applications for initial sign permits shall be made upon forms provided by the Zoning and Development Administrator and shall contain or have attached thereto the following information:
- (1) *Applicant identification.* Name, address and telephone number of the applicant.
- (2) *Location.* Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
- (3) *Position.* Position of the sign or other advertising structure in relation to nearby buildings or structures.
- (4) *Blueprints/drawings.* Two blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
- (5) *Person erecting structure.* Name of person, firm, corporation, or association erecting structure.

- (6) *Consent of owner.* Written consent of the owner of the building, structure, or land to which or on which the structure is to be erected.
- (7) *Electrical permit.* Any electrical permit required and issued for said sign. Application requesting electrical permit for proposed sign must accompany sign application.
- (8) *Full Compliance With Applicable Code Provisions.* If the proposed sign is subject to the provisions of the Commercial Design Standards (166.14), Design Overlay District (161.21), Certificate of Zoning Compliance or other code provisions, the applicant must show full compliance with all applicable code provisions, including necessary approvals by responsible bodies such as the Planning Commission.
- (B) *Issuance of sign permit.* It shall be the duty of the Zoning and Development Administrator or designee, upon the filing of an application for an erection permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure and sign are in full compliance with all the requirements of this chapter and all other laws and ordinances of the city, he shall within five business days issue the sign permit. If the Zoning and Development Administrator or designee fails to reject a completed sign application (that purports to show full compliance with all code requirements) within ten business days of its submission by written explanation of why such application fails to meet all code requirements, the sign application shall be deemed approved and a sign permit shall be immediately issued to the applicant. If the work authorized under a sign permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.
- (C) *Appeals of Sign Permit Denials.* All decisions and interpretations of the Zoning and Development Administrator under this Chapter shall be considered final administrative actions for the purpose of the appeals set forth at 155.01.

(Ord. No. 1965, 17B 3(b), (d); Ord. No. 1893, 12-19-72; Ord. No. 2198, 2-17-76; Code 1991, 158.21; 158.23; Ord. No. 4100, 2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04)

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174.03 Exemptions

Exemptions shall not be construed as relieving the owner of such signs from the responsibility of complying with certain applicable provisions of this chapter. The exemptions shall apply to the requirement for a sign permit. No sign permit shall be required for the erection of the following signs which are hereby authorized to be erected in compliance with the listed conditions:

- (A) *Professional name plates.* Professional name plates erected flat on walls of building and not exceeding four (4) square feet of display surface area.
- (B) *Building construction signs.* One on-site building construction sign on each construction site in any zoning district, provided that maximum display surface area shall be eight (8) square feet or less in R zoning districts; 32 square feet or less in other zoning districts.
- (C) *Real estate signs.* On a lot in any district, there may be erected one on-site unanimated real estate sign while the lot is for sale. Provided further, such signs shall be limited to wall signs, freestanding signs or platform signs; and freestanding signs or platform signs shall be set back a minimum of 10 feet from the street. Real Estate signs shall be removed within 72 hours following the closing (sale) of the property on which it is located. The permitted illumination and maximum display surface area for a real estate sign shall be as follows:

District	Permitted Illumination	Area (Sq. Ft.)
RA	Nonilluminated	32
R, R-O	Nonilluminated	8
P-1, C and I	Illuminated	32

- (D) *Home occupation signs.* Home occupation signs erected flat against the wall and not exceeding three (3) square feet.
- (E) *Memorial signs, name signs.* Memorial signs or tables, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.
- (F) *Traffic signs, etc.* Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary, emergency or nonadvertising signs as may be approved by the City Council.
- (G) *Posting bills, repainting signs.* Posting of bills on signs, repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were

legally erected and maintained for such purposes.

- (H) *Non-Commercial Signs.* Non-Commercial signs that do not advertise a product or service for profit or for a business purpose, do not propose a commercial transaction nor relate primarily to economic interests are permitted to be placed on private property in any zoned district subject to the following conditions:

- (1) *Districts where signs not otherwise permitted.* In districts where signs are not otherwise permitted, one political or religious non-commercial sign may be erected subject to the same limitations of real estate signs.
- (2) *Districts where signs are permitted.* In districts where signs are otherwise permitted, non-commercial signs may be placed over or substituted for the permitted commercial sign.

- (I) *Time and temperature displays.* Time and temperature displays without advertising matter, may change their illuminated time and temperature displays as often as reasonably necessary to provide accurate and convenient information to observers without being considered to be in violation of 174.08 B. Fluctuating Illumination.

- (J) *Banners.* Public event, special sales event, and election campaign banners (not to exceed 3' x 30') and large election campaign signs (not to exceed 32 square feet) may be installed under the following terms and conditions:

- (1) *Election campaign banners and large signs.*

(a) *Residential zones including Neighborhood Conservation, R-O, R-A and R-PZD.* In addition to the non-commercial sign allowed in subsection (H), the owner of a residentially zoned parcel may install one large election campaign sign of up to 32 square feet no more than three weeks prior to (and to be removed within three days following) the election to which the sign applies.

(b) *All other zones.* The owner of a parcel may install one election campaign sign of up to 32 square feet no more than three weeks prior to (and to be removed within three days following) the election to which the sign applies or may substitute and install an election campaign banner for an allowed special sales event banner no more

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than two weeks prior to (and to be removed within three days following) the election to which the banner applies.

- (2) *Special sales event banner.* In Commercial, Downtown Core, Downtown General, Main Street Central, and C-PZD zones, a commercial retail business may advertise a special sales event by installing a special sales event banner on its property at least 40' from the street right of way and no higher than 30' above street level for a total display time of no more than ten days, no more than one time a year.
- (3) *Public event banners.* Nonprofit organizations and government entities may install public event banners under the following conditions:
- (a) In order to notify or invite the public to attend a public festival or event sponsored by the nonprofit organization or government entity, this organization may install a public event banner (that may not contain advertising or commercial logos) on its property at least 40' from the street right of way and no more than 30' above the street for a total display time of no more than fourteen days twice a year.
- (b) In order to notify or invite the public to attend a public festival or event within the Downtown Master Plan area sponsored by the nonprofit organization or government entity, that organization may pay the costs of the City to install one or two cross street public event banners (with no advertising or commercial logos) at Dickson and Block and/or Dickson and Arkansas for no more than fourteen days once a year. When more than one nonprofit organization or government entity would qualify to pay for the installation of cross street banners during the same period, the number of cross street banners for each organization may be reduced to one and/or the length of display may be shortened to one week so that each qualified applicant is treated equally.
- (K) *Signs located in buildings.* Any sign located within a building that is not visible to the public outside said building is exempt from all regulations in this chapter.
- (L) *Signs on windows.* Signs painted on or affixed to glass surfaces of windows or doors and pertaining to the lawful business conducted therein are exempt from the permit requirement, but are considered a wall sign to determine allowable square footage. No signs affixed to a window and visible outside shall flash or fluctuate illumination.
- (M) *Directional identification and informational signs.* Directional, identification, and informational signs; provided such signs shall be limited to wall and freestanding signs with a maximum of four (4) square feet of display surface area. Notwithstanding the restrictions on the location and number of freestanding signs prescribed by §174.10, one freestanding sign not exceeding four (4) square feet in display surface area shall be permitted at each entrance or exit on a lot or parcel to identify such entrance or exit and to encourage the use of motor vehicle seatbelts, subject to the following restrictions.
- (1) *Traffic hazard.* No such sign shall be erected which would create a traffic hazard.
- (2) *Seat belt sign.* Any words or symbols encouraging the use of seatbelts shall face the interior of the lot or parcel on which the sign is located and shall not face the street.
- (3) *Advertising.* No advertising or commercial logos may be incorporated into the sign.
- (N) *Collection boxes.* Collection boxes for charitable or nonprofit organizations containing no commercial advertising and located on private property in any Commercial or Industrial zoning districts.
- (O) *Subdivision signs.* In any district, one temporary subdivision identification sign indirectly illuminated, not to exceed 50 square feet in area per surface may be erected at any principal entrance to a subdivision, provided that in no event shall such sign remain for more than six (6) months within 50 feet of a dwelling in a R district occupied as a dwelling.
- (P) *Freestanding bulletin boards.* A freestanding bulletin board shall be set back a minimum of 15 feet from street right-of-way; and any bulletin board having a display surface area in excess of 10 square feet shall be set back from street right-of-way an additional one (1) foot for each two (2) square feet of display surface area in excess of 10 square feet. Bulletin boards may not be electronic message boards.
- (Q) *Fuel price informational signs.* In any district, signs advertising the price of motor vehicle fuel sold from a fuel pump located on the premises

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shall be permitted, subject to the following conditions:

- (1) *Price.* Only one fuel price informational sign shall be permitted per fuel pump.
- (2) *Size.* Fuel price informational signs shall be limited in size to an area of 216 square inches.
- (3) *Stationary.* Each fuel price informational sign shall be affixed directly and firmly to a fuel pump and shall be stationary.
- (4) *Other locations.* Nothing herein shall be construed as to prohibit the advertisement of fuel prices on any other sign meeting the requirements of this chapter.
- (5) *Sign faces.* Only one two-faced, or two one-faced, self service/full service signs not exceeding four (4) square feet in display surface area shall be permitted at each pump island.

- (R) *Fences and scoreboards in city parks.* Signs may be permitted on baseball/softball fences and scoreboards in city parks as provided for in 97.088(B).

(Code 1965, 17B-6; Ord. No. 1893, 12-19-72; Ord. No. 3294, 9-15-87; Ord. No. 3307, 10-20-87; Ord. No. 3313, 11-17-87; Code 1991, 158.08; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.04 Sign Identification

Every sign or other advertising structure hereafter registered shall show the sign permit number in a conspicuous place thereon which is visible to the inspector and is readable by the inspector from the ground.

(Code 1965, 17B-6; Ord. No. 1893, 12-19-72; Ord. No. 3294, 9-15-97; Ord. No. 3307, 10-20-87; Ord. No. 3313, 11-17-87; Code 1991, 158.08; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.05 Sign Removal

In the event a business ceases operation for a period of time in excess of 60 days, the sign permit holder or the property owner shall immediately remove any sign identifying or advertising said business or any product sold thereby and any non-conforming sign supporting structure. A conforming sign supporting structure need not be removed unless a determination is made by the Zoning and Development Administrator that the unoccupied sign structure is a traffic hazard or a substantial detriment to nearby businesses or residents such that the structure's removal is necessary to end a public nuisance.

(Code 1965, 17B-4A; Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298; 10-6-87; Code 1991, 158.35; Ord. No. 4100, 2 (Ex. A), 6-16-98)

Cross reference(s)--Enforcement, Ch. 153.

174.06 Noncommercial Signs

Anywhere a commercial sign is permitted by this code, a noncommercial sign may be placed on or substituted for such sign.

(Code 1965, 17B-5; Ord. No. 1893, 12-19-72; Ord. No. 2109, 6-3-75; Ord. No. 2255, 7-20-76; Code 1991, 158.07; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.07 Placing Signs On Public And Private Property

(A) *Placing signs on public property.*

- (1) *Agencies of government.* No signs other than signs placed by agencies of government shall be erected on any public property; provided, directional signs may be erected upon the city's street name signposts, or upon traffic signposts under the following conditions:

(a) *Public facility/ out-of-town patrons.* The signs direct the reader to the location of a public facility attended principally by out-of-town patrons, to a facility operated by a nonprofit entity and attended principally by out-of-town patrons, to a facility relating to the public health, safety, or welfare, or to scenic or historic trails;

(b) *Traffic Division.* The signs are fabricated, erected and maintained by the city Transportation Division;

(c) *Cost.* The entire cost of the signs is borne by the entity requesting the signs;

(d) *Installation.* The signs are installed at locations where they would not constitute a traffic hazard.

(e) *Traffic control devices.* The signs conform to the manual on uniform traffic-control devices; and

(f) *Directional signals.* The maximum number of directional signs permitted under this section shall be seven (7) for each entity; provided, the limitation provided hereby shall not apply to signs directing the reader to scenic or historic trails.

- (2) *Nonprofit organizations.* Nonprofit organizations shall be allowed to place

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temporary signs of a noncommercial nature on public property for the purpose of directing the general public to the location of an event or activity which promotes the general public welfare. The placement of such temporary signs shall be subject to the following conditions:

- (a) *Display surface area.* The maximum display surface area of each sign shall not exceed fifteen (15) square feet;
 - (b) *Number of signs.* No more than three (3) signs directing the general public to such an event or activity shall be placed on public property at the same time by one such organization;
 - (c) *Organization name.* Each such sign shall identify the nonprofit organization by name;
 - (d) *Temporary sign.* No such temporary sign shall be placed on public property for more than five (5) successive days;
 - (e) *Location/approval.* The location of each such sign shall be approved by the Planning and Zoning Administration or designee to ensure that the signs will not constitute a traffic hazard;
 - (f) *Permit/number of signs.* The organization applies for, and is issued, a sign permit; one permit may authorize installation of up to three (3) signs pursuant to the provisions of this division; and
 - (g) *Temporary signs.* No such organization shall install, or be issued a permit to install a temporary sign on public property pursuant to the provisions of this division more often than six (6) times within a 12-month period.
- (3) *Small banners on certain city light poles.* The City may prepare and install banners not exceeding seven square feet on city light poles specially designed and constructed for such banners within the boundaries of the Downtown Master Plan Area. These small banners may include the name of the commercial or noncommercial enterprise sponsoring the banner, but shall contain no advertising or slogans of the sponsor.
- (4) *Informational kiosks.* Informational kiosks with a map of the Downtown Master Plan Area may be placed within city right-of-way by the City. The kiosks shall contain only a map and/or description of the Downtown

Entertainment Zone, public buildings and facilities, parking areas, and entertainment facilities within or near this zone.

- (5) *Cross Street Banners.* Cross Street Banners may be installed pursuant to §174.03 (1)(3)(b).

(Code 1965, 17B-7(c); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Code 1991, 159.37; Ord. No. 3677, 1, 3-2-93; Ord. No. 4100, 2 (Ex. A), 6-16-98; Ord. No. 4622, 9-21-04)

174.08 Prohibited Signs

- (A) *Spot lights and beacons.* It shall be unlawful for any person to continue in operation or erect any attraction device or sign which contains a beacon of any type and/or contains a spot light providing direct illumination to the public.
- (B) *Fluctuating illumination.* It shall be unlawful for any person to erect additional attraction devices or signs or to continue in operation an attraction device or sign which flashes, blinks, or is animated. Illumination of attraction devices or signs located in the city that fluctuates in light intensity shall be prohibited. Electronic message boards using flashing, intermittent or moving light or lights are prohibited, provided, however, that electronic message boards displaying only time and/or temperature for periods of not less than 30 seconds are permitted. Electronic message boards may change their message every three hours without violating the prohibition of flashing or blinking.
- (C) *Portable swinger or temporary attraction sign boards.* It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich, or temporary attraction sign board in the city.
- (D) *Revolving, rotating, or moving signs.* It shall be unlawful for any person to erect or to continue using any sign on the exterior of which revolves, rotates or otherwise moves, in whole or part.
- (E) *Windblown signs.* It shall be unlawful for any person to display any windblown sign; provided, windblown signs may be displayed on a lot, at a shopping center, or at a mall one time per year for a period not to exceed 72 hours if a temporary sign permit is first obtained from the Planning Division upon payment of the appropriate fee; provided further, one company flag shall be permitted to be flown in conjunction with the United States Flag or Arkansas Flag or both on a lot, at a shopping center, or mall.
- (F) *Signs that constitute a traffic hazard.* No sign or other advertising structure as regulated by this chapter shall be erected at the intersection of any

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street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the wording, position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device.

- (G) *Use of vehicle as sign.* It shall be unlawful to use a vehicle or a trailer as a sign in circumvention of this chapter.
- (H) *Off-Site Signs.* It shall be unlawful to erect any off-site sign.
- (I) *Roof Signs.* Roof signs shall not be permitted.
- (J) *Placing signs on private property.* No signs shall be placed on any private property without the consent of the owner thereof.
- (K) *Placing signs on trees.* No signs shall be placed or painted on any tree within the city's right-of-way or property.
- (L) *Placing signs on utility poles.* No signs shall be placed on any utility pole except for utility identification or similar purposes.

Cross reference(s)--Variance, Ch. 156, Appeals, Ch. 155.

(Code 1965, 17B-7(b), (e)--(k); 17B-8; Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Code 1991, 158.38, 158.36, 158-39-158.46; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.09 Sign Illumination

Direct illumination by incandescent light bulbs shall be restricted to light bulbs rated at 150 watts or less.

(Code 1965, 17B-7(d); Ord. No. 1893, 12-19-72; Ord. No. 2934, 8-2-83; Ord. No. 2948, 9-20-83; Ord. No. 3298, 10-6-87; Code 1991, 158.38; Ord. No. 4100, 2 (Ex. A), 6-16-98)

174.10 On-Site Freestanding Signs

It shall be unlawful to erect any freestanding sign which total height is greater than 30 feet above the level of the street upon which the sign faces. For any sign located closer to street right-of-way than 40 feet, the maximum height shall be reduced one-half (1/2) foot for each foot of setback less than 40 feet. On-Site Freestanding signs shall be permitted to be erected in the city subject to the following:

(A) R-A District.

- (1) *Number of signs.* Only one on-site freestanding sign shall be permitted on a lot or at a business operating on two or more adjoining lots.
- (2) *Display surface area.* Display surface area shall not exceed 16 square feet.

(3) *Illumination.* Sign may be illuminated by indirect illumination only.

(4) *Setback from right-of-way.* Sign shall be setback 35 feet from existing street right-of-way and 25 feet from any R or R-O District.

(B) *RSF, RT and Neighborhood Commercial Districts.* Except pursuant to 174.03 (C), (H) and (J), freestanding signs shall be prohibited and no freestanding signs shall be erected in RSF, RT and Neighborhood Commercial Districts of the City.

(C) *R-O and RMF Districts.* One freestanding sign shall be permitted on a lot or parcel zoned RMF or R-O subject to the following restrictions:

(1) *Display surface area.* The maximum display surface area shall not exceed four (4) square feet;

(2) *Setback from right-of-way.* The sign shall be setback a minimum of 15 feet from street right-of-way.

(3) *Height.* The height of the sign shall not be greater than six (6) feet above the level of the street upon which the sign faces.

(4) *Setback from R District.* The sign shall be setback a minimum of 25 feet from the boundary of any RSF District and 15 feet from all other zoning districts.

(5) *Illumination.* The sign shall be illuminated by indirect illumination only.

(6) In lieu of the above freestanding sign, one freestanding bulletin board of up to ten square feet may be installed in an RMF district pursuant to the above requirements and §174.03 (P).

(D) C Districts.

(1) *Number of signs.* Only one on-site freestanding signs shall be permitted on a lot, at a shopping center, or at a mall; provided only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.

(2) *Freestanding signs.* Freestanding signs shall be subject to the following:

(a) *Display surface area.* Display surface area shall not exceed 10 square feet; provided, the display surface area may be increased two (2) square feet for each one (1) foot the sign is setback from street right-of-way beyond 15 feet,

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- provided further, the maximum display surface area for a sign which is setback from street right-of-way 40 feet or more shall be 75 square feet.
- (b) *Setback from right-of-way.* Setback shall be a minimum of 15 feet from street right-of-way.
- (c) *Setback from adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.
- (3) *Joint identification sign.* The display surface area of joint identification signs may be increased to one square foot per 500 square feet of gross leaseable building area over 37,500 square feet located, as approved by the Planning Division, at no more than two (2) remote entrance locations. The permit applicant shall provide a recorded legal document as approved by the Planning Division indicating ownership and responsibility for maintenance of sign and subject to the following:
- (a) *R Districts.* Prohibited.
- (b) *R-O District.* Monument sign permitted with a maximum display surface area of 32 square feet.
- (c) *C and I Districts.* Display surface shall not exceed 300 square feet.
- (d) *Size limitation for freestanding sign if business displayed on joint identification sign.* If a business name or logo is placed upon a joint identification sign, that business's freestanding sign may not exceed 32 square feet.
- (E) *I Districts.*
- (1) *Number of signs.* Only one on-site freestanding sign shall be permitted on a lot, at a shopping center, or at a mall; provided only one on-site freestanding sign shall be permitted for any business operating on two or more adjoining lots.
- (2) *Freestanding signs.* Freestanding signs shall be subject to the following:
- (a) *Display surface area.* Display surface area shall not exceed 10 square feet; provided, the display surface area may be increased two square feet for each one foot the sign is setback from street right-of-way beyond 15 feet; provided further, the maximum display surface area for a sign which setback from street right-of-way 40 feet or more shall be 75 square feet.
- (b) *Setback from right-of-way.* Setback shall be a minimum of 15 feet from street right-of-way.
- (c) *Setback from Adjoining property.* Setback shall be a minimum of 25 feet from the boundary of any adjoining property.
- (F) *P Districts.* One Freestanding sign or bulletin board may be erected.
- (G) *Area signs.*
- (1) *Size/location.* The size and location of the fence, wall, or other structure which will contain the area identification sign must be approved by the Planning Division, who will approve such structure upon the criterion of traffic safety sight lines.
- (a) Areas with more than one entrance may not have a sign at more than two locations.
- (b) An area sign with display on one side located on each side of an entrance street may be substituted for a single sign with display on both sides.
- (2) *Display surface area.*
- (a) *A, P, R, and R-O Districts.* Display area shall not exceed 32 square feet.
- (b) *C and I Districts.* Display area shall not exceed 75 square feet.
- (H) *Monument signs.* A monument sign shall be set back a minimum of 10 feet from the street right-of-way, 25 feet from adjoining property, and may be substituted for a freestanding sign permitted by §174.10., provided the display surface area meets the following:
- (1) *Neighborhood Conservation and RSF Districts.* Prohibited on individual lots.
- (2) *Other residential districts.* The display surface shall not exceed 16 square feet.
- (3) *R-A and P Districts.* The display surface area shall not exceed 32 square feet.

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- (4) *C and I Districts.* The display surface area shall not exceed the maximum permitted by §174.10.

(Code 1965, 17B-9; Ord. No. 1893, 12-19-72; Ord. No. 3008, 5-1-84; Ord. No. 3029, 8-21-84; Ord. No. 3294, 9-15-87; Code 1991, 158.47; Ord. No. 4100, 2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00)

174.11 Projecting Signs

- (A) *Sidewalks.* It shall be unlawful to erect any projecting sign that projects from the wall of a building upon which it is erected a distance of more than two-thirds of the width of the sidewalk (in those instances where there is a sidewalk next to the building) or within two feet of street right-of-way (in those instances where there is no sidewalk next to the building); provided, no projecting sign shall project more than six (6) feet from the wall of the building upon which it is erected.
- (B) *Location.* Projecting signs shall be located on the vertical surface of a building and shall not be higher than the eave or rafter line, whichever is higher. Projecting signs shall clear grade level below the sign by a minimum of eight (8) feet.
- (C) *Display surface area.* The display surface area of a projecting sign shall not exceed 16 square feet. Only one (1) projecting sign per business shall be permitted and a projecting sign shall not be permitted on property which has a freestanding sign.
- (D) *Off-site.* Off-site projecting signs shall be prohibited in all zoning districts.
- (E) *On-site.* On-site projecting signs shall be prohibited in R-A, RSF, RT, RO and Neighborhood Conservation zoning districts.

(Code 1965, 17B-10; Ord. No. 1893, 12-19-72; Ord. No. 2255, 7-20-76; Code 1991, 158.48; Ord. No. 4100, 2 (Ex. A.), 6-16-98)

174.12 Wall Signs

- (A) *Projection.*

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

- (B) *Number of signs.*

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to one wall sign on the front facade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall.

- (C) *Display surface area.*

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.
- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In RMF and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, 17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, 158.49; Ord. No. 4100, 2 (Ex. A), 6-16-98)

Cross reference(s)—Boards and Commissions, Ch. 33, General Provisions, Ch. 150; Definitions, Ch. 151; Enforcement, Ch. 153; Appeals, Ch. 155; Variances, Ch. 156; Fees, Ch. 159.

(Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03)

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153.08 MISCELLANEOUS REMEDIES

(G) Signs.

(1) Removal of nonconforming, dilapidated or dangerous signs.

If the Zoning and Development Administrator shall find that any sign or the sign supporting structure is unsafe or insecure, is a menace to the public, is abandoned or maintained in a dilapidated condition, or has been constructed or is being maintained in violation of the provisions of *Chapter 174* or other provisions of the *Unified Development Code*, the Administrator shall give written notice of the violation or problem to the sign permittee or owner of the property on which the sign is located. The notice shall require removal of the sign and/or structure within seven days. If the permittee or owner fails to remove or alter the sign or sign supporting structure so as to comply with the standards set forth in *Chapter 174* within seven (7) days of the receipt of said notice, the City may remove or alter such sign or sign supporting structure to comply with the *Unified Development Code*. All expense incidental to such removal or alteration shall be charged to the owner of the property upon which the sign is or was located and shall constitute a lien upon the property.

(2) Summary removal of signs and sign supporting structures which constitute an immediate and substantial peril.

The Zoning and Development Administrator may cause any sign or sign supporting structure which is an immediate and substantial peril to persons or property to be removed summarily without notice. Such signs or other sign supporting structures are hereby declared to be a public nuisance. When any sign or sign supporting structure is removed summarily without notice, the owner or lessee thereof shall have the right to be heard at the post-seizure administrative hearing before the Planning Commission to determine whether there was probable cause to remove the sign summarily.

The Planning Commission may affirm the Zoning and Development Administrator's decision and place a lien upon the property for the City's expense in removing the sign and/or structure or it may order the City to replace the sign and/or structure at the City's expense if it determines that there was no substantial and immediate peril justifying summary removal of the sign or sign structure.

(3) Removal of sign after business cessation for sixty (60) days.

If a property owner fails to remove the sign and/or nonconforming sign supporting structure of the business that has ceased operation for a period of time in excess of 60 days, the Zoning and Development Administrator shall issue a written notice to the sign permittee and to the property owner, which notice shall state that such sign and/or nonconforming sign supporting structure must be removed within seven days. If the sign permittee owner or property owner fails to comply with such written notice to remove, the Zoning and Development Administrator is hereby authorized to cause removal of such sign and/or nonconforming sign supporting structure, and any expense incidental to such removal shall be charged to the owner of the property upon which the sign and/or nonconforming sign supporting structure is located and shall constitute a lien upon the property.

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

1/2/2007

City Council Meeting Date

Tim Conklin T.C.
Submitted By

Planning and Development Mgt.
Division

Operations
Department

Action Required:

AN ORDINANCE TO AMEND TITLE XV UNIFIED DEVELOPMENT CODE OF FAYETTEVILLE, CHAPTER 159. FEES BY ENACTING \$159.05 ROAD IMPACT FEES OF THE UNIFIED DEVELOPMENT CODE AND TO REFER THIS ORDINANCE TO THE VOTERS FOR THEIR ADOPTION OR REJECTION.

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 ☐

Gayle 12-15-06
Department Director Date

Previous Ordinance or Resolution # _____

K. Conklin 12-15-06
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paula Bush 12-18-06
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 12/15/06

Sam Cordy 12/19/06
Mayor Date

Received in Mayor's Office
ENTERED 12/15/06

Comments:

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director
DATE: December 15, 2006
SUBJECT: **AN ORDINANCE TO AMEND TITLE XV UNIFIED
DEVELOPMENT CODE OF FAYETTEVILLE, CHAPTER 159.
FEES BY ENACTING \$159.05 ROAD IMPACT FEES OF THE
UNIFIED DEVELOPMENT CODE AND TO REFER THIS
ORDINANCE TO THE VOTERS FOR THEIR ADOPTION OR
REJECTION.**

RECOMMENDATION

Approval of an ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159. Fees by enacting \$159.05 Road Impact Fees of the Unified Development Code and to refer this ordinance to the voters for their adoption or rejection.

BACKGROUND

The City Council passed Resolution No. 114-06 to accept and adopt the May 2006 Road Impact fee Study by Duncan and Associates.

Duncan Associates updated the Road Impact Fee study based on the estimated street bond program costs as proposed in 2006. The road projects that expand capacity of the roadway are included in the methodology to calculate the impact fees. The fees are calculated with and without right-of-way costs.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE XV UNIFIED DEVELOPMENT CODE OF FAYETTEVILLE, CHAPTER 159. FEES BY ENACTING §159.05 ROAD IMPACT FEES OF THE UNIFIED DEVELOPMENT CODE AND TO REFER THIS ORDINANCE TO THE VOTERS FOR THEIR ADOPTION OR REJECTION

WHEREAS, the protection of the health, safety, and general welfare of the citizens of Fayetteville require that the streets and roads identified in the Capital Improvement Program, the 2003 Traffic and Transportation Study, and the 2006 Sales Tax Bond Proposal (collectively hereinafter "Capital Plan") as a Public Facility of the City be expanded and improved to meet the demands of new development; and

WHEREAS, the creation of an equitable development impact fee system would enable the City to generate revenue for funding or for recouping the costs of required Capital Plan's capacity improvements that those developments create; and

WHEREAS the City has comprehensively studied the future needs of its citizens and what the City needs to do to meet those needs and adopted a Comprehensive General Plan, the 2025 Plan. The City also annually updates its Capital Improvement Program list of future necessary capital improvements for all city services including streets and roads; and

WHEREAS, the City commissioned an in-depth Road Impact Fee Study designed to study future street and road capital needs, and the fair and equitable proportion of those capacity improvement needs that new development should pay. This Impact Fee Study was completed in September 23, 2005, and later adopted by the City Council; and

WHEREAS, the Road Impact Fee Study sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's need for additional road capacity improvements; and

WHEREAS, the Road Impact Fees described in this Ordinance are based on the Impact Fee Study, and are designated to generate revenue for funding or for recouping expenditures by the City of Fayetteville that are reasonably attributable to the use and occupancy of the new developments that will pay the fees; and

WHEREAS, the Master Street Plan and the Capital Plan constitute an interrelated system that provides service throughout Fayetteville, and it is therefore appropriate and proper to treat the entire city as a single service area; and

WHEREAS, there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this Ordinance and the impact fees that such development will be required to pay; and

WHEREAS, this Ordinance creates a system by which Road Impact Fees paid by new developments will be used so that the new development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends Chapter 159 of the Unified Development Code by enacting **§159.05 Road Impact Fees** as shown on Exhibit A attached hereto.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby refers to the people of the City of Fayetteville the above proposed ordinance enacting **§159.05 Road Impact Fees** for their adoption or rejection in an election to be held within the City of Fayetteville pursuant to Amendment 7 of the Arkansas Constitution on or about the 10th day of April, 2007. If a majority of electors vote to adopt the proposed ordinance, then **§159.05 Road Impact Fees** shall then become the law in Fayetteville effective on July 1, 2007. If a majority of electors vote to reject the proposed ordinance, the Road Impact Fees will not go into effect and **§159.05** shall not be enacted.

PASSED and APPROVED this 2nd day of January, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

159.05 Road Impact Fees

(A) *Applicability*

(1) The following provisions shall apply to all of the territory within the City's corporate city limits, and any area near the corporate limits if specifically agreed by the owner.

(2) The following types of development shall be required to pay a Road Impact Fee:

(a) New development within one of the categories of development in Table A.

(b) Redevelopment involving the construction of one or more additional units within one of the categories of development in Table A.

(B) *Intent*

(1) The intent of the Road Impact Fee is to offset costs to the City of Fayetteville taxpayers that are reasonably attributable to providing necessary capacity improvements to collector or arterial streets to serve new developments.

(2) This impact fee charged to new development is to generate revenue for funding or recouping expenditures of the City of Fayetteville that are reasonably attributable to the use and occupancy of the new development.

(3) This impact fee is to be collected and expended only for the planning, design or construction of new collector or arterial streets or of capital improvements to existing collector or arterial streets that expand their capacity or for the recoupment of prior capital improvements to such collector or arterial streets that created capacity available to serve new development.

(4) The intent of this impact fee requirement is to ensure that new development bears a proportionate share of the costs of capacity improvements to the collector and arterial streets, but also to ensure that this proportional share does not exceed the costs of the demand for additional capacity in those streets that is reasonably attributable to providing these streets to the use and occupancy of that new development.

5) This road impact fee is based upon previous and current City Five Year Capital Improvement Program documents approved annually by City Council Resolution, the 2003 Traffic and Transportation Study, and the Sales Tax Bond Proposal for street improvements (hereinafter collectively referred to as the "Capital Plan") and level of service standards adopted within the Road Impact Fee Study of September, 2005 and elsewhere by the City Council. Pages 10 through 24 of the Impact Fee Study are incorporated herein and attached as Exhibit 1 to explain the methodology and formulas for the Road Impact Fees, the levels of services and increases in capacity needed for the Capital Plan.

(6) It is not the intent of this section that any monies collected for the road impact fee ever be commingled or ever be used for a type of facility different from that for which the fee was paid. No impact fee revenue may be used for operational expenses.

(C) *Time of Collection*

This impact fee shall be paid to the City by the owner of the property before a certificate of occupancy is issued for the new development or at the closing on the property by the purchasing owner.

(D) *Fee Determination*

(1) *Road Impact Fee Table.*

The Impact Fee Administrator shall determine the correct amount of the Road Impact Fee by use of Table A and information about the type and size of the new development.

TABLE A
ROAD IMPACT FEES

Land Use	Unit	Impact Fee
Single-Family Detached	Dwelling	\$3,409
Multi-Family	Dwelling	\$2,363
Mobile Home Park	Pad	\$1,779
Hotel/Motel	Room	\$1,964
Retail/Commercial	1000 sq. ft.	\$4,023
Office/Institutional	1000 sq. ft.	\$2,701
Nursing Home	1000 sq. ft.	\$1,495
Church	1000 sq. ft.	\$1,689
Industrial	1000 sq. ft.	\$2,353
Warehouse	1000 sq. ft.	\$1,676
Mini-Warehouse	1000 sq. ft.	\$ 587

(2) *Redevelopment, Reconstruction, Change of Use.* In the event of a redevelopment, reconstruction or change of use from an existing development or use, the fee shall be the difference between what the fee would be for the entire redevelopment or reconstruction project and what the fee would have been for the existing development or use. Enlargement of a single family home will not require any impact fee.

(3) *Mixed Use.* If the proposed development includes a mix of the residential, commercial, industrial or other uses listed in the impact fee schedule, the fee shall be determined by adding up all the road impact fees that would be applicable for each use type as if it was a freestanding land use type.

(4) *Affordable Housing Exemption.*

(a) *Single family housing.* Construction of single family housing funded wholly or primarily by federal Community Development Block Grants, non-profit service organizations such as Habitat for Humanity, Housing and Urban Development housing loans and similar

programs designed to provide affordable, owner-occupied, single family residences to low income individuals shall be exempted from payment of impact fees pursuant to this ordinance by the Impact Fee Administrator.

(b) *Appeal.* A person aggrieved by the Impact Fee Administrator's refusal to grant an Affordable Housing Exemption may appeal the denial to the Planning Commission.

(E) *Use of Fees.*

(1) *Establishment of Accounts.* A Road Impact Fee Fund that is distinct from the General Fund of the City is hereby created, and the impact fees received will be deposited in this Road Impact Fee Account.

(2) *Impact Fee Account.* The Road Impact Fee Account shall contain only those impact fees collected pursuant to this Ordinance plus any interest which may accrue from time to time on such accounts.

(F) *Order of Use.* Monies in the Road Impact Fee Account shall be considered to be spent in the order collected, on a first-in/first-out basis.

(G) *Use of Fees.* The funds in the Road Impact Fee Account shall be used only for the following:

(1) The use of the Road Impact Fees shall be to offset costs to the City of Fayetteville taxpayers that are reasonably attributable to providing necessary collector or arterial street capacity improvement to new development.

(2) This impact fee charged to new development shall generate revenue for funding or recouping expenditures of the City of Fayetteville that are reasonably attributable to the use and occupancy of the new development.

(3) This impact fee shall be collected and expended only for the planning, design or construction of new collector or arterial streets or of capital improvements to existing collector or arterial streets that expand their capacity or for the recoupment of prior capital improvements to such collector or arterial streets that created capacity available to serve new development.

EXHIBIT "A"

(4) No monies collected for the Road Impact Fee shall ever be commingled or ever be used for a type of facility different from that for which the fee was paid.

(5) No impact fee revenue shall be used for operational expenses.

(6) All Road Impact Fee revenues shall be spent in accordance with subsection (B) *Intent*.

(H) *Refunds*.

(1) The City of Fayetteville shall refund the portion of collected development impact fees, including the accrued interest that has not been expended seven (7) years from the date the fees were paid. Interest shall be based on a four percent (4%) annual rate.

(2) A refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.

(3) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(4) The refund shall be made on a pro rata basis,

and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.

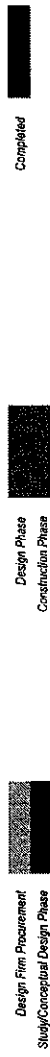
(5) At the time of payment of the Road Impact Fee under this Ordinance, the Impact Fee Administrator shall provide the applicant paying such fee with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any collection of any impact fee under this ordinance.



Transportation Improvement Plan (Street Bond Program) Summary Schedule

Schedule	2006				2007				2008				2009				2010				2011				2012				2013				2014			
	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4	QTR 1	QTR 2	QTR 3	QTR 4						
Wilson Park/Washington Willow Area Traffic Calming																																				
1 Gregg Ave/North St Intersection Bridge Rehabilitation																																				
2 Cato Springs Road																																				
3 Garland Ave (I540 to Howard Nickel Rd)																																				
Mount Comfort Road																																				
4 Mt. Comfort/Shiloh/Dean Int.																																				
5 Ruppel to Alpine																																				
6 Fayetteville Expressway Econ. Dev. Corr.																																				
7 Ruppel Rd (6th St. to Persimmon)																																				
8 Zion Road (N College to Vantage)																																				
9 College Avenue (Rock to Maple)																																				
10 15th Street																																				

**AHTD will design & manage construction
schedule - based on ASTIP (50/50 cost share)*



RESOLUTION NO. 114-06

**A RESOLUTION TO ACCEPT AND ADOPT THE MAY
2006 ROAD IMPACT FEE STUDY BY DUNCAN
ASSOCIATES**

WHEREAS, the City hired Duncan Associates to update the Road Impact Fee Study (first completed in 2004) based upon the estimates street bond program costs as proposed in 2006; and

WHEREAS, the impact fees for roads within the Study are "consumption based" which charges new development the cost of replacing the road capacity the new development consumes of the major roadway system; and

WHEREAS, the City Council must determine whether or not to include the cost of right of way acquisition within the road impact fee.

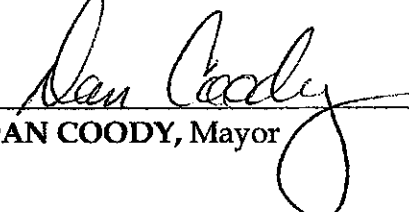
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts and adopts the May 2006 Road Impact Fee Study by Duncan Associates attached as Exhibit "A".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that if Road Impact Fees are enacted they will not include right of way acquisition costs.

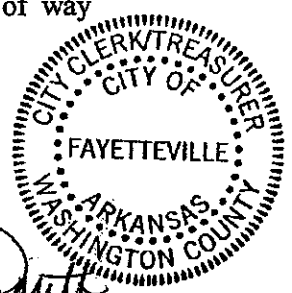
PASSED and APPROVED this 20th day of June, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



City Council Meeting of June 20, 2006
Agenda Item Number

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody
Fayetteville City Council

FROM: Tim Conklin, Planning and Development Management Director

DATE: June 2, 2006

SUBJECT: Adoption of the Road Impact Fee Study, May 2006, as prepared by
Duncan Associates

RECOMMENDATION

Staff recommends adoption of the road impact fee study, May 2006, as prepared by Duncan Associates.

BACKGROUND

Duncan Associates has completed the update to the road impact fee study based on the estimated street bond program costs as proposed in 2006 (please see attached). The road projects that expand capacity and are included in the proposed bond program were utilized to calculate the fees. The fees are calculated with and without right-of-way costs.

**Table 1
ROAD IMPACT FEE SUMMARY**

Land Use	Unit	Without ROW	With ROW
Single-Family Detached	Dwelling	\$3,409	\$3,722
Multi-Family	Dwelling	\$2,363	\$2,580
Mobile Home	Dwelling	\$1,779	\$1,943
Retail	1,000 sq. ft.	\$4,023	\$4,393
Office	1,000 sq. ft.	\$2,701	\$2,950
Industrial	1,000 sq. ft.	\$2,353	\$2,569
Potential Annual Revenue		\$4,108,043	\$4,485,558

Source: Maximum road fees from Table 20; potential revenues from Table 21.

ROAD IMPACT FEE STUDY

FAYETTEVILLE, ARKANSAS



prepared by

duncan | associates

May 2006

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prepared by Duncan Associates
Clancy Mullen, Principal Author
13276 Research Boulevard, Suite 208, Austin, TX 78750
(512) 258-7347 x 204; clancy@duncanplan.com

EXECUTIVE SUMMARY

This study calculates maximum impact fees that could be adopted by the City of Fayetteville to help fund growth-related infrastructure improvements for major roads. The road impact fees have been calculated with and without the inclusion of right-of-way (ROW) costs. If road impact fees are adopted, the City would need to give developers credit against their impact fees for the cost of any required land dedication or capacity improvement that adds through lanes to any adjacent or internal arterial or collector roadway. However, if ROW costs are excluded from the road impact fee, credit would need to be given only for improvement costs.

This report relies heavily on the road impact fee analysis contained in the June 2004 *Impact Fee Study: Road, Fire and Police* that we previously prepared for the City. The major change was to substitute the proposed bond program projects for the historical projects used as the basis for the road impact fees.

The calculated maximum fees for selected land uses and potential annual impact fee revenues are summarized in Table 1. The maximum road impact fees and potential revenues would be 8 percent lower if ROW costs are excluded. It should be kept in mind that the City will need to give credit against the road impact fees for the value of some developer dedications or improvements, and consequently, actual road impact fee revenues received in cash will likely be less than indicated in the table below.

**Table 1
ROAD IMPACT FEE SUMMARY**

Land Use	Unit	Without ROW	With ROW
Single-Family Detached	Dwelling	\$3,409	\$3,722
Multi-Family	Dwelling	\$2,363	\$2,580
Mobile Home	Dwelling	\$1,779	\$1,943
Retail	1,000 sq. ft.	\$4,023	\$4,393
Office	1,000 sq. ft.	\$2,701	\$2,950
Industrial	1,000 sq. ft.	\$2,353	\$2,569
Potential Annual Revenue		\$4,108,043	\$4,485,558

Source: Maximum road fees from Table 20; potential revenues from Table 21.

LEGAL FRAMEWORK

Municipalities in Arkansas are authorized by state law to enact impact fee ordinances, provided that they follow the requirements of Arkansas Statutes § 14-56-102, Development Impact Fees. This section provides a brief summary of those requirements most relevant to the City of Fayetteville. The entire statute is reproduced in Appendix B.

Impact fees are a one-time fee that can only be assessed on new development. Water and wastewater impact fees can be assessed at the time of purchase of the water meter, but all other types of impact fees must be assessed at the time of issuance of the certificate of occupancy. The amount of impact fees paid for a newly-constructed building must be separately itemized on the closing statement at the time the property is sold. The City can allow the fee to be paid in installments.

Impact fees must be spent for capital improvements that provide benefit to the fee-paying development. This can include existing improvements that have excess capacity that was built to accommodate future growth. Section 14-56-102(c)(1) provides that the fees can only be used for:

... the planning, design and construction of new public facilities or of capital improvements to existing public facilities that expand its capacity or for the recoupment of prior capital improvements to public facilities that created capacity that is available to serve new development.

Impact fees can be pledged to repay bonds that have been issued to fund growth-related capital improvements. However, they cannot be used to pay for:

the operation or maintenance of any public facility, or for the construction or improvement of public facilities, that does not create additional capacity. (Section 14-56-102(c)(3))

In Arkansas, impact fees can only be adopted to fund certain types of public facilities. Section 14-56-102(b) limits the use of impact fees to "providing necessary public facilities," and Section 14-56-102(a)(7) defines "public facilities" to include only the following:

- (A) Water supply, treatment, and distribution, for either domestic water or for suppression of fires;*
- (B) Wastewater treatment and sanitary sewerage;*
- (C) Stormwater drainage;*
- (D) Roads, streets, sidewalks, highways and public transportation;*
- (E) Library;*
- (F) Parks, open space, and recreation areas;*
- (G) Police or public safety;*
- (H) Fire protection; and*
- (I) Ambulance or emergency medical transportation and response.*

To assess impact fees, a city must first adopt an ordinance. The ordinance must be preceded by the development of a capital plan and level of service standards for the types of facilities for which the impact fees are to be imposed. The capital plan must include:

... a description of new public facilities or of new capital improvements to existing public facilities or of previous capital improvements to public facilities that continue to provide capacity available for new development that includes cost estimates, and capacity available to serve new development ... (Section 14-56-102(1)(1))

As noted, prior to adopting a road impact fee ordinance, the City must adopt a capital plan and a level of service standard for roads, pursuant to Section 14-56-102(e)(2). The capital plan, which describes the projects that would be eligible for funding with the City's road impact fees, is shown Table 11. The level of service on which the fees calculated in this report are based is a one-to-one system-wide ratio of vehicle-miles of capacity to vehicle-miles of travel (see the discussion in the sections on "Road Impact Fee Methodology" and "Existing Deficiencies," as well as the formula in Figure 2).

Pursuant to Section 14-56-102(e)(3), the impact fee ordinance must contain the following:

- (A) A statement of the new public facilities and capital improvements to existing public facilities that are to be financed by impact fees and the level of service standards included in the capital plan for the public facilities that are to be financed with impact fees;*
- (B) The actual formula or formulas for assessing the impact fee, which shall be consistent with the level of service standards;*
- (C) The procedure by which impact fees are to be assessed and collected; and*
- (D) The procedure for refund of excess impact fees, in accordance with subsection (b) of this section.*

Impact fees collected must be deposited into a separate interest-bearing account and spent only for the type of improvements for which they were collected. Interest earned on these accounts shall be spent for the same purposes as the impact fees themselves. Any funds not spent within seven years must be refunded to the fee-payer.

BACKGROUND

An impact fee is a form of "exaction," through which a developer or builder is required to contribute to the costs of public improvements required to serve the development. Generally, impact fees are designed to pay for the new development's proportionate share of the cost of off-site improvements, and credit against the fees is given if the developer is required to contribute to the system of facilities for which the fees are charged through on-site dedication, construction or monetary payment. Typically the fee is levied on some easily measurable unit of activity, such as the construction of one dwelling unit or 1,000 square feet of commercial or industrial space. In Arkansas, impact fees are generally collected at the time of certificate of occupancy or water meter purchase.

The City finances most capital improvements on a pay-as-you-go basis. This is done utilizing revenues from the one-percent City sales tax renewed in 2002 (of which, by City Council resolution, 50 percent is used to fund capital projects), the one-percent Hotel, Motel, Restaurant sales tax adopted in 1996 to fund park improvements, and operating revenues from the City's enterprise funds, including water, wastewater and solid waste.

The City's last five-year capital improvements program (CIP), excluding non-recurring funding such as one-time bond proceeds, included over \$66.6 million in capital funding for the five-year period. Over half of the pay-as-you-go funding is from the one-percent sales tax, as shown in Table 2.

**Table 2
CAPITAL FUNDING BY SOURCE, 2004-2008**

Revenue Source	Amount	Percent
Sales Tax	\$36,854,000	55.4%
Water & Sewer Fund	\$12,983,000	19.5%
Airport Fund	\$6,755,000	10.1%
Shop Fund	\$6,625,000	10.0%
Parks Development Fund	\$2,391,000	3.6%
Solid Waste Fund	\$854,000	1.3%
Off-Street Parking Fund	\$113,000	0.2%
Total	\$66,575,000	100.0%

Source: City of Fayetteville, *Capital Improvements Program, 2004-2008*, December 2003 (excludes bond proceeds).

The City's sales tax capital funding is spent on a wide variety of improvements. Foremost among these are streets and traffic signals, other transportation improvements and parks, as shown in Table 3.

Table 3
SALES TAX CAPITAL FUNDING, 2004-2008

Project Type	Amount	Percent
Streets and Signals	\$12,682,000	34.4%
Other Transportation	\$7,706,000	20.9%
Parks	\$4,565,000	12.4%
Bridge & Drainage	\$3,444,000	9.3%
Other	\$3,122,000	8.5%
Fire	\$2,455,000	6.7%
Police	\$1,290,000	3.5%
Library	\$1,590,000	4.3%
Total	\$36,854,000	100.0%

Source: City of Fayetteville, *Five Year Capital Improvements Program, 2004-2008*, December 2003.

The City has about \$62 million in outstanding debt, as shown in Table 4. However, none of that debt is related to road facilities. The new 2005 Sales and Use Tax bond issue will consist of \$26.235 million in refunding bonds and \$65 million in new debt for a total of \$91.235 million.

Table 4
OUTSTANDING DEBT

Bond Issue	Original Issue	Original Amount	Outstanding*
Sales Tax, Series 1997 (Walton Arts Center)	1997	\$2,610,000	\$290,000
Water & Sewer, Series 1999 (Water Main/Tanks)	1999	\$8,365,000	\$5,840,000
Water & Sewer, Series 2002A and 2002B	2002	\$9,270,000	\$7,700,000
Sales Tax, Series 2002 (Wastewater Treatment/Sewerage)	2002	\$25,000,000	\$7,290,000
Hotel & Restaurant, Series 2003 (Town Center)	2003	\$6,335,000	\$6,215,000
Sales Tax, Series 2004	2004	\$35,000,000	\$35,000,000
Total		\$86,580,000	\$62,335,000

* as of December 31, 2004

Source: City of Fayetteville, *Annual Budget and Work Program, 2005*.

Impact fees are most appropriate for communities that are experiencing rapid growth. The Fayetteville-Springdale-Rogers Metropolitan Statistical Area (MSA), comprised of Washington and Benton Counties, was the sixth fastest growing MSA in the country in the 1990s.¹ Washington County, of which Fayetteville is the county seat, has been growing at a compound annual growth rate of 3.4 percent since 1990, and one-third of the population added since then has been in Fayetteville. The city itself has been growing at 3.2 percent annually, over twice as fast as the state as a whole. Fayetteville's population is estimated to be 64,190 as of July 1, 2004. It is not surprising that this pace of growth has created problems in terms of the City's ability to finance the capital improvements needed to accommodate new development.

¹U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, Table No. 34, p. 33.

Table 5
POPULATION GROWTH, 1990-2000

	1990	2000	Increase	Annual Rate
Fayetteville	42,249	58,047	15,798	3.23%
Springdale *	29,941	43,787	13,846	3.87%
Other Municipalities*	10,503	17,540	7,037	5.26%
Unincorporated	30,716	38,341	7,625	2.24%
Washington County	113,409	157,715	44,306	3.35%
State of Arkansas	2,350,624	2,673,400	322,776	1.30%

* only the Washington County portion of Springdale and Elm Springs
Source: U.S. Census Bureau; Northwest Regional Planning Commission

The City has been issuing permits for an average of almost 400 single-family homes annually since 2000, as shown in Table 6. The number of multi-family permits issued annually has increased from about 470 per year in the late 1990s to almost 700 per year in the last five years.

Table 6
RESIDENTIAL BUILDING PERMITS, 1996-2004

Year	Single-Family	Multi-Family	Total
1996	445	154	599
1997	265	281	546
1998	272	40	312
1999	357	515	872
2000	279	272	551
2001	258	440	698
2002	239	792	1,031
2003	611	1,258	1,869
2004	583	711	1,294
Avg., 1996-99	335	469	804
Avg., 2000-04	394	695	1,089

Source: City of Fayetteville, Inspection Department.

Based on building permits issued since the 2000 Census, it is estimated that Fayetteville has about 31,000 dwelling units as of April 2005, as shown in Table 7.

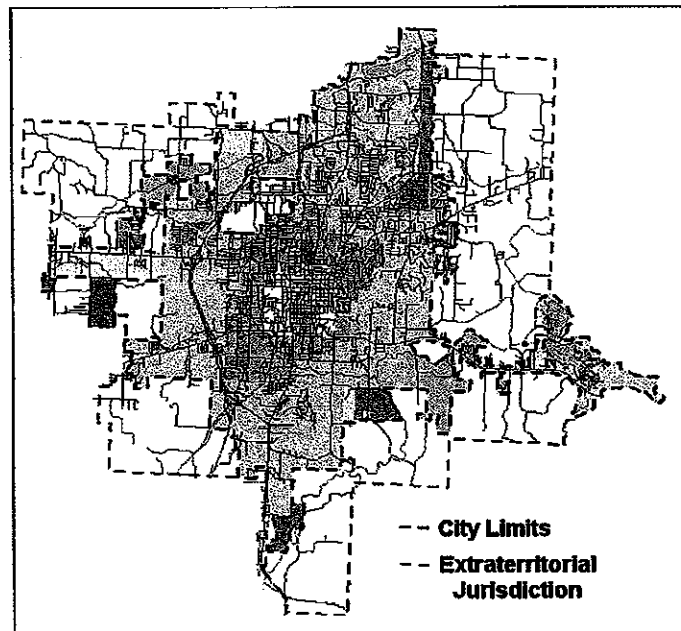
Table 7
EXISTING HOUSING UNITS BY TYPE

Housing Type	2000 Census	5 yrs. of Permits	Estimated Apr. 2005
Single-Family	12,663	1,970	14,633
Multi-Family	11,808	3,473	15,281
Mobile Home/Other	855	n/a	855
Total	25,326	5,443	30,769

Source: 2000 U.S. Census for Fayetteville, AR, SF-3 (1 in 6 sample data) permits from January 2000 through December 2004 from Table 6

In addition to development within its incorporated limits, the City is also affected by, and has some control over, development in unincorporated areas within its extraterritorial jurisdiction. Within this area, which extends up to five miles from the corporate limits or half the distance to any adjoining municipality, the City exercises joint subdivision authority with Washington County. The area covered by the City's extraterritorial jurisdiction is larger than the area within its corporate limits. The combined corporate and extraterritorial jurisdictions are referred to as the City's planning area, which covers approximately 92 square miles.

Figure 1
PLANNING AREA



DEVELOPER EXACTIONS AND CREDITS

The City does not impose a road impact fee on new development, but there are a number of developer exactions for roads in the City's Unified Development Code. A "large scale development," defined as any development larger than one acre, must dedicate sufficient right-of-way (ROW) to bring any abutting or intersecting major road to the standards of the master street plan. A lesser dedication may be recommended by the Planning Commission and approved by the City Council in cases of undue hardship or practical difficulties. Developers of large-scale developments may also be required to make off-site street and other improvements, "where the need for such improvements is created in whole or in part by the proposed large scale development."² When commercial, industrial or multi-family development is proposed adjacent to any street not constructed to current city standards, the developer is required to dedicate sufficient ROW and install paving, curb and gutter, and sidewalks necessary to bring the street into conformity with current standards. The regulation provides that the City Council may reduce the dedication requirement, and the cost of required improvements shall be in proportion to the needs created by the development.³ Finally, off-site road improvements may be required where a proposed subdivision has access to paved streets only by way of substandard or unimproved streets. In such cases, the subdivider is required to contribute a proportionate share of the cost of the off-site improvements. The proportionate share is based on the acreage of the subdivision as a share of the acreage of all property benefitting from the improvement, or by an alternative method determined by the planning commission.⁴

In general, these requirements mean that development abutting an unimproved or substandard street must dedicate the required ROW and construct the adjacent half of the street improvement. The developer does have the option to do a traffic study to attempt to demonstrate that the required improvement exceeds the impact of the development. Even lot splits can trigger the requirements to improve abutting roadways.

The proposed road impact fees differ from the Fayetteville's existing water and wastewater fees, and from the proposed fire and police fees, in that a significant portion of the fees may need to be used to compensate developers who have frontage on major roadways and are required to construct or improve them. If the road impact fees calculated in this report are adopted, the City would need to give credit against the fees to developers for the value of required improvements to arterial and collector roadways. No credit would need to be given for the value of ROW dedications if ROW costs are not included in the impact fee calculations.

There are a variety of ways that credit provisions can be structured, and these issues should be addressed in the impact fee ordinance. One thing that needs to be defined in the ordinance is what constitutes a capacity-expanding improvement eligible for funding with road impact fees. The definition should exclude bringing an existing substandard two-lane arterial or collector road up to current standards.

² Section 166.05: Large scale development.

³ Section 171.03: Street improvements.

⁴ Section 166.07: Required off-site improvements.

Developers are often required to make such improvements to adjacent roads, and the ordinance should make clear that this is not the type of improvement that is eligible for impact fee funding or impact fee credit. For example, the ordinance could define eligible improvements as capacity-expanding improvements to the major roadway system, including building new roads, widening existing roads by adding additional lanes, and intersection improvements that add signalization or turn lanes.

In the event that the City Council chooses to adopt road impact fees at a level that excludes the cost of ROW, the ordinance will need to address whether the impact fee revenues can be expended to acquire ROW. The consultant recommends that if developers are not going to be given credit for the value of ROW they are required to dedicate, the ordinance should prohibit the expenditure of impact fee funds for ROW acquisition. Such a prohibition may not be legally required, but it would serve as an important clarification that ROW is not any part of the road impact fee program.

Another issued to be addressed in the ordinance is whether a developer will be reimbursed directly from impact fee funds collected from all developments, or whether the impact fees paid within the developer's project will be reduced. Our recommendation is that credit be provided as a direct reimbursement to the developer that dedicated the ROW or made the improvement. One approach would be to set aside a maximum percentage of annual impact fee revenues to be used for such reimbursements. If the outstanding reimbursements owed in any given year exceed the amount available from impact fee revenues, each developer would receive a proportionate share of their outstanding reimbursement, and be eligible for more reimbursement in subsequent years. This approach would make collecting impact fees much easier, since the fees would be collected in full on all building permits, without the permit clerk having to check to see if a fee reduction due to credits is required.

The impact fee ordinance will also need to deal with other credit issues, such as the following.

- If credits are provided in the form of fee reductions, what happens when the amount of the credit exceeds the impact fees that would be due from the development project?
- To what extent should credits be given for past contributions for development projects that have not yet been completed?

SERVICE UNITS

Service units create the link between supply (roadway capacity) and demand (traffic generated by new development). An appropriate service unit basis for road impact fees is vehicle-miles of travel (VMT). Vehicle-miles is a combination of the number of vehicles traveling during a given time period and the distance (in miles) that these vehicles travel. The unit of capacity that is consumed by the demand unit represented by a VMT is a vehicle-mile of capacity (VMC). VMC is calculated as the capacity of a roadway segment multiplied by the length of the segment in miles.

The two time periods most often used in traffic analysis are the 24-hour day (average daily trips or ADT) and the single hour of the day with the highest traffic volume (peak hour trips or PHT). Available traffic

counts for area roadways are for average daily trips. Consequently, average daily VMT will be used as the service unit for Fayetteville's road impact fees.

IMPACT FEE METHODOLOGY

The major alternative methodologies for calculating road impact fees are the "improvements-driven" and "consumption-based" approaches. These are briefly described below.

The "improvements-driven" approach essentially divides the cost of growth-related improvements required over a fixed planning horizon (or to build-out) by the number new service units (e.g., vehicle trips) projected to be generated by growth over the same planning horizon in order to determine a cost per service unit. The improvements-driven approach depends on accurate planning and forecasting. For example, the fees will be accurate only if the forecasted increase in traffic actually necessitates all of the improvements identified in the transportation master plan. If many of the planned improvements will provide excess capacity that will be available to serve additional development beyond the planning horizon on which the fees are based, the fees may be too high.

The "consumption-based" approach does not depend on knowing in advance what improvements will be made or what type or density of development will occur. The consumption-based model simply charges a new development the cost of replacing the capacity that it consumes on the major roadway system. That is, for every service unit of traffic (e.g., mile of vehicle travel) generated by the development, the road impact fee charges the net cost to construct an additional service unit of capacity. The consumption-based system can be based on a transportation plan, but the total cost of the plan does not affect the amount of the fee, which is based on the unit cost of creating new capacity.

A strength of the consumption-based system is that it is very legally defensible because it generally underestimates the full cost of growth. Since travel is never evenly distributed throughout a roadway system, actual roadway systems require more than one unit of capacity for every unit of demand in order for the system to function at an acceptable level of service. Suppose, for example, that the City completes a major arterial widening project. The completed arterial is likely to have a significant amount of excess capacity for some period of time. If the entire system has just enough capacity to accommodate all of the vehicle-miles of travel, then the excess capacity on this segment must be balanced by another segment being over-capacity. Clearly, roadway systems in the real world need more total aggregate capacity than the total aggregate demand, because the traffic does not always precisely match the available capacity. Consequently, the standard consumption-based model generally underestimates the full cost of growth. The consumption-based system is a conservative, legally sound and relatively simple approach to the calculation of road impact fees. This is the recommended approach for Fayetteville. The recommended formula for the road impact fees is shown in Figure 2.

Figure 2
IMPACT FEE FORMULA

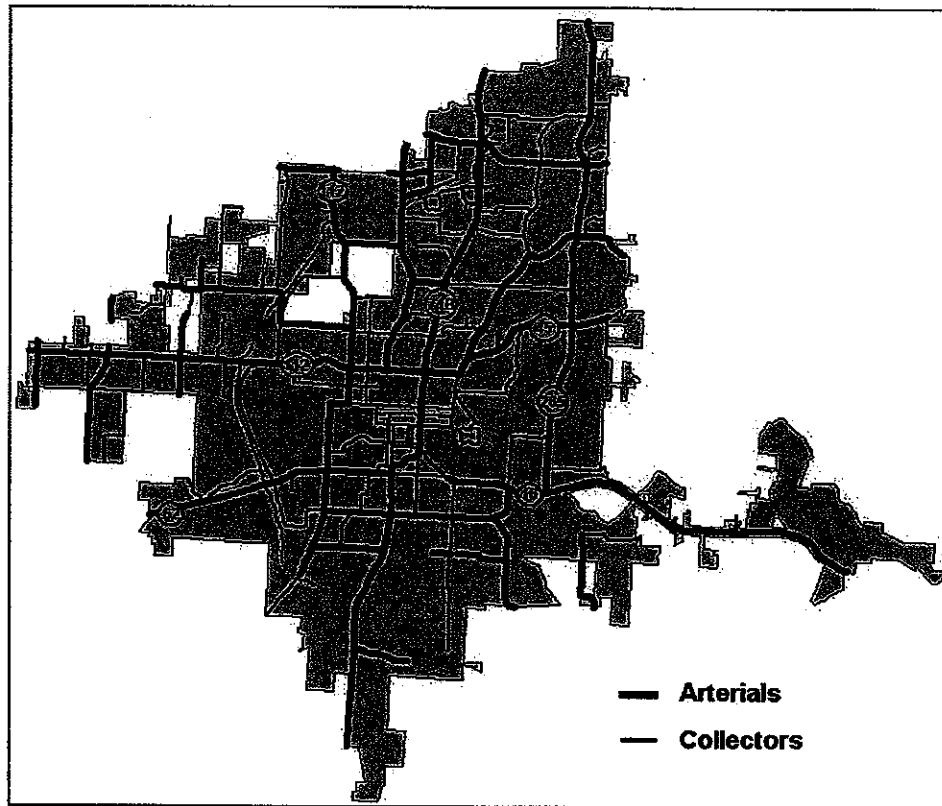
MAXIMUM FEE	=	VT x NET COST/VT
<u>Where:</u>		
VT	=	TRIPS x % NEW x LENGTH ÷ 2
NET COST/VT	=	COST/VT - CREDIT/VT
<u>Where:</u>		
TRIPS	=	Trip ends during a weekday
% NEW	=	% of trips that are primary, as opposed to passby or diverted-link trips
LENGTH	=	Average length of a trip on the major roadway system
÷ 2	=	Avoids double-counting trips for origin and destination
COST/VT	=	Average cost per lane-mile divided by average daily capacity per lane
CREDIT/VT	=	Revenue credit per daily VT

MAJOR ROADWAY SYSTEM

A road impact fee system should include a clear definition of the major roadway system that is to be funded with the impact fees. The major roadway system to be funded with the proposed impact fees is comprised of arterials and collectors within the City's incorporated area, including most state roads but excluding freeways and expressways. These roadways are identified on the City's *Master Street Plan*, which is an official map that is used in conjunction with the Circulation Element of the 2020 *General Plan*. It classifies streets into a number of functional types, including freeway/expressways, principal arterials, minor arterials, collectors and local streets. The *Master Street Plan* shows the location of new roads and allows the City to preserve corridors for roadways expected to need widening or extension.

An inventory of the existing major roadway system was compiled in order to identify existing capacity deficiencies and to determine the average length of a trip on the major roadway system (see Appendix A). The roadway segment descriptions include the street name, roadway termini, number of lanes and roadway length and width. Average daily traffic volumes were estimated for most segments from state highway department counts. The existing major roadway system within Fayetteville's incorporated limits is illustrated in Figure 3.

Figure 3
EXISTING MAJOR ROADWAY SYSTEM



EXISTING DEFICIENCIES

In most rapidly growing communities, some roadways will be experiencing an unacceptable level of congestion at any given point in time. One of the principles of impact fees is that new development should not be charged, through impact fees, for a higher level-of-service than is provided to existing development. Another common way of expressing this concept, although it is somewhat less precise and subject to misinterpretation, is that impact fees should not be used to pay for remedying existing deficiencies. In the context of road impact fees, this has sometimes been interpreted to mean that impact fees should not be spent on roadways that are already over-capacity. A variant of this approach is that impact fees should only be used to fund a percentage of the project that can be attributed to providing additional capacity beyond what is needed to remedy any existing deficiency. There are a number of practical problems with these approaches. First, impact fees are restricted from being spent on roadways that are most in need of improvement, while the fact that fee-funded improvements to other roadways may also relieve the deficient segments is ignored. Second, these approaches complicate impact fee administration by requiring that the portion of the cost of each improvement that is attributable to remedying deficiencies be funded from a different source than impact fees.

The most significant objection to these approaches, however, is that they are not consistent with the conservative nature of the consumption-based road impact fee methodology. The consumption-based system does not promise that all road segments will function at a given level of service (e.g., LOS C or LOS D). All the consumption-based model does is assume that for every unit of capacity that is consumed, another will be constructed to replace it. Implicitly, the level of service used in a consumption-based impact fee is a one-to-one ratio of capacity to demand in the major roadway system as a whole. As long as the current system provides at least this capacity/demand ratio, the impact fees are not charging for a higher level of service.

To determine the capacity/demand ratio, the first step is to estimate total VMT on the major roadway system. This figure will also be used in the average trip length and revenue credit calculations. Recent daily traffic counts are available for road segments accounting for almost three-fourths of all lane-miles in the major roadway system. Adding estimated traffic from road segments for which counts were not available, on the assumption that such segments would carry about three-quarters the volume of segments with counts, yields a estimate of about 1.1 million daily vehicle-miles of travel on Fayetteville's major roadway system.

Table 8
TOTAL DAILY VEHICLE-MILES OF TRAVEL

Functional Classification	Counted VMT	Lane-Miles w/Counts	Average ADT/Lane	Total Lane-Miles	Est. Ttl. VMT
Principal Arterials	687,943	162.32	4,238	168.48	707,523
Minor Arterials	137,277	36.30	3,782	44.09	159,373
Collectors	83,653	42.20	1,982	101.96	172,486
Historic Collectors	70,292	25.69	2,736	32.15	83,548
Total	979,166	266.51		346.68	1,122,931

Source: Table 22; counted VMT is product of miles and ADT for segments with traffic counts; lane-miles with counts is product of miles and existing number of lanes for segments with counts; total lane-miles includes segments without counts; total VMT assumes segments without traffic counts carry 3/4 as many vehicles as the average of segments of the same classification with counts.

The next step is to estimate total vehicle-miles of capacity in the major roadway system. The City's recently-completed transportation plan uses a general planning-level capacity estimate of 8,000 vehicles per lane per day at LOS D. Using that capacity figure, total system capacity is about 2.8 million daily vehicle-miles, as shown in Table 9. This is considerably more than the total VMT in the system. Clearly, the one-to-one ratio of capacity to demand on which the impact fees are based is not resulting in new development being charged for a higher level of service than is being enjoyed by existing development.

Table 9
TOTAL DAILY VEHICLE-MILES OF CAPACITY

Functional Classification	Total Lane-Miles	Average Capacity/Lane	Total VMC
Principal Arterials	168.48	8,000	1,347,840
Minor Arterials	44.09	8,000	352,720
Collectors	101.96	8,000	815,680
Historic Collectors	32.15	8,000	257,200
Total	342.63	8,000	2,773,440

Source: Total lane-miles from Table 22; capacity per lane at LOS D from BWR, *Traffic and Transportation Study prepared for the City of Fayetteville, Arkansas*, October 2003; total vehicle-miles of capacity (VMC) is lane-miles times capacity per lane.

While there are a few individual road segments that appear to be over-capacity, the extent of existing segment-specific capacity deficiencies is relatively small compared to the total amount of daily travel. The bottom line, however, is that a segment-by-segment analysis of capacity deficiencies is not necessary or appropriate in the context of a consumption-based road impact fee. The system-wide ratio of capacity to demand is the appropriate level of service measure, and it is clear that the fees are based on a one-to-one ratio that is considerably lower than the existing ratio. As shown in Table 10, Fayetteville's major road system currently has significantly more capacity than existing demand. Consequently, there are no existing deficiencies on a system-wide basis.

Table 10
SYSTEMWIDE RATIO OF CAPACITY TO DEMAND

Daily Vehicle-Miles of Capacity (VMC)	2,773,440
Daily Vehicle-Miles of Travel (VMT)	1,122,931
Systemwide Capacity/Demand Ratio	2.47

Source: VMT from Table 8; VMC from Table 9.

COST PER SERVICE UNIT

Right-of-way is the most variable component of road improvement costs, as well as the most common type of developer exaction for roads. If ROW costs are excluded from the impact fee calculations, the fees will be lower, and the City will not have to give credit against the fees for ROW that is dedicated by developers. In order to give the City the option to include or exclude ROW costs, the road impact fees will be calculated both ways in this report.

The average cost to create an additional vehicle-mile of capacity can be derived by dividing the cost of a representative set of improvements by the additional capacity created by the improvements. Most of the planned capacity-expanding improvements are widening projects, and widening projects generally entail the reconstruction of the existing lanes. While this cost could be covered by impact fees under the argument that the reconstruction of the existing lanes is incidental to the primary purpose of adding capacity, the costs of lane reconstruction are excluded from the cost estimates in the following calculations. The cost of planned capacity-expanding road improvements to be undertaken by the City pursuant to the proposed road bond program, including construction, engineering and ROW costs, totals \$80,550,000, as summarized in Table 11.

Table 11
PLANNED ROAD IMPROVEMENT COSTS

Street	Miles	Lanes		New Ln-Mi	Construction Cost	Total Cost
		Ex	Fut			
Crossover (Mission to City Limits)	0.81	2	5	2.43	\$7,087,000	\$7,087,000
Fifteenth Street (Happy Hollow to S. College)*	1.61	2	4	3.22	\$4,253,000	\$4,693,000
Garland (North to Melmar)	0.70	2	5	2.10	\$4,638,000	\$6,338,000
Garland (Drake to Truckers)	0.53	2	5	1.59	\$1,520,000	\$1,630,000
Garland (I-540 to Howard Nickell)	0.57	2	5	1.71	\$3,151,000	\$3,371,000
Howard Nickell/Van Asche (Rupple to Garland)	2.18	2	4	4.36	\$8,246,000	\$9,291,000
Huntsville (Happy Hollow to Stonebridge)	0.66	2	4	1.32	\$2,415,000	\$2,470,000
Huntsville (Stonebridge to Falcon)	1.40	2	4	2.80	\$7,046,000	\$7,156,000
Mall Avenue (Joyce to Mud Creek)	0.28	2	3	0.28	\$632,000	\$832,000
Mount Comfort (Rupple to Alpine)	1.14	2	4	2.28	\$4,663,000	\$5,653,000
Rupple Road (6th to Persimmon)	1.70	0	5	8.50	\$7,580,000	\$8,155,000
Rupple Road (Persimmon to Wedington)	0.53	2	5	1.59	\$1,438,000	\$1,438,000
Rupple Road (Wedington to Mt. Comfort)	0.97	2	5	2.91	\$6,941,000	\$8,316,000
Rupple Road (Mt. Comfort to Howard Nickell)	1.59	3	5	3.18	\$3,416,000	\$3,581,000
Shiloh Drive (Cato Springs to Summerhouse)	0.66	0	3	1.98	\$1,997,000	\$2,237,000
Shiloh Drive (Mt. Comfort to Wedington)	0.52	0	3	1.56	\$3,231,000	\$3,341,000
Van Asche (Gregg to Garland)	1.63	2	5	4.89	\$4,083,500	\$4,961,000
Total	17.48			46.70	\$72,337,500	\$80,550,000

* existing lanes not reconstructed

Source: Proposed bond program information provided by City of Fayetteville, May 1, 2006; costs exclude cost to reconstruct existing lanes, estimated to cost \$255,145 per lane-mile by City Engineer, July 28, 2005 memorandum.

Dividing the average cost per lane-mile by the average capacity of a lane yields the average cost per vehicle-mile of capacity, as shown in Table 12.

Table 12
ROAD COST PER SERVICE UNIT

	Without ROW	Including ROW
Total Cost	\$72,337,500	\$80,550,000
Total Lane-Miles	46.70	46.70
Average Cost per Lane-Mile	\$1,548,983	\$1,724,839
Daily Vehicle Capacity per Lane	8,000	8,000
Cost per Vehicle-Mile	\$193.62	\$215.60

Source: Total cost and lane-miles from Table 11; daily capacity per lane from Table 9.

REVENUE CREDITS

In the calculation of impact fees, credit must be given for dedicated or intergovernmental revenues that will be generated by new development and used to pay for the same kind of facilities funded through the impact fees. In the case of road impact fees, revenue credits will be calculated for state and federal funding for City arterial and collector road improvements. No credit needs to be calculated for outstanding debt payments for road bonds, since the City has no outstanding debt for past road projects. Finally, a credit needs to be provided for sales tax revenues that will be used for capacity-expanding road improvements.

A review of the 2025 *Regional Transportation Plan* indicates that all of the planned direct federal and state funding for the improvement of roads in Fayetteville is for state roads. Total federal and state funding for Fayetteville amounts to \$2.6 million annually over the next 25 years, as shown in Table 13.

Table 13
FEDERAL/STATE HIGHWAY FUNDING, 2001-2025

Roadway Segment	Funding
Hwy 112, Maple St to Hwy 112 S	\$1,500,000
AR 45, North St to City Limit	\$7,000,000
AR 16, Happy Hollow to W.F. Bridge	\$3,150,000
AR 180, Gregg to US 71B	\$2,500,000
AR 265, AR 45 to N City Limits	\$11,000,000
AR 180, Township to US 71	\$2,800,000
AR 112, North St to I-540	\$6,250,000
AR 112, 15th to Maple	\$2,800,000
AR 112, Razorback to Garland	\$2,500,000
AR 16, Meadowland to W City Limit	\$5,500,000
US 71 Flyover, College to US 71W	\$4,000,000
AR 16 Bypass, Washington to Happy Hollow	\$4,000,000
AR 16E, W.F. Bridge to E City Limit	\$11,750,000
Total, 2001-2025	\$64,750,000
Average Annual Funding	\$2,590,000

Source: Northwest Arkansas Regional Planning Commission, 2025 *Regional Transportation Plan for Metropolitan Northwest Arkansas*, February 2001.

An equally significant source of funding for City thoroughfares is the one-cent sales tax. As noted in the Background section, the sales tax is the primary source of funds for the City capital improvements program, and 34 percent of sales tax-funded capital improvements in the five-year CIP are for street and traffic signal improvements. The City plans on spending about \$2.5 million annually in sales tax funds on capacity-expanding road improvements over the five-year CIP period. Excluding expenditures for ROW acquisition, annual expenditures for construction are anticipated to be about \$1.8 million, as shown in Table 14.

Table 14
CITY SALES TAX FUNDING, 2004-2008

Street	Segment	Construction	Total
Gregg Ave	Township to Fulbright	\$0	\$360,000
Mission & Maple	Intersection and Signalization	\$150,000	\$150,000
Shiloh, Gregg & Fulbright	Turn Lanes	\$400,000	\$400,000
Gregg Ave & Poplar St	Intersection and Signalization	\$175,000	\$175,000
School & Archibald	Intersection	\$100,000	\$100,000
Huntsville/Happy Hollow	Intersection	\$650,000	\$650,000
Millsap Rd & North College	Intersection	\$100,000	\$100,000
West Avenue & Maple St	Signalization	\$100,000	\$100,000
Township*	Gregg to North College	\$1,560,000	\$2,080,000
Mount Comfort Rd	Widening & Turn Lanes	\$900,000	\$900,000
ROW/Intersec Cost Shares	Mission to Township	\$515,000	\$515,000
Mount Comfort Rd.	at Shiloh Dr	\$0	\$1,500,000
Highway 265 ROW	Mission to City Limits	\$0	\$1,511,000
Morningside Dr & 15 th St	Signalization	\$221,000	\$221,000
Zion/College to Frtg Rd	Intersection	\$200,000	\$200,000
Van Asche Blvd	Steele Blvd to Gregg Ave	\$950,000	\$950,000
Gregg Ave & North St	Turn Lanes	\$650,000	\$650,000
Old Wire & Old Missouri	Intersection	\$324,000	\$324,000
Mission & Old Wire	Intersection	\$300,000	\$300,000
College/Roll Hills/Appleby	Intersection	\$800,000	\$800,000
Traffic Signals	Various Intersections	\$696,000	\$696,000
Total Funding, 2004-2008		\$8,791,000	\$12,682,000
Annual Funding		\$1,758,000	\$2,536,000

* ROW assumed to be 25% of total

Source: City of Fayetteville, 2004-2008 Capital Improvements Program, May 2004.

Over the 25-year period that is typical of the useful life of road improvements, new development will generate sales tax revenues and highway user fees that will be returned to the City in the form of State and Federal funding for capacity expanding road improvements that is equivalent to about \$57 per VMT generated by the new development. Excluding funding for ROW, the revenue credit per VMT is about \$48, as shown in Table 15.

**Table 15
ROAD REVENUE CREDIT PER SERVICE UNIT**

	Without ROW	With ROW
Annual Federal/State Funding for Capacity Road Improvements	\$2,590,000	\$2,590,000
Annual Sale Tax Funding for Capacity City Road Improvements	\$1,758,000	\$2,536,000
Total Annual Funding for Capacity City Road Improvements	\$4,348,000	\$5,126,000
Existing Vehicle-Miles of Travel (VMT) on Major Roadway System	1,122,931	1,122,931
Annual Funding per VMT	\$3.87	\$4.56
Net Present Value Factor (25 Years at 4.96% discount rate)	12.50	12.50
Revenue Credit per VMT	\$48.38	\$57.00

Source: Annual Federal/State funding from Table 13; annual sales tax funding from Table 14; existing VMT from Table 8; discount rate for present value factor is average interest rate on 20-year AAA municipal bonds as of May 31, 2004 according to bloomberg.com, fmsbonds.com, and bondsonline.com.

In addition to its current road funding, the City intends to seek voter approval for a Transportation Bond Program of about \$145 million funded by a dedicated one percent sales and use tax. The proposed sales and use tax is split into two parts: one-fourth percent that would be levied immediately and three-fourths percent that would be directed to the Transportation Bond Program once the Wastewater System Improvements Bonds are fully paid. The City also intends to use road impact fee revenues primarily to help retire the Transportation Bonds. The sales and use tax would expire when the bonds are paid off.

Of the total cost of the proposed bond program, only \$81 million is eligible for impact fee funding (\$72 million if ROW costs are excluded), as shown earlier in Table 11. Revenue from road impact fees, if adopted at the maximum levels calculated in this report, over the 20-year life of the bonds could pay for the principal associated with these eligible projects. Based on the annual number of permits issued in recent years, the proposed road impact fees could generate \$82 million to \$90 million over 20 years, as shown in Table 21. Of course, actual revenues may be somewhat lower than these estimates, because the City will need to give credit against the fees whenever it requires new development to add capacity to the major road system by adding lanes to adjacent arterial or collector roads.

As shown above, road impact fee revenues should be adequate to retire that portion of the debt service attributable to the principal associated with growth-related, impact fee-eligible projects. The sales tax revenues could be used for paying the interest costs for the growth-related projects and for principal and interest payments on the non-growth-related projects. Under this reasonable scenario, there is no need for a credit for the sales tax payments that would be generated by new development, because these payments would be going for interest costs, which are not included in the impact fee calculations, or for non-growth-related improvements, which are not eligible for impact fees. Clearly, new development would not be paying twice for growth-related improvements. In the event that the Council decides not to charge the maximum road impact fees, it is likely that some sales tax funding would be needed to fund some of the growth-related improvement cost. Even under these circumstances, however, a credit would not be warranted, because the impact fees are not covering the full impacts of new development, and the governing body is simply allowing new development to pay for some of its attributable costs through the sales tax instead of impact fees.

Subtracting the revenue credit from the cost per service unit yields the net cost per service unit. Depending on whether ROW costs are included in the fees, the net cost per service unit ranges from \$145 to \$159 per daily vehicle-mile of travel.

Table 16
ROAD NET COST PER SERVICE UNIT

	Without ROW	With ROW
Average Cost per VMT	\$193.62	\$215.60
Revenue Credit per VMT	\$48.38	\$57.00
Net Cost per VMT	\$145.24	\$158.60

Source: Average cost per VMT from Table 12; revenue credit per VMT from Table 15.

TRAVEL DEMAND FACTORS

The travel demand generated by specific land use types is a product of three factors: 1) trip generation, 2) percent primary trips and 3) trip length. The first two factors are well documented in the professional literature, and the average trip generation characteristics identified in studies of communities around the nation should be reasonably representative of trip generation characteristics in Fayetteville. In contrast, trip lengths are much more likely to vary between communities, depending on the geographic size and shape of the community and its major roadway system.

Trip generation rates were based on information published in the most recent edition of the Institute of Transportation Engineers' (ITE) *Trip Generation* manual. Rates were established for specific land use types within the broader categories of residential, commercial, office/institutional and industrial land uses. Trip generation rates represent trip ends, or driveway crossings from the site of a land use. Thus, a one-way trip from home to work counts as one trip end for the residence and one trip end for the work place. To avoid over-counting, all trip rates have been divided by two. This places the burden of travel equally between the origin and destination of the trip and eliminates double-charging for any particular trip.

Trip rates also need to be adjusted by a "primary trip factor" to exclude pass-by and diverted trips. This adjustment is intended to reduce the possibility of over-counting by only including primary trips generated by the development. Pass-by trips are those trips that are already on a particular route for a different purpose and simply stop at a particular development on that route. For example, a stop at a convenience store on the way home from the office is a pass-by trip for the convenience store. A pass-by trip does not create an additional burden on the street system and therefore should not be counted in the assessment of impact fees. A diverted trip is similar to a pass-by trip, but a diversion is made from the regular route to make an interim stop. The reduction for pass-by and diverted trips was drawn from the ITE manual and other published information.

The average trip length is the most difficult travel demand factor to determine. In the context of a road impact fee based on a consumption-based methodology, we are interested in determining the average length of a trip on the major roadway system within Fayetteville. This can be approximated by dividing the total daily travel demand (VMT) on the major roadway system by the total number of average daily trips generated by existing development in the city.

Existing land uses in each of six general categories are multiplied by average daily trip generation rates and summed to determine a reasonable estimate of total city-wide trips. Dividing the total vehicle-miles of travel (VMT) on the major roadway system determined from the inventory (see Table 22) by the estimated trips generated by existing land uses in Fayetteville yields a reasonable estimate of the average distance traveled on the City's major roadway system per daily trip, as shown in Table 17.

**Table 17
AVERAGE TRIP LENGTH**

Land Use	Units of Development	2005 Units	Trip Rates	Daily Trips
Single-Family	Dwelling	14,633	4.79	70,092
Multi-Family	Dwelling	15,281	3.32	50,733
Mobile Home	Dwelling	855	2.50	2,138
Commercial	1,000 sq. ft.	7,647	9.98	76,317
Civic	1,000 sq. ft.	4,246	6.15	26,113
Industrial	1,000 sq. ft.	6,571	3.48	22,867
Total Daily Trips				248,260
Total Daily VMT on Major Roadway System				1,122,931
Average Trip Length, Miles				4.50

Source: 2005 dwelling units from Table 7; nonresidential square feet from Washington County Assessor, 2004 plus new square footage permitted in 2004 from Fayetteville Planning Department, October 7, 2005; trip rates are one-half of average daily trip ends on a weekday reported in Institute of Transportation Engineers (ITE), *Trip Generation*, Seventh Edition, 2003 for ITE land use codes 210 (Single-Family Detached), 220 (Apartment), 240 (Mobile Home Park), 820 (Shopping Center), 710 (General Office Building), and 130 (Industrial Park); existing VMT from Table 8.

The ratio of the average local trip length on Fayetteville's major roadway system to the national average trip length identified in the U.S. Department of Transportation's 2001 *National Household Travel Survey* is computed in Table 18. Fayetteville's average trip length on the major roadway system is lower than the national average because the major roadway system excludes travel on freeways/expressways, arterials and collectors outside the city limits, and local streets. Using this ratio, reasonable trip lengths were derived for specific trip purposes, including home-to-work trips, shopping, school/church and other personal trips. In addition, a residential trip length was determined, using a weighting of 40 percent work trips and 60 percent average trips.

**Table 18
AVERAGE TRIP LENGTH BY TRIP PURPOSE**

Trip Purpose	National Data	Local Data	Ratio	Est. Local Trip Lengths
To or from work	12.07	na	0.46	5.6
Residential	na	na	na	4.9
Doctor/Dentist	9.78	na	0.46	4.5
Average	9.71	4.50	0.46	4.5
School/Church	7.42	na	0.46	3.4
Family/Personal	7.35	na	0.46	3.4
Shopping	6.56	na	0.46	3.0

Source: Average trip lengths in miles; national data from U.S. Department of Transportation, *National Household Travel Survey*, 2001; local data from Table 17; ratio is average local divided by average national trip length; estimated local trip lengths are products of national data by ratio; estimated local residential trip length is weighted 40% local work trip length and 60% average trip length.

Average daily travel demand must be estimated for a broad variety of land uses in order to develop the fee schedule. The result of combining trip generation rates, new trip factors and average trip lengths is a travel demand schedule that establishes the vehicle-miles of travel (VMT) during the average weekday generated by various land use types per unit of development. The recommended travel demand schedule is presented in Table 19.

Table 19
TRAVEL DEMAND SCHEDULE

Land Use Type	ITE Code	Unit	Trip Ends	1-Way Trips	% New Trips	Length (miles)	Daily VMT
Single-Family Detached	210	Dwelling	9.57	4.79	100%	4.9	23.47
Multi-Family	220	Dwelling	6.72	3.32	100%	4.9	16.27
Mobile Home/RV Park	240	Pad	4.99	2.50	100%	4.9	12.25
Hotel/Motel	310/320	Room	6.90	3.45	80%	4.9	13.52
Retail/Commercial	820	1000 sq. ft.	42.94	21.47	43%	3.0	27.70
Office/Institutional	710	1000 sq. ft.	11.01	5.51	75%	4.5	18.60
Nursing Home	620	1000 sq. ft.	6.10	3.05	75%	4.5	10.29
Church	560	1000 sq. ft.	9.11	4.56	75%	3.4	11.63
Industrial	130	1000 sq. ft.	6.96	3.48	95%	4.9	16.20
Warehouse	150	1000 sq. ft.	4.96	2.48	95%	4.9	11.54
Mini-Warehouse	151	1000 sq. ft.	2.50	1.25	95%	3.4	4.04

Source: "Trip Ends" is average daily trips (ADT) during weekday from Institute of Transportation Engineers (ITE), *Trip Generation*, 7th ed., 2003; "1-Way Trips" = ½ Trip Ends; "ITE Code" is land use code from ITE manual used for land use category (where more than one code shown, rates were averaged); new trip percentage for retail/commercial from ITE, *Trip Generation Handbook*, October 2003; percentages for other land uses taken from Kimley-Horn and Associates, Inc., *Lee County Impact Fee Transportation Data*, 1990; average trip lengths from Table 18; average trip length reduced by 50% for convenience stores and fast food restaurants; average trip length used for office uses and residential trip length used for industrial/warehousing uses.

POTENTIAL FEES

Based on the impact fee formula and the inputs calculated in this report, the maximum road impact fees per unit of development for various land uses, with and without ROW costs, are shown in Table 20. Impact fees could be adopted at less than 100 percent of the levels shown in the net cost schedules, provided that the reduction is applied uniformly across all land use categories in order to retain the proportionality of the fees. The impact fee ordinance will contain a provision allowing the option of independent fee determination studies for those applicants who can demonstrate that their development will have less impact on the need for road facilities than indicated by the fee schedule.

**Table 20
ROAD NET COST SCHEDULE**

Land Use Type	Unit	Daily VMT	Net Cost/VMT		Net Cost per Unit	
			w/ROW	no ROW	w/ROW	no ROW
Single-Family Detached	Dwelling	23.47	\$158.60	\$145.24	\$3,722	\$3,409
Multi-Family	Dwelling	16.27	\$158.60	\$145.24	\$2,580	\$2,363
Mobile Home/RV Park	Pad	12.25	\$158.60	\$145.24	\$1,943	\$1,779
Hotel/Motel	Room	13.52	\$158.60	\$145.24	\$2,144	\$1,964
Retail/Commercial	1000 sq. ft.	27.70	\$158.60	\$145.24	\$4,393	\$4,023
Office/Institutional	1000 sq. ft.	18.60	\$158.60	\$145.24	\$2,950	\$2,701
Nursing Home	1000 sq. ft.	10.29	\$158.60	\$145.24	\$1,632	\$1,495
Church	1000 sq. ft.	11.63	\$158.60	\$145.24	\$1,845	\$1,689
Industrial	1000 sq. ft.	16.20	\$158.60	\$145.24	\$2,569	\$2,353
Warehouse	1000 sq. ft.	11.54	\$158.60	\$145.24	\$1,830	\$1,676
Mini-Warehouse	1000 sq. ft.	4.04	\$158.60	\$145.24	\$641	\$587

Source: Daily VMT per unit from Table 19; net cost per VMT from Table 12.

Based on the annual number of permits issued in recent years, annual road impact fee revenue could amount to \$4.1 million to \$4.5 million, as shown in Table 21. Over 20 years, the impact fees could generate \$82 million to \$90 million. These estimates include in-kind contributions from developers, for which they would get impact fee credit, so that cash revenues received by the City would likely be lower.

Table 21
POTENTIAL ROAD IMPACT FEE REVENUE

	Single-Family (dwelling)	Multi-Family (dwelling)	Retail/ Commercial (1000 sf)	Office/ Other (1000 sf)	Total
Potential Fee without ROW Costs	\$3,409	\$2,363	\$4,023	\$2,701	
Potential Fee with ROW Costs	\$3,722	\$2,580	\$4,393	\$2,950	
Average New Units, 2000-04	394	695	130	222	
Annual Revenue without ROW Costs	\$1,343,146	\$1,642,285	\$522,990	\$599,622	\$4,108,043
Annual Revenue with ROW Costs	\$1,466,468	\$1,793,100	\$571,090	\$654,900	\$4,485,558
20-Year Revenue without ROW Costs	\$26,862,920	\$32,845,700	\$10,459,800	\$11,992,440	\$82,160,860
20-Year Revenue with ROW Costs	\$29,329,360	\$35,862,000	\$11,421,800	\$13,098,000	\$89,711,160

Source: Potential fees from Table 20; average annual new residential units are averages for 2000-2004 from Table 6; average annual new nonresidential units are amounts permitted in 2004 from Fayetteville Planning Department, October 7, 2005.

APPENDIX A: MAJOR ROADWAY INVENTORY

Table 22
MAJOR ROADWAY INVENTORY

Road	From	To	Lns	Mi.	Lane-Miles		w/cts.	ADT	VMT
					Ttl.				
Archibald Yell Blvd	College Ave	School Ave	4	0.45	1.80	1.80	13,000	5,850	
6th St	School Ave	City Limits	5	3.45	17.25	17.25	25,330	87,389	
15th St	Happy Hollow Rd	College Ave	2	1.27	2.54	2.54	12,000	15,240	
15th St	College Ave	Razorback Rd	4	1.26	5.04	5.04	10,350	13,041	
Co. Rd. 649	City Limits	Persimmon St	2	1.00	2.00	0.00	n/a	0	
College Ave	Archibald Yell Blvd	North St	4	1.13	4.52	4.52	25,000	28,250	
College Ave	North St	Millsap Rd	5	2.72	13.60	13.60	29,000	78,880	
College Ave	Millsap Rd	560' S of Joyce Blvd	4	0.97	3.88	3.88	35,000	33,950	
College Ave	560' S of Joyce Blvd	980' N of Joyce Blvd	6	0.26	1.56	1.56	35,000	9,100	
College Ave	980' N of Joyce Blvd	1973' S of City Limits	4	0.51	2.04	2.04	35,000	17,850	
College Ave	1973' S of City Limits	City Limits	6	0.37	2.22	2.22	35,000	12,950	
Crossover Rd	Old Missouri Rd	Mission Blvd	3	4.12	12.36	12.36	16,000	65,920	
Crossover Rd	Mission Blvd	Huntsville Rd	5	2.39	11.95	11.95	14,250	34,058	
Garland Ave	I-540	Wedington Dr	2	2.03	4.06	4.06	11,000	22,330	
Garland Ave	Wedington Dr	Maple St	4	0.25	1.00	1.00	14,000	3,500	
Happy Hollow Rd	Huntsville Rd	15th St	4	0.28	1.12	1.12	8,900	2,492	
Highway 112	1,286' E of Cris Hollow	399' w/o D. Solomon	2	0.74	1.48	1.48	4,300	3,182	
Highway 112	I-540	Van Asche Dr	2	0.81	1.62	1.62	5,300	4,293	
Huntsville Rd	City Limits	Happy Hollow Rd	2	5.10	10.20	10.20	9,800	49,980	
Joyce Blvd	City Limits	College Ave	5	0.76	3.80	3.80	18,000	13,680	
Joyce Blvd	College Ave	Frontage Rd	6	0.09	0.54	0.54	18,000	1,620	
Joyce Blvd	Frontage Rd	228' S of Front St	5	0.11	0.55	0.55	19,000	2,090	
Joyce Blvd	228' S of Front St	Crossover Rd	4	1.37	5.48	5.48	8,900	12,193	
Maple St	Garland Ave	Razorback Rd	2	0.25	0.50	0.50	15,000	3,750	
Mission Blvd	North St	City Limits	2	2.37	4.74	4.74	9,780	23,179	
North St	Garland Ave	Gregg Ave	4	0.50	2.00	2.00	16,000	8,000	
North St	Gregg Ave	Mission Blvd	2	1.01	2.02	2.02	12,310	12,433	
Old Missouri Rd	City Limits	Crossover Rd	3	0.22	0.66	0.66	14,000	3,080	
Razorback Rd	Maple St	15th St	2	1.50	3.00	3.00	11,250	16,875	
Razorback Rd	15th St	Ramp	5	0.84	4.20	4.20	6,100	5,124	
Razorback Rd	Ramp	Highway 71	3	0.09	0.27	0.27	6,100	549	
School Ave	Archibald Yell Blvd	3,477' S of Willoughby	5	3.33	16.65	16.65	10,700	35,631	
School Ave	3,477' S of Willoughby	City Limits	4	0.65	2.60	2.60	7,800	5,070	
Steele Blvd	Van Asche Dr	Joyce Blvd	4	0.50	2.00	0.00	n/a	0	
Sunshine Rd	1510' S Jess Anderson	Adams Rd	2	0.33	0.66	0.00	n/a	0	
Van Asche Dr	Highway 112	244' E of I-540	2	0.24	0.48	0.48	1,100	264	
Van Asche Dr	1,073' W of Gregg Ave	Gregg Ave	2	0.20	0.40	0.40	1,100	220	
Van Asche Dr	523' W of Steele Blvd	Steele Blvd	4	0.10	0.40	0.40	1,100	110	
Wedington Dr	City Limits	709' W of 46th Ave	2	1.76	3.52	3.52	7,800	13,728	

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Wedington Dr	709' W of 46th Ave	Shiloh Dr	5	1.19	5.95	5.95	14,793	17,804
Wedington Dr	Shiloh Dr	Garland Ave	4	1.58	6.32	6.32	15,500	24,490
Willoughby Rd	3981' E of School Ave	School Ave	2	0.75	1.50	0.00	n/a	0
Subtotal, Principal Arterials					168.48	162.32		687,943
Black Oak Rd	Armstrong Rd	City Limits	2	1.79	3.58	3.58	5,000	8,950
Armstrong Rd	15th St	Black Oak Rd	2	1.08	2.16	2.16	5,000	5,400
Cato Springs Rd	School Ave	Razorback Rd	2	0.99	1.98	1.98	1,700	1,683
Dead Horse Mtn Rd	Goff Farm Rd	City Limits	2	1.14	2.28	2.28	800	912
Deane St	Garland Ave	Porter Rd	2	1.00	2.00	2.00	6,100	6,100
Double Springs Rd	City Limits	299' N of Dot Tipton Rd	2	0.90	1.80	0.00	n/a	0
Drake St	Gregg Ave	Garland Ave	2	0.78	1.56	1.56	5,200	4,056
Gregg Ave	City Limits	1103' S of City Limits	4	0.21	0.84	0.84	6,000	1,260
Gregg Ave	1103' S of City Limits	Township St	2	1.72	3.44	3.44	16,000	27,520
Gregg Ave	Township St	North St	4	1.30	5.20	5.20	19,000	24,700
Huntsville Rd	Mashburn Ave	Happy Hollow Rd	2	0.73	1.46	1.46	10,000	7,300
Mount Comfort Rd	City Limits	I-540	2	1.81	3.62	3.62	8,200	14,842
Old Wire Rd	Mission Blvd	Skillern Rd	2	2.64	5.28	5.28	8,400	22,176
Porter Rd	Deane St	Shiloh Dr	2	0.36	0.72	0.72	6,800	2,448
Pump Station Rd	567' E of City Lake Rd	Armstrong Rd	2	0.67	1.34	0.00	n/a	0
Rupple Rd	174' N of Double Tree	Mount Comfort Rd	2	0.42	0.84	0.00	n/a	0
Rupple Rd	Rupple Rd	Persimmon St	2	1.14	2.28	0.00	n/a	0
Shiloh Dr	Steele Blvd	Gregg Ave	2	0.39	0.78	0.00	n/a	0
Skillern Rd	Old Wire Rd	City Limits	2	0.65	1.30	1.30	7,830	5,090
Steele Blvd	Shiloh Dr	Van Asche Dr	3	0.25	0.75	0.00	n/a	0
Township St	Gregg Ave	College Ave	2	0.44	0.88	0.88	11,000	4,840
Subtotal, Minor Arterials					44.09	36.30		137,277
Betty Jo Dr	Persimmon St	Wedington Dr	2	0.51	1.02	0.00	n/a	0
Beechwood Ave	15th St	18th St	2	0.25	0.50	0.00	n/a	0
Austin Dr	Ash St	Poplar St	2	0.15	0.30	0.00	n/a	0
Ash St	Walnut Ave	Samantha	2	0.58	1.16	0.00	n/a	0
Appleby Rd	Gregg Ave	Plainview Ave Ext.	2	1.03	2.06	0.00	n/a	0
15th St	Beechwood Ave	Razorback Rd	2	0.22	0.44	0.00	n/a	0
18th St	Futrell Dr	Beechwood Ave	2	0.26	0.52	0.00	n/a	0
54th Ave	Persimmon St	Wedington Dr	2	0.65	1.30	0.00	n/a	0
59th Ave	Wedington Dr	1071' N of Wedington Dr	2	0.20	0.40	0.00	n/a	0
Brooks Ave	15th St	Boone St	2	0.21	0.42	0.00	n/a	0
Broyles Ave	City Limits	Persimmon	2	1.25	2.50	0.00	n/a	0
Cato Springs Rd	Highway 71	I-540	3	0.18	0.54	0.00	n/a	0
Cato Springs Rd	I-540	City Limits	2	0.58	1.16	0.00	n/a	0
Charlee Ave	Mission Blvd	Charlee Ave Ext.	2	0.23	0.46	0.00	n/a	0
City Lake Rd	Pump Station Rd	Willoughby Rd	2	1.39	2.78	2.78	1,600	2,224
Cliffs Blvd	Crossover Blvd	218' W of Crossover	4	0.04	0.16	0.00	n/a	0
Cliffs Blvd	218' W of Crossover	Happy Hollow Rd	4	0.48	1.92	0.00	n/a	0

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Fayetteville Road Impact Fee Study

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Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Deane Solomon Rd	Mount Comfort Rd	Highway 112	2	1.76	3.52	3.52	1,100	1,936
Dinsmore Trl	6th St	City Limits	2	0.40	0.80	0.00	n/a	0
Drake St	McConnell	Garland Ave	2	0.15	0.30	0.00	n/a	0
Drake St	1,278' W of Gregg Ave	Highway 71	4	0.62	2.48	0.00	n/a	0
Ernie Jacks Blvd	Garland Ave	314' W of Garrett Dr	2	0.13	0.26	0.00	n/a	0
Front St	Millsap Rd	Joyce Blvd	2	0.62	1.24	0.00	n/a	0
Frontage Rd	Joyce Blvd	Zion Rd	2	0.49	0.98	0.98	8,000	3,920
Futrell Dr	Wedington Dr	Freeway Ramp	2	1.74	3.48	3.48	4,000	6,960
Futrell Dr	Freeway Ramp	455' S of 6th St	3	0.21	0.63	0.63	3,200	672
Futrell Dr	455' S of 6th St	18th St	2	0.54	1.08	1.08	3,200	1,728
Futrell Dr	Gregg Ave	Millsap Rd	2	0.60	1.20	0.00	n/a	0
Garland Ave	Cato Springs Rd	Brooks Ave	2	0.33	0.66	0.00	n/a	0
Garrett Dr	Ernie Jacks Blvd	1,353' E of Leverett Ave	2	0.36	0.72	0.00	n/a	0
Goff Farm Rd	Dead Horse Mtn Rd	City Limits	2	0.80	1.60	0.00	n/a	0
Gypsum Dr	Salem Rd	Raven Ln	2	0.28	0.56	0.00	n/a	0
Happy Hollow Rd	Cliffs Blvd	886' S of Cliffs Blvd	4	0.17	0.68	0.00	n/a	0
Happy Hollow Rd	886' S of Cliffs Blvd	Huntsville Rd	2	0.55	1.10	1.10	480	264
Harold St	College Ave	Stubblefield Rd	2	0.25	0.50	0.00	n/a	0
Hollywood Ave	6th St	1210' S of 6th St	2	0.23	0.46	0.00	n/a	0
Joyce St	Joyce Blvd	City Limits	2	0.45	0.90	0.00	n/a	0
Leverett Ave	North St	Garrett Dr	2	0.96	1.92	1.92	6,800	6,528
Longview St	Plainview Ave	College Ave	2	0.15	0.30	0.00	n/a	0
Mall Ave	Joyce Blvd	1,211' S of Joyce Blvd	2	0.23	0.46	0.00	n/a	0
Mall Ave	1,211' S of Joyce Blvd	Shiloh Dr	3	0.29	0.87	0.00	n/a	0
Mally Wagnon Rd	City Limits	Huntsville Rd	2	0.25	0.50	0.00	n/a	0
McConnell Ave	Knapp Dr	Drake St	2	0.52	1.04	0.00	n/a	0
Miller St	Yates Ave	Gregg Ave	2	0.11	0.22	0.00	n/a	0
Millsap Rd	Futrell Dr	504' E of Plainview Ave	3	0.36	1.08	0.00	n/a	0
Millsap Rd	504' E of Plainview Ave	Vantage Dr	2	0.32	0.64	0.00	n/a	0
Monte Painter Dr	Northhills Blvd	Wimberly Dr	2	0.16	0.32	0.00	n/a	0
Morningside Dr	Huntsville Rd	Pump Station Rd	2	0.96	1.92	0.00	n/a	0
New Bridge Rd	155' E of High Ave	Settlemen Ln	2	0.51	1.02	0.00	n/a	0
Northhills Blvd	Monte Painter Dr	Futrell Dr	4	0.21	0.84	0.00	n/a	0
Old Farmington Rd	6th St	Shiloh Dr	2	0.88	1.76	0.00	n/a	0
Old Missouri Rd	Old Wire Rd	Zion Rd	3	2.01	6.03	6.03	6,600	13,266
Old Wire Rd	City Limits	1,570' N of Skillern Rd	2	0.46	0.92	0.92	1,700	782
Persimmon St	46th St	54th Ave	2	0.75	1.50	0.00	n/a	0
Plainview Ave	367' S of Kenray St	Millsap Rd	2	0.34	0.68	0.00	n/a	0
Poplar St	Yates Ave	College Ave	2	0.37	0.74	0.00	n/a	0
Porter Rd	Wedington Dr	Deane St	2	0.58	1.16	1.16	2,200	1,276
Raven Ln	Mount Comfort Rd	145' N of Quail Dr	2	0.22	0.44	0.00	n/a	0
Roberts Rd	Huntsville Rd	City Limits	2	0.16	0.32	0.00	n/a	0
Rolling Hills Dr	College Ave	Old Missouri Rd	2	0.71	1.42	1.42	11,000	7,810
Rupple Rd	600' S of New Bridge	Old Mt Comfort	2	0.44	0.88	0.00	n/a	0
Salem Rd West	Deane Solomon Rd	City Limits	2	0.15	0.30	0.00	n/a	0

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Salem Rd North	City Limits	Mount Comfort Rd	2	1.16	2.32	0.00	n/a	0
Salem Rd North	1,984' S of Mt Comfort	Wedington Dr	2	0.67	1.34	0.00	n/a	0
Samantha Ave	116' S of Ash St	Ash St	2	0.02	0.04	0.00	n/a	0
Shepherd Ln	Frontage Rd	195' E of Frontage Rd	2	0.04	0.08	0.00	n/a	0
Shiloh Dr	Joyce Blvd	1,157' S of Joyce Blvd	2	0.22	0.44	0.00	n/a	0
Shiloh Dr	Mall Ave	Steele Blvd	3	0.39	1.17	0.00	n/a	0
Shiloh Dr	Highway 112	1,925' S of Mt Comfort	2	1.73	3.46	0.00	n/a	0
Shiloh Dr	1,678' N of Wedington	433' N of 6th St	2	2.02	4.04	4.04	620	1,252
Shiloh Dr	433' N of 6th St	6th St	4	0.08	0.32	0.32	3,700	296
Shiloh Dr	6th St	345' S of 6th St	3	0.07	0.21	0.00	n/a	0
Shiloh Dr	345' S of 6th St	2,010' N of Cato Springs	2	1.09	2.18	0.00	n/a	0
Shiloh Dr	326' S of Cato Springs	End of Shiloh Dr	2	0.23	0.46	0.00	n/a	0
Starr Dr	Mission Blvd	City Limits	2	0.64	1.28	1.28	n/a	0
Stearns St	Joyce Blvd	120' E of Remington Dr	2	0.11	0.22	0.22	n/a	0
Stubblefield Rd	Harold St	Old Missouri Rd	2	0.56	1.12	1.12	n/a	0
Sunbridge Dr	Villa Blvd	College Ave	2	0.08	0.16	0.00	n/a	0
Sycamore St	Garland Ave	Leverett Ave	2	0.25	0.50	0.50	5,100	1,275
Sycamore St	Leverett Ave	Gregg Ave	4	0.32	1.28	1.28	8,200	2,624
Sycamore St	Gregg Ave	Walnut Ave	2	0.68	1.36	1.36	5,150	3,502
Township St	College Ave	Crossover Rd	2	1.75	3.50	3.50	8,400	14,700
Trucker's Dr	Gypsum Dr	Crystal Spgs subdiv	2	0.17	0.34	0.00	n/a	0
Van Asche Dr	Steele Blvd	Mall Ave	3	0.37	1.11	0.00	n/a	0
Vantage Dr	Stearns St	Zion Rd	2	0.37	0.74	0.00	n/a	0
Vantage Dr	Joyce Blvd	169' N of Joyce Rd	2	0.03	0.06	0.00	n/a	0
Walnut Ave	Sycamore St	Ash St	2	0.13	0.26	0.00	n/a	0
Willoughby Rd	City Lake Rd	135' S of City Lake	2	0.03	0.06	0.00	n/a	0
Wimberly Dr	Monte Painter Dr	Futrell Dr	2	0.23	0.46	0.00	n/a	0
Wyman Rd	City Limits	Crossover Rd	2	0.84	1.68	0.00	n/a	0
Yates Ave	Poplar St	Miller St	2	0.07	0.14	0.00	n/a	0
Zion Rd	City Limits	College Ave	2	1.78	3.56	3.56	7,100	12,638
Subtotal, Collectors					101.96	42.20		83,653
Block Ave	Dickson St	Center St	2	0.25	0.50	0.00	n/a	0
Block Ave	Center St	Mountain St	1	0.05	0.05	0.00	n/a	0
Assembly Rd	Skyline Dr	Mission Blvd	2	0.60	1.20	1.20	400	240
6th St	School Ave	Huntsville Rd	2	0.72	1.44	1.44	8,100	5,832
11th St	Duncan Ave	Hill Ave	2	0.08	0.16	0.16	1,200	96
Arkansas Ave	Dickson St	Maple St	2	0.25	0.50	0.50	8,900	2,225
California Blvd	Center St	Leroy Pond Rd	2	0.36	0.72	0.00	n/a	0
Center St	California Blvd	Block Ave	2	0.67	1.34	1.34	5,000	3,350
Center St	Block Ave	East Ave	1	0.05	0.05	0.05	5,000	250
Center St	East Ave	College Ave	2	0.10	0.20	0.20	5,000	500
Cleveland St	Sang Ave	Arkansas Ave	2	1.15	2.30	2.30	3,300	3,795
College Ave	Rock St	15th St	2	0.87	1.74	1.74	2,300	2,001
Dickson St	Fletcher Ave	College Ave	2	0.42	0.84	0.84	5,000	2,100

Road	From	To	Lns	Mi.	Lane-Miles		ADT	VMT
					Ttl.	w/cts.		
Dickson St	College Ave	Arkansas Ave	2	0.60	1.20	1.20	11,000	6,600
Duncan Ave	15th St	11th St	2	0.25	0.50	0.50	1,200	300
East Ave	Mountain St	Dickson St	1	0.30	0.30	0.30	7,000	2,100
Fletcher Ave	Dickson St	Lafayette St	2	0.15	0.30	0.00	n/a	0
Government Ave	Prairie St	6th St	2	0.09	0.18	0.18	560	50
Greenview Dr	Mission Blvd	Viewpoint Dr	2	0.13	0.26	0.00	n/a	0
Hill Ave	6th St	11th St	2	0.31	0.62	0.62	200	62
Huntsville Rd	Mill Ave	Mashburn Ave	2	0.39	0.78	0.00	n/a	0
Lafayette St	Mission Blvd	Arkansas Ave	2	1.04	2.08	2.08	7,800	8,112
Leroy Pond Dr	California Blvd	Razorback Rd	2	0.21	0.42	0.00	n/a	0
Leverett Ave	Maple St	North St	2	0.50	1.00	1.00	7,800	3,900
Maple St	Mission Blvd	Garland Ave	2	1.43	2.86	2.86	13,000	18,590
Mashburn	Huntsville Rd	6th St	2	0.03	0.06	0.00	n/a	0
Mill Ave	Rock St	Huntsville Rd	2	0.08	0.16	0.00	n/a	0
Mission Blvd	Lafayette St	North St	2	0.60	1.20	1.20	12,000	7,200
Mountain St	School Ave	Block Ave	2	0.21	0.42	0.00	n/a	0
Mountain St	Block Ave	East Ave	1	0.05	0.05	0.00	n/a	0
Mountain St	East Ave	College Ave	2	0.10	0.20	0.00	n/a	0
Pembroke Rd	Rockwood Trail	Ridgeway Dr	2	0.27	0.54	0.54	450	122
Prairie St	West Ave	Government Ave	2	0.12	0.24	0.00	n/a	0
Ridgeway Dr	Pembroke Rd	Viewpoint Dr	2	0.16	0.32	0.00	n/a	0
Rock St	College Ave	Mill Ave	2	0.10	0.20	0.20	4,400	440
Rockwood Trail	Mission Blvd	Pembroke Rd	2	0.69	1.38	1.38	400	276
Sang Ave	Cleveland St	Wedington Dr	2	0.25	0.50	0.00	n/a	0
School Ave	Dickson St	Archibald Yell Blvd	2	0.58	1.16	1.16	3,000	1,740
Skyline Dr	Assembly Rd	Assembly Rd	2	0.88	1.76	1.76	190	167
Viewpoint Dr	Ridgeway Dr	Viewpoint Dr	2	0.47	0.94	0.94	520	244
West Ave	Prairie St	Lafayette St	2	0.74	1.48	0.00	n/a	0
Subtotal, Historic Collectors					32.15	25.69		70,292
Total					346.68	266.51		979,166

Source: Segment descriptions, number of lanes and segment length in miles from City of Fayetteville Public Works Department, verified June 21, 2004; total lane-miles is product of lanes times miles; lane-miles with counts is lane-miles for segments with traffic counts; ADT is annual average daily traffic estimates from Arkansas State Highway and Transportation Department, "2002 Traffic Volumes Map of Fayetteville-Springdale, Washington and Benton Counties" or, where 2002 counts not available, 1992 estimated volumes from DeShazo, Starek & Tang, Inc., *Prioritization of Roadway Improvements in Fayetteville, Arkansas*, August 1992; VMT is product of miles times ADT.

APPENDIX B: ARKANSAS IMPACT FEE ENABLING ACT

ARKANSAS CODE, TITLE 14, CHAPTER 56, SUBCHAPTER 1

14-56-102. Development impact fees.

(a) As used in this section:

(1) "Capital plan" means a description of new public facilities or of new capital improvements to existing public facilities or of previous capital improvements to public facilities that continue to provide capacity available for new development that includes cost estimates, and capacity available to serve new development;

(2) "Development" means any residential, multi-family, commercial, or industrial improvement to lands within the municipality or within the municipal service agency's area of service;

(3) "Development impact fee" means:

(A) A fee or charge imposed by the municipality or by a municipal service agency upon or against a development in order to generate revenue for funding or for recouping expenditures of the municipality or municipal service agency that are reasonably attributable to the use and occupancy of the development; and

(B) Shall not include any ad valorem real property taxes, any special assessments for an improvement district, any utility hookup fees or access fees, or any fees for filing development plats or plans, for building permits or for construction permits assessed by a municipality or a municipal service that are approximately equal to the cost of the plat, plan, or permit review process to the municipality or the municipal service agency;

(4) "Municipality" means a city of the first class, city of the second class, or an incorporated town;

(5) "Municipal service agency" means:

(A) Any department, commission, utility or agency of a municipality, including any municipally-owned or controlled corporation;

(B) Any municipal improvement district, consolidated public or municipal utility system improvement district, or municipally-owned nonprofit corporation that owns or operates any utility service;

(C) Any municipal water department, waterworks or joint waterworks, or a consolidated waterworks system operating under the Consolidated Waterworks Authorization Act;

(D) Any municipal wastewater utility or department;

- (E) Any municipal public facilities board; or
 - (F) Any of these municipal entities operating with another similar entity under a interlocal agreement in accordance with §§ 25-20-101 through 25-20-108 or §§ 25-20-201 through 25-20-207;
- (6) "Ordinance" means an municipal impact fee ordinance of municipality or an authorizing rate resolution by a board of commissioners of a consolidated waterworks system authorized to set rates for its customers under the Consolidated Waterworks Authorization Act;
- (7) "Public facilities" means publicly-owned facilities that are one (1) or more of the following systems, or a portion of those systems:
- (A) Water supply, treatment, and distribution, for either domestic water or for suppression of fires;
 - (B) Wastewater treatment and sanitary sewerage;
 - (C) Stormwater drainage;
 - (D) Roads, streets, sidewalks, highways and public transportation;
 - (E) Library;
 - (F) Parks, open space, and recreation areas;
 - (G) Police or public safety;
 - (H) Fire protection; and
 - (I) Ambulance or emergency medical transportation and response.
- (b) A municipality or a municipal service agency may assess, by ordinance, a development impact fee to offset costs to the municipality or to a municipal service agency that are reasonably attributable to providing necessary public facilities to new development.
- (c) (1) A municipality or municipal service agency may assess, collect, and expend development impact fees only for the planning, design and construction of new public facilities or of capital improvements to existing public facilities that expand its capacity or for the recoupment of prior capital improvements to public facilities that created capacity that is available to serve new development.
- (2) The development impact fee may be pledged to the payment of bonds issued by the municipality or municipal service agency to finance capital improvements or public facilities for which the development impact fee may be imposed.

- (3) No development impact fee shall be assessed for, or expended upon, the operation or maintenance of any public facility, or for the construction or improvement of public facilities, that does not create additional capacity.
- (d) (1) A municipality or a municipal service agency may assess and collect impact fees only from new development and only against a particular new development in reasonable proportion to the demand for additional capacity in public facilities that are reasonably attributable to the use and occupancy of that new development.
- (2) The owner, resident, or tenant of a property that was assessed an impact fee and paid it in full shall have the right to make reasonable use of all public facilities that were financed by the impact fee.
- (e) (1) A municipality or municipal service agency may assess, collect, and expend impact fees only under a development impact fee ordinance adopted and amended under this section.
- (2) A development impact fee ordinance shall be adopted or amended by the governing body of a municipality or municipal service agency only after the municipality or a municipal service agency has adopted a capital plan and level of service standards for all of the public facilities that are to be so financed.
- (3) The development impact fee ordinance shall contain:
- (A) A statement of the new public facilities and capital improvements to existing public facilities that are to be financed by impact fees and the level of service standards included in the capital plan for the public facilities that are to be financed with impact fees;
- (B) The actual formula or formulas for assessing the impact fee, which shall be consistent with the level of service standards;
- (C) The procedure by which impact fees are to be assessed and collected; and
- (D) The procedure for refund of excess impact fees, in accordance with subsection (h) of this section.
- (f) (1) The municipality or municipal service agency shall collect the development impact fee at the time and manner and from the party as prescribed in the ordinance and shall collect the fee separate and apart from any other charges to the development.
- (2) (A) A development impact fee shall be collected at either the closing on the property by the owner or the issuance of a certificate of occupancy by the municipality."
- (B) However, a municipal water or wastewater department, waterworks, or joint waterworks, or a consolidated waterworks system operating under the Consolidated Waterworks

Authorization Act may collect a development impact fee in connection with and as a condition to the installation of the water meter serving the property.

- (3) At closing, the development impact fee that has been paid or will be paid for the property shall be separately enumerated on the closing statement.
- (4) The ordinance may include that the development impact fee may be paid in installments at a reasonable interest rate for a fixed number of years or that the municipality or municipal service agency may negotiate agreements with the owner of the property as to the time and method of paying the impact fee.
- (g) (1) The funds collected under a development impact fee ordinance shall be deposited into a special interest-bearing account.
- (2) The interest earned on the moneys in the separate account shall be credited to the special fund and the funds deposited into the special account and the interest earned shall be expended only in accordance with this section.
- (3) No other revenues or funds shall be deposited into the special account.
- (h) (1) The municipality or municipal service agency shall refund the portion of collected development impact fees, including the accrued interest, that has not been expended seven (7) years from the date the fees were paid.
- (2) (A) A refund shall be paid to the present owner of the of the property that was the subject of new development and against which the fee was assessed and collected.
- (B) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property not later than thirty (30) days after the date which the refund becomes due.
- (C) The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.
- (3) (A) The refund shall be made on a pro rata basis, and shall be paid in full not later than ninety (90) days after the date certain upon which the refund becomes due.
- (B) If the municipality or municipal service agency does not pay a refund in full within the period set in this subsection to any person entitled to a refund, that person shall have a cause of action against the municipality for the refund or the unpaid portion in the circuit court for the county in which the property is located.
- (i) (1) (A) On and after the effective date of this section, a municipality or municipal service agency shall levy and collect a development impact fee only if levied and collected under ordinances enacted in compliance with this section.

(B) Beginning January 1, 2004, a municipality or municipal service agency shall collect development impact fees under ordinances enacted before the effective date of this section or under ordinances amended after the effective date of this section only if collected in compliance with subsections (f), (g), and (h) of this section.

(2) However, except for the compliance with the collection requirements under subsections (f), (g), and (h) of this section, this section does not invalidate any development impact fee or a similar fee adopted by a municipality or municipal service agency before the effective date of this section, nor does this section apply to funds collected under any development impact fee or similar fee adopted before the effective date of this section.

(3) In addition, a municipality with a park land or green space ordinance that has been in existence for ten (10) years on the effective date of this section, and any amendments to the ordinance, which allows the option to pay a fee or to dedicate green space or park land in lieu of a fee may continue to be administered under the existing ordinance.

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

C. 4
RZN 06-2366 (Wonnacott)
Page 1 of 16

2-Jan-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2336: (Wonnacott, 436): Submitted by Melissa Wonnacott for property located 655 and 657 North Genevieve Street. 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.

\$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

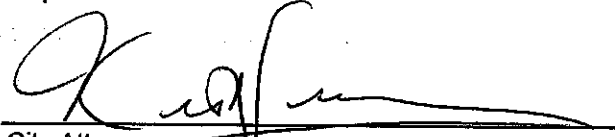

Department Director

12-15-06
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

12-15-06

Received in City Clerk's Office

ENTERED
12/15/06


Finance and Internal Service Director

12-18-06
Date

Received in Mayor's Office

ENTERED
12/15/06


Mayor

12/19/06
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: December 14, 2006

Subject: Rezoning for Wonnacott (RZN 06-2366)

RECOMMENDATION

The Planning Commission recommended in favor of rezoning the subject property of approximately 1.5 acres, located west of Genevieve Street, from R-A to RSF-4.

BACKGROUND

The subject property contains approximately 1.5 acres and is located west of Genevieve Street and Sundance Meadows Subdivision. The property is zoned R-A, Residential Agricultural, and is developed for one duplex. In 1982, property from Ruppel Road to Double Springs Road was annexed into the City of Fayetteville. The property was zoned R-A, and through time individual parcels of land have been rezoned and developed into residential subdivisions, such as Sundance Meadows and Legacy Pointe. The subject property and surrounding property have remained R-A though the lot sizes and uses do not conform to the requirements of this zoning district.

The applicant proposes that the property be rezoned from R-A to RSF-4. Rezoning the property will bring the lot into compliance, but the existing duplex will remain a nonconforming use until a conditional use permit is approved to allow a two-family dwelling on the lot. A higher density zoning district such as RT-12 or RMF-6 would permit the duplex by right, but a single-family zoning district would be more appropriate in this location.

DISCUSSION

This item was heard at the regular Planning Commission on December 11, 2006. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2366, FOR
APPROXIMATELY 1.50 ACRES, LOCATED AT
655 AND 657 NORTH GENEVIEVE STREET
FROM R-A, RESIDENTIAL AGRICULTURAL,
TO RSF-4, RESIDENTIAL SINGLE-FAMILY, 4
UNITS PER ACRE.

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

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

From R-A, Residential Agricultural acre to RSF-4,
Residential Single-Family, 4 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.

PASSED and APPROVED this ___ day of ___, 2007.

APPROVED:

ATTEST:

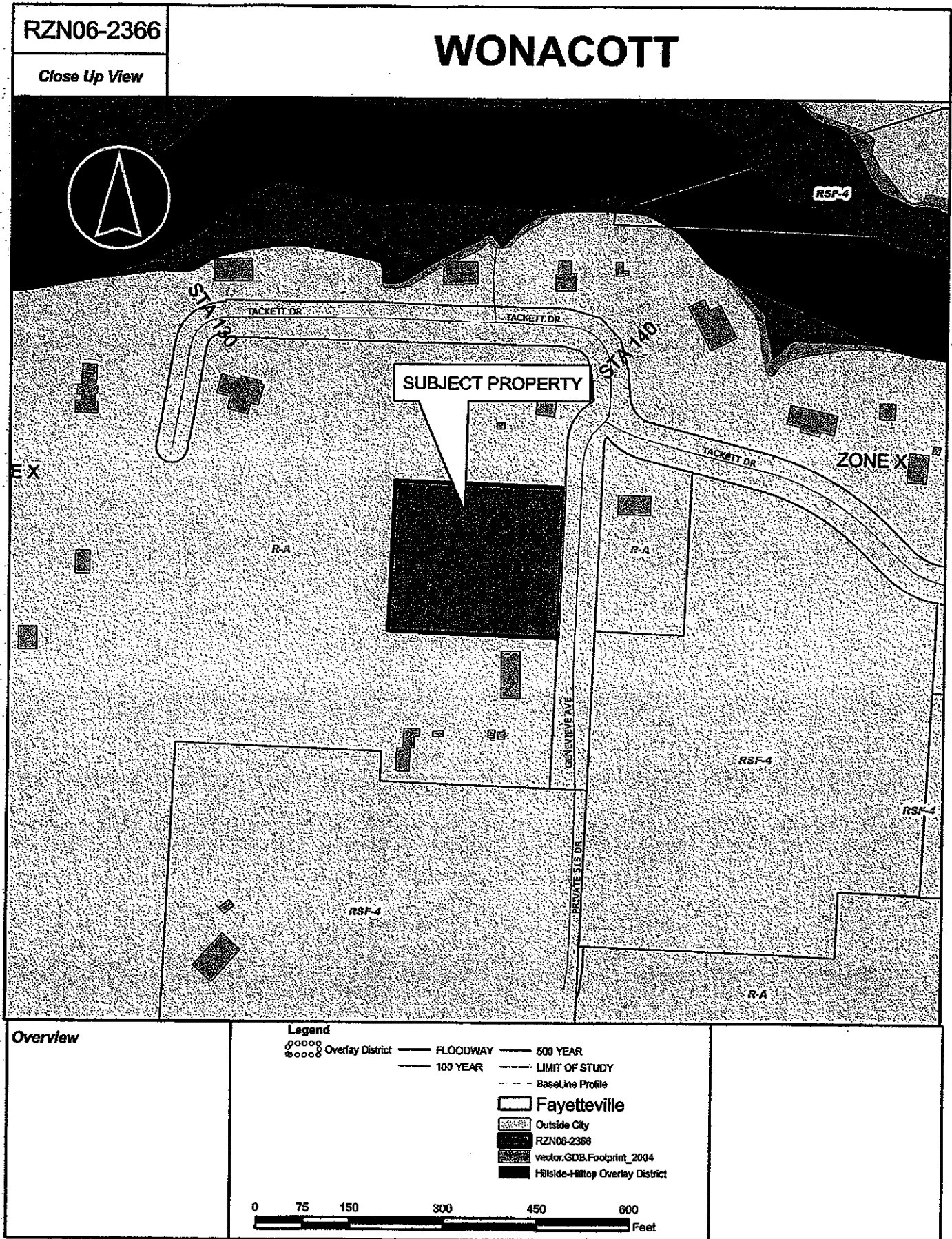
By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2366

PART OF THE SECTION SE 1/4 OF THE SW1/4 OF SECTION 11 IN TOWNSHIP 16 NORTH OF RANGE 31 WEST, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S00°04'20"W 56.46 FEET OF THE NORTHWEST CORNER OF SAID FORTY ACRE TRACT, AND RUNNING, THENCE S00°04'20"W 242.0 FEET, THENCE EAST 270.0 FEET TO THE WEST RIGHT OF WAY OF A 60 FOOT ROAD (GENEVIEVE ST.), THENCE N00°04'20"E ALONG SAID ROAD RIGHT OF WAY 242.0 FEET, THENCE WEST 270.0 FEET TO THE POINT OF THE BEGINNING, CONTAINING 1.50 ACRES, MORE OR LESS. AND HAVING INGRESS AND EGRESS RIGHTS TO A 60 FOOT ROAD ALONG THE EAST SIDE OF THE ABOVE DESCRIBED TRACT.

EXHIBIT "B"





PC Meeting of December 11, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 6, 2006 *Updated December 11, 2006*

RZN 06-2366: (WONNACOTT, 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

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:		Required <u>YES</u>	☒ Approved	☐ Denied
Motion: Ostner	Second: Clark	Vote: 8-0-0		
Date: <u>December 11, 2006</u>				
CITY COUNCIL ACTION:		Required <u>YES</u>	☐ Approved	☐ Denied
Date: <u>January 02, 2007 (1st reading if recommended)</u>				

BACKGROUND:

Property description: The subject property contains approximately 1.5 acres. The property is located west of Genevieve Street and Sundance Meadows Subdivision. The property is zoned R-A, Residential Agricultural, and is developed for one duplex. With 1.5 acres of lot area and approximately 241' of lot width, the property does not conform to the bulk and area requirements of the R-A zoning district (see Table 1). In 1982, property from Ruppel Road to Double Springs Road was annexed into the City of Fayetteville. The property was zoned R-A, and through time, individual parcels of land have been rezoned and developed into subdivisions. The subject property and surrounding property have remained R-A though the lot sizes and uses do not conform to the requirements of this zoning district.

Proposal: The applicant proposes that the property be rezoned from R-A to RSF-4. Although the rezoning will bring the lot into compliance, the duplex will remain a nonconforming use until a conditional use permit is approved to allow a two-family dwelling on the lot. A higher density

zoning district (RT-12 or RMF) would permit the duplex by right. The applicant has met with staff on several occasions and determined that a single-family zoning district would be more appropriate in this location. After receiving rezoning approval, it is the applicant's intent to subdivide the property into three or four lots, including one or two tandem lots, and obtain conditional use permit approval for the existing duplex and an additional duplex. This application, however, is only for consideration of rezoning the property from R-A to RSF-4 and not development approval.

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

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Two-family dwelling	R-A, Residential Agricultural
South	Two-family dwelling	R-A, Residential Agricultural
East	Sundance Meadows (single family res.)	RSF-4, Res. Single-Family – 4 units/acre
West	Single Family Residential	R-A, Residential Agricultural

TABLE 1

Use	Required Lot Area	Required Lot Width
Single Family	2 acres	200 feet
Two Family	4 acres	400 feet

INFRASTRUCTURE:

Streets: The site has access to Genevieve Street. Genevieve Street is an unimproved 2-lane roadway in this location. 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 2" waterline along Genevieve. Water service will need to be upgraded to the property at the time of development.

Sewer: Sanitary sewer is available adjacent to the site. There is a 6" sewer main along Genevieve Street. 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. This property is located in the Hamestring Creek lift station drainage basin.

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

Fire:

- ◆ These 1.5 acres is covered by Engine 7 at 835 Ruppel Road.
- ◆ It is 2.1 miles from the station with an expected response time of 5.25 minutes.
- ◆ The Fire Department anticipates 1 (1 EMS – 0 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
- ◆ There is no Measured Hydrant Flow recorded in this area.
- ◆ The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
- ◆ There should be no adverse effects on our call volume or response time to this development.

Police: 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.

INTERIM FUTURE LAND USE PLAN: Residential. Rezoning this property to RSF-4 is consistent with the interim land use plan and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-4 zoning for a Single family residential use is compatible with developed subdivisions within the vicinity of the property. Although the immediately adjacent property is zoned R-A, the lot sizes and uses are more appropriate within the RSF-4 zoning district. Rezoning the property will allow for additional development and promote the goal of infill identified in City Plan 2025.

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 nonconforming within the R-A zoning district. The owner has requested a rezoning at this time to bring the lot into compliance with bulk and area regulations and pursue subdivision of the property to provide additional residential housing in the area. As infrastructure is extended to areas surrounding this property and developed at densities of approximately 4 units per acre, it is reasonable to consider rezoning those remaining R-A properties to allow infill where appropriate.

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

Finding: Should the applicant pursue subdivision and development of the property, additional traffic will be added to Genevieve Street, an unimproved public street. At this time, Genevieve Street dead-ends to the south and intersects Tackett Road to the north. Tackett Road intersects with 54th Street, and both of these streets were improved with the development of Sundance Meadow Subdivision. Development of Legacy Pointe Phase 5, located south of the property, has been approved with the requirement that Genevieve Street extend south and become a through street. 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 an R-A, Residential Agricultural designation, with a minimum lot area requirement of 1 unit per 2 acres, the 1.5-acre tract cannot be developed. With the proposed RSF-4 designation, a maximum 6 dwelling units would be permitted. There are two existing dwelling units on the property resulting in a maximum increase of four residential units. Rezoning the property increases the possible number of residential units and population than that which would be allowed in the R-A zoning district, but is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

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

(G) *Building area.* None.

K:\Reports\2006\PC Reports\12-11-06\RZN 06-2366 (Wonnacott).doc

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

Submitted by Melissa A. Wonnacott

12/07/2006

To: Fayetteville Planning Commission and Fayetteville City Council

From: Melissa A. Wonnacott

655 N Genevieve Ave.

Fayetteville, AR. 72704

479-973-9783

479-236-2931

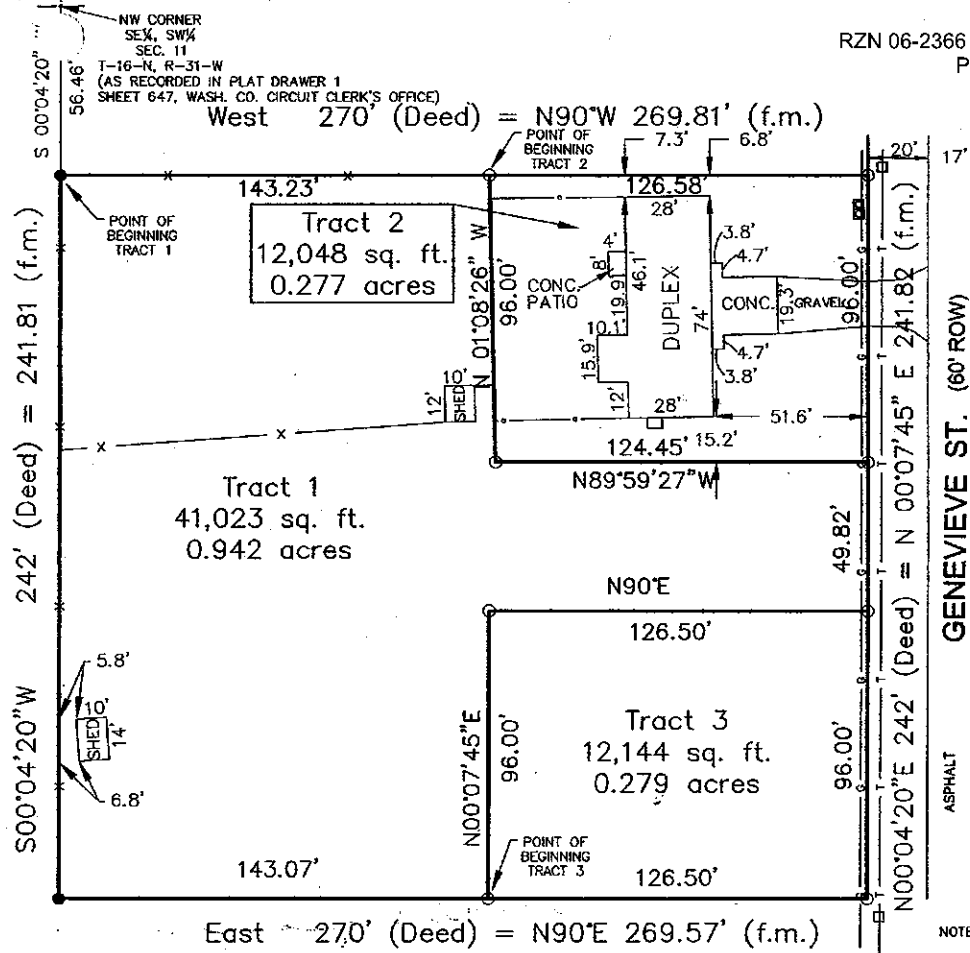
RE: Rezone of Parcel 765-16225-000

655 N Genevieve Ave.

Fayetteville, AR. 72704

1. A check for \$325 has been included with this application
2. Legal description Part of the Section SE 1/4 of SW 1/4 of Section 11 in Township 16 North of Range 31 West, and being more particularly described as follows, to-wit: Beginning at a point which is S0004'20"W 56.46 feet of the Northwest corner of said forty acre tract, and running thence S0004'20"W 242.0 feet, thence East 270.0 feet to the West right of way of a 60 foot road (Genevieve St.), thence N004'20"E along said road right of way 242.0 feet, thence 270.0 feet to the point of the beginning, containing 1.5 acres, more or less. And having ingress and egress rights to a 60-foot road along the east side of the above described tract.
3. Labels included.
4. Copy of plat included.
5. Legal description Part of the Section SE 1/4 of SW 1/4 of Section 11 in Township 16 North of Range 31 West, and being more particularly described as follows, to-wit: Beginning at a point which is S0004'20"W 56.46 feet of the Northwest corner of said forty acre tract, and running thence S0004'20"W 242.0 feet, thence East 270.0 feet to the West right of way of a 60 foot road (Genevieve St.), thence N004'20"E along said road right of way 242.0 feet, thence 270.0 feet to the point of the beginning, containing 1.5 acres, more or less. And having ingress and egress rights to a 60-foot road along the east side of the above described tract.
6. I, Melissa Ann Wonnacott am the current owner of the above referenced property. I am requesting to rezone the property from the current zoning of RA to RSF-4. RA does not allow for the property to be split into separate parcels. This property once rezoned will comply with the current uses of the surrounding properties by matching current adjoining properties zoning and fits into the 2025 land zone recommendations. This rezoning will not cause further traffic congestion and will only increase the appearance of the area. There is full sewer and water available the size of the lines are
7. The current use of this property is a duplex on an acre and a half lot. For this area to conform with the current use it has to be in a zoning class which allows for multiple family homes. I am requesting RSF-4 so that I might obtain a conditional use to maintain the current street's residential conditions. There are

two additional duplexes on Genevieve. One that is on the north side and one to the south side of the property. Financially single-family homes would not be a good investment because of the adjoining properties. Also, RA zoning inside the city of Fayetteville's limits is not an adequate zoning. So without asking for RT-12 or RT-24 that is required to meet a conforming status on the current lot it will be able to conform with a conditional use in RSF-4. It is the belief of the current planners and myself that a RT12 or RT-24 would be a high planning density and therefore isn't just. It is not my intent to request either of those two zonings or to request more than two conditional uses on this property. I have spoken with the current planners to be advised as to what use will best suit Fayetteville's long range plans and to allow for me to keep the largest amount of property on the back half of the lot which to someday build a lifelong home. If this property is zoned to a RSF-4 it will allow for a lot split and I will be able to have the three to four lots that I am looking to obtain. It will meet the 2025 plan and it won't cause any more congestion to the existing road infrastructure.



PARENT TRACT DESCRIPTION:

Part of the SE¼ of the SW¼ of Section 11 in Township 16 North of Range 31 West, and being more particularly described as follows, to-wit: Beginning at a point which is 500'04'20"W 56.46 feet from the Northwest corner of said forty acre tract, and running, thence 500'04'20"W 242.0 feet, thence East 270.0 feet to the West right of way of a 60 foot road (Genevieve St.), thence N00°04'20"E along said road right of way 242.0 feet, thence West 270.0 feet to the point of beginning, containing 1.50 acres, more or less. And having ingress and egress rights to a 60 foot road along the East side of above described tract.

TRACT 1:

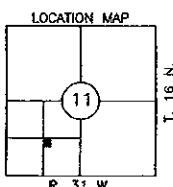
Part of the SE¼ of the SW¼ of Section 11 in Township 16 North of Range 31 West, and being more particularly described as follows, to-wit: Beginning at a 3" diameter rebar pin which is 500'04'20"W 56.46 feet from the Northwest corner of said SE¼ of the SW¼, thence 500'04'20"W 241.82 feet (record 242.0') to a found 3" diameter rebar pin; thence N90°E 143.07 feet to a set 3" diameter rebar pin; thence N00°07'45"E 96.00 feet to a set 3" diameter rebar pin; thence N90°E 126.50 feet to a set 3" diameter rebar pin on the West right of way of Genevieve St.; thence along said right of way N00°07'45"E 49.82 feet to a set 3" diameter rebar pin; thence leaving the right of way N89°59'27"W 124.45 feet to a set 3" diameter rebar pin; thence N01°08'26"W 96.00 feet to a set 3" diameter rebar pin; thence N90°W 143.23 feet to the point of beginning, containing 41,023 square feet, more or less.

TRACT 2:

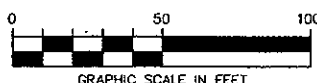
Part of the SE¼ of the SW¼ of Section 11 in Township 16 North of Range 31 West, and being more particularly described as follows, to-wit: Commencing at a 3" diameter rebar pin which is 500'04'20"W 56.46 feet from the Northwest corner of said SE¼ of the SW¼, thence 500'04'20"W 241.82 feet (record 242.0') to a found 3" diameter rebar pin; thence N90°E 143.07 feet to a set 3" diameter rebar pin on the West right of way of Genevieve St.; thence 500'07'45"W 96.00 feet along said right of way to a set 3" diameter rebar pin; thence leaving the right of way N89°59'27"W 124.45 feet to a set 3" diameter rebar pin; thence N01°08'26"W 96.00 feet to the point of beginning, containing 12,048 square feet, more or less.

TRACT 3:

Part of the SE¼ of the SW¼ of Section 11 in Township 16 North of Range 31 West, and being more particularly described as follows, to-wit: Commencing at a 3" diameter rebar pin which is 500'04'20"W 56.46 feet from the Northwest corner of said SE¼ of the SW¼, thence 500'04'20"W 241.82 feet (record 242.0') to a found 3" diameter rebar pin; thence N90°E 143.07 feet to a set 3" diameter rebar pin for a Point of Beginning; thence N00°07'45"E 96.00 feet to a set 3" diameter rebar pin; thence N90°E 126.50 feet to a set 3" diameter rebar pin on the West right of way of Genevieve St.; thence along said right of way 500'07'45"W 96.00 feet to a set 3" diameter rebar pin; thence N90°W 126.50 feet to the point of beginning, containing 12,144 square feet, more or less.



BEARINGS BASED ON SURVEY BY
DOUGLAS G. HEMINGWAY AS
FILED IN PLAT BOOK J
AT PAGE 822 ON 04/18/85



NOTE: This tract is not in the 100 year flood plain as shown on the Firm Flood Hazard Map for Washington County Number 05143C0087D revised on July 21, 1999.

LEGEND

- EXISTING 3/8" REBAR PIN
- SET 1/2" REBAR PIN
- ⊗ GAS METER
- TELEPHONE RISER
- T - TELEPHONE CABLE APPROX.
- G - GAS LINE APPROX.
- ○ - EXISTING CHAIN LINK FENCE
- x - EXISTING WIRE FENCE



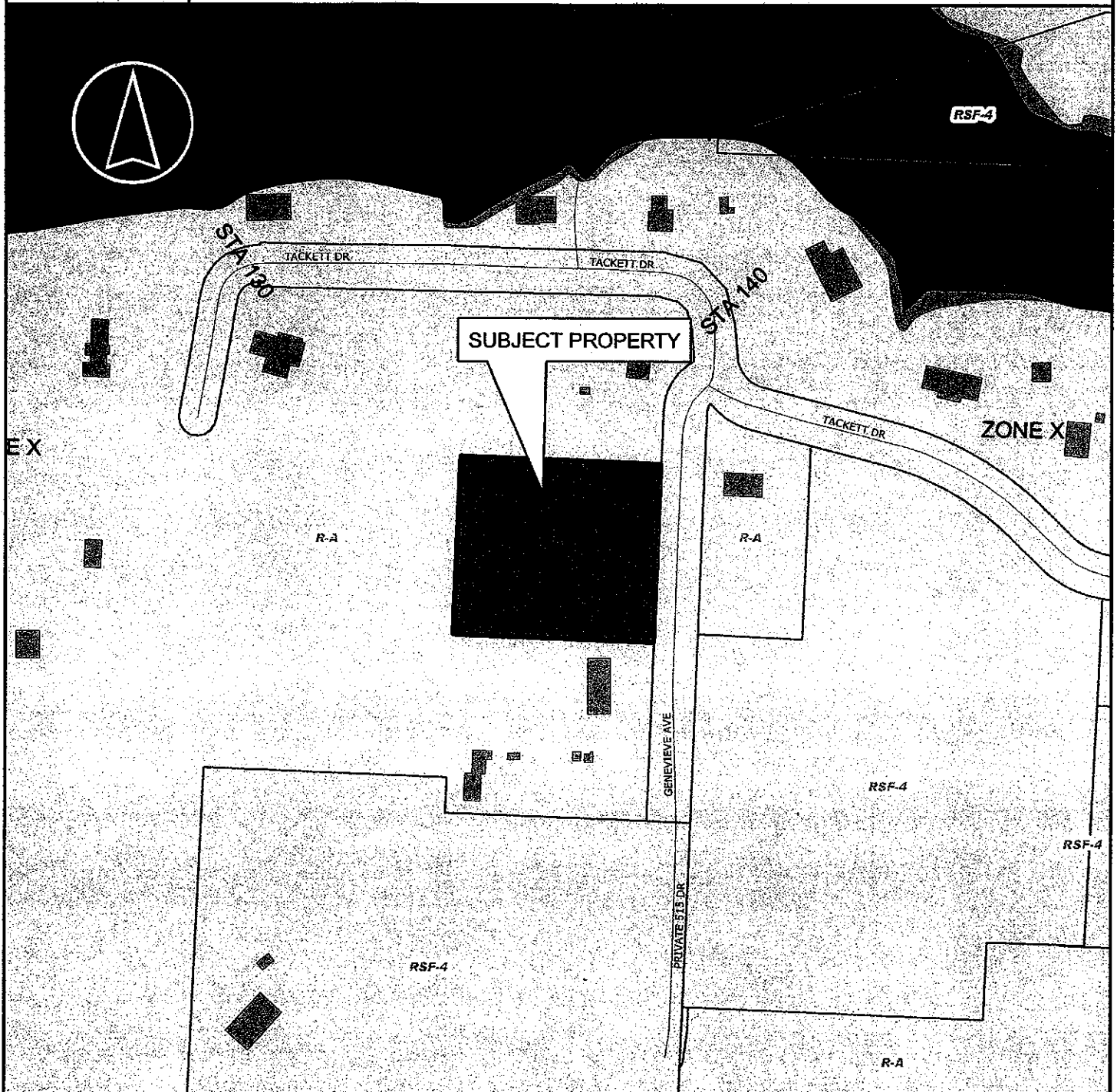
Survey for use and benefit of:
**MELISSA
WONNACOTT**

DATE: 03/12/06
FIELD WORK DATE: 03/11/06
SCALE: 1" = 50'
BY: KENNETH R. MITCHELL
2403 WOODLAND AVE.
SPRINGDALE, AR. 72762
PHONE: 479-756-5922

RZN06-2366

Close Up View

WONNACOTT



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-2366
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 75 150 300 450 600 Feet

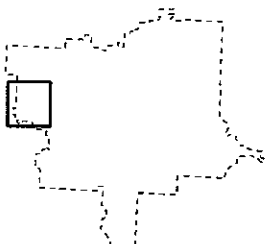
RZN06-2366

One Mile View

WONNACOTT



Overview



Legend

Subject Property

RZN06-2366

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**

2-Jan-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 06-2344: (Dunnerstock and Windsor SD, 513): Submitted by Dave Jorgensen for property located at northeast corner of Double Springs Road and Sellers Road. The property is zoned R-A, Residential Agricultural, and contains approximately 34.44 acres. The request is to rezone the subject property to RSF-2, Residential Single-Family, 2 units per acre.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

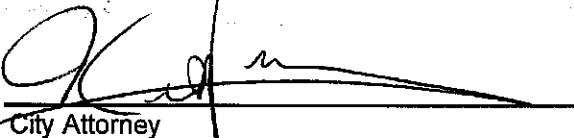
Budgeted Item ☐

Budget Adjustment Attached ☐

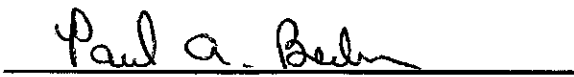

Department Director 12-15-06
Date

Previous Ordinance or Resolution # n/a

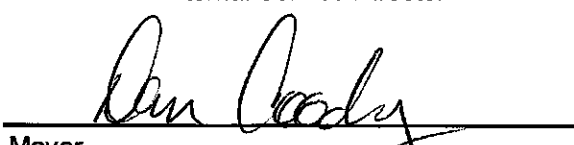
Original Contract Date: n/a


City Attorney 12-15-06
Date

Original Contract Number: n/a


Finance and Internal Service Director 12-18-06
Date

Received in City Clerk's Office



Mayor 12-19-06
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: December 12, 2006

Subject: Rezoning for Dunnerstock – Windsor Subdivision (RZN 06-2344)

RECOMMENDATION

The Planning Commission recommended in favor of rezoning the subject property from R-A to RSF-2 on approximately 34.44 acres located located at the northeast corner of Double Springs Road and Sellers.

BACKGROUND

The subject property contains approximately 34.44 acres and is located at the northeast corner of Double Springs Road and Sellers Road. Double Springs Road along the western property line provides a major north-south connection with Wedington Drive and is not improved to its City of Fayetteville Master Street Plan designation as a Minor Arterial. Sellers Road is an unimproved gravel road along the southern property line. The property has been under construction for a 28-lot subdivision within the City of Farmington Planning Area, prior to it being annexed into the City of Fayetteville. Construction has ceased on the property, pending zoning and development approvals. The applicant has the right to develop the 28-lot subdivision that was approved by the City of Farmington. The surrounding property is undeveloped and agricultural/rural residential.

DISCUSSION

This item was heard at the regular Planning Commission on December 11, 2006. The Planning Commission discussed that they were not in favor of rezoning the property to RSF-4 as originally requested. The applicant agreed with staff's recommendation to modify the rezoning request to RSF-2. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REZONING THAT
PROPERTY DESCRIBED IN REZONING
PETITION RZN 06-2344, FOR
APPROXIMATELY 34.44 ACRES, LOCATED
AT THE NORTHEAST CORNER OF DOUBLE
SPRINGS ROAD AND SELLERS ROAD, FROM
R-A, RESIDENTIAL AGRICULTURAL, TO RSF-
2, RESIDENTIAL SINGLE-FAMILY, 2 UNITS
PER ACRE.

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

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

From R-A, Residential Agricultural to RSF-2,
Residential Single-Family, 2 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.

PASSED and APPROVED this ___ day of ___, 2007.

APPROVED:

ATTEST:

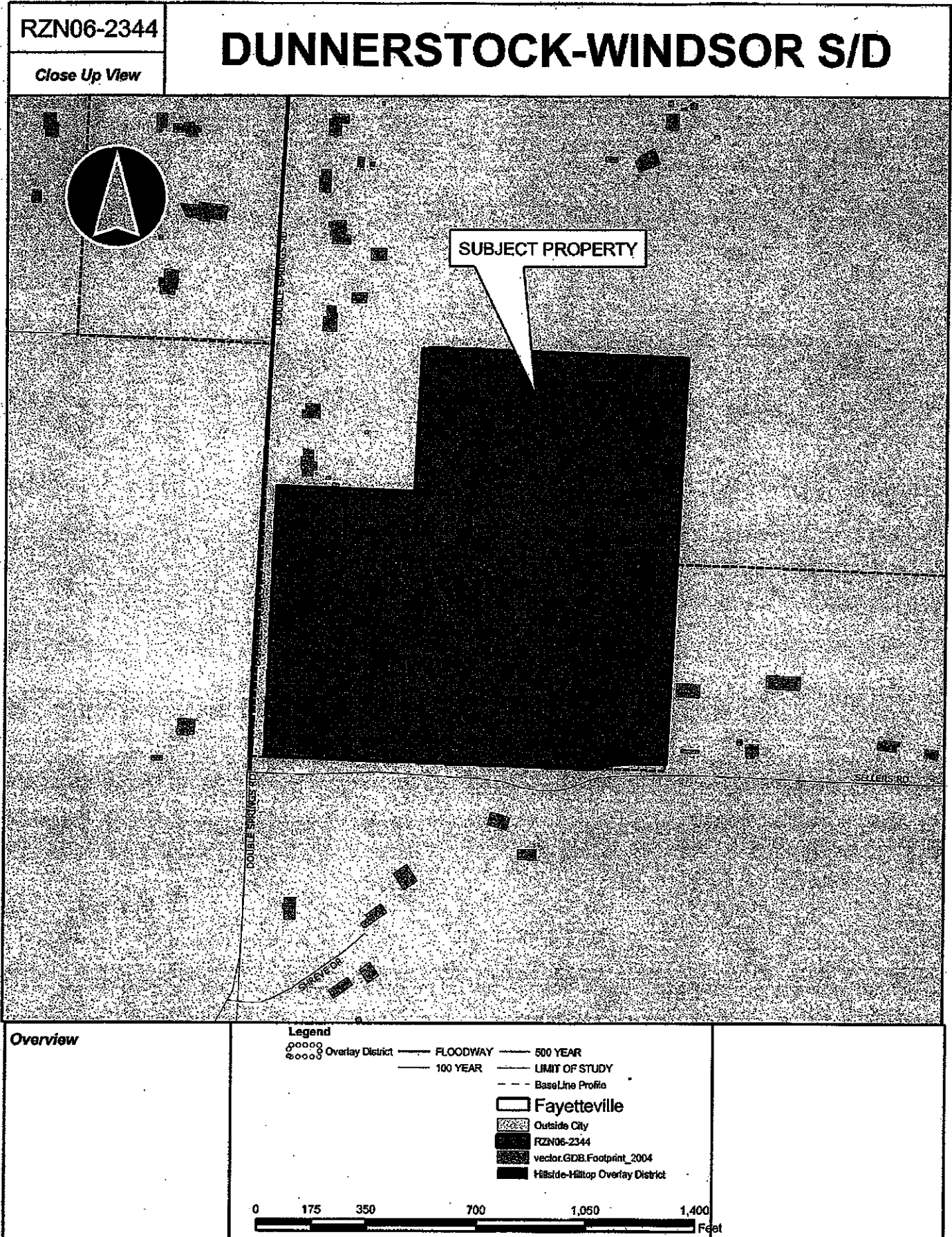
By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
RZN 06-2344

PART OF THE NE1/4, SE1/4 OF SECTION 15, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NE CORNER OF SAID NE1/4, SE1/4 THENCE S02°37'46"W 1302.09 FEET, THENCE N88°44'23"W 93.06 FEET, THENCE ALONG A CURVE TO THE LEFT 141.17 FEET, SAID CURVING HAVING A RADIUS OF 476.00 FEET AND A LONG CHORD BEARING OF S82°45'50"W 140.66 FEET, THENCE S74°16'03"W 0.69 FEET, THENCE N87°54'07"W 1050.97 FEET, THENCE N02°16'48"E 866.42 FEET, THENCE S87°46'18"E 440.97 FEET, THENCE N02°44'58"E 460.06 FEET, THENCE S87°44'26"E 21.00 FEET, THENCE N02°28'12"E 3.35 FEET, THENCE S87°44'26"E 825.57 FEET TO THE P.O.B.; CONTAINING 34.44 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.

EXHIBIT "B"





PC Meeting of December 11, 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 Updated December 12, 2006

RZN 06-2344: (DUNNERSTOCK - WINDSOR S/D, 513): Submitted by DAVE JORGENSEN for property located at NORTHEAST CORNER OF DOUBLE SPRINGS ROAD AND SELLERS RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 34.44 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Property Owner: Dunnerstock Development, Inc.
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends denial of the requested rezoning from R-A to RSF-4 based on the findings herein.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>	☐ Denied
	☒ Forwarded		
Date:	<u>December 11, 2006</u>		
Motion:	<u>Clark (Recommend in favor of RSF-2 zoning on the property.)</u>		
Second:	<u>Myres</u>		
Vote:	<u>3-0-0</u>		
Comment:	<u>At the meeting the applicant agreed to staff's recommended RSF-2 zoning.</u>		
CITY COUNCIL ACTION:	Required	<u>YES</u>	☐ Denied
	☐ Approved		
Date:	<u>January 2, 2007 (1st reading if recommended)</u>		

BACKGROUND:

November 27, 2006 Planning Commission: This item was tabled at the request of the applicant at the November 27, 2006 Planning Commission meeting for the applicant to get more feedback from staff on their recommendation for denial. Public comment was heard at that meeting with several

property owners in the vicinity commenting that they were opposed to the proposed rezoning to RSF-4 due to the rural residential nature of the area and existing established large lots and low density.

Subsequent to that meeting the applicant has submitted plats to the City indicating that a subdivision (Sellers Subdivision) has been approved across the street from the subject property, and also submitted a sewer plan for connection of the subject property to City sewer.

Staff original recommendation for denial of the requested RSF-4 zoning has not changed.

City of Farmington Approval: The Dunnerstock Subdivision was approved and platted through the City of Farmington in the Farmington Planning Area for a 28 lot subdivision with individual septic systems for each lot. The infrastructure for this subdivision is in the process of being installed with streets already cut and curb, gutter, gravel base, and the water line installed. An aerial photo taken in 2006 is attached to this packet and shows construction on the property.

City of Fayetteville Annexation: The City of Fayetteville approved annexation of the subject property by general election on October 16, 2006 and officially accepted the property into the City on November 21, 2006. This land is automatically rezoned to Residential-Agricultural (R-A) as part of the annexation process.

Property Description: The subject property contains approximately 34.44 acres and is located at the northeast corner of Double Springs Road and Sellers Road. It is zoned R-A, inconsistent with the Interim Future Land Use Plan designation of the property as Residential. As mentioned above, the property has been under construction for a 28-lot subdivision within the City of Farmington Planning Area, prior to it being annexed into the City of Fayetteville. Construction has ceased on the property, pending zoning and development approvals. Should the applicant choose, the right to develop under the provision of the approved preliminary plat is permitted. As shown in *Table 1*, the surrounding property is undeveloped and agricultural/rural residential.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Rural residential/pasture	R-A
South	Rural residential/undeveloped	City of Farmington
East	Undeveloped/rural residential	R-A
West	Pasture/rural residential	City of Farmington

Proposal: After this property was annexed into Fayetteville the applicant decided to re-evaluate development of the property and has submitted a revised subdivision concept plat to the City of Fayetteville with smaller lots, increasing the subdivision density from 28 to 78 lots. The applicant also proposes to connect to the City sewer system to the north with a small lift station. In order to develop the property for 78 lots the applicant proposes a rezoning of the 34.44-acre property to RSF-4 for a single-family subdivision.

Recommendation: Staff recommends denial of the rezoning request based on findings stated herein.

The development of this property at the zoning proposed will be inconsistent to that of surrounding rural residential/agricultural properties and will result in an isolated zone of RSF-4 in an area surrounded by either City of Farmington or R-A, which does conform to City policy. Staff would be in favor of rezoning the property to RSF-2 in order to allow the 28-lot subdivision previously approved through the City of Farmington to be completed and permit connection to the sewer system.

INFRASTRUCTURE:

Streets: The site has access to Double Springs Road. Double Springs Road is a Minor Arterial and has been improved with the construction of this development.

Water: Public water is located throughout the site. There is an 8" waterline system that was extended through the development.

Sewer: Sanitary sewer is available adjacent to the site. There is a lift station being constructed on the adjacent property which will be modified to carry the flow generated from this development. This property is located in the Hamestring Creek lift station drainage basin.

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

Fire: These 34.44 acres are covered by Engine 7 located at 835 North Ruppel Road. The property is 3.4 miles from the station with an expected response time of 7.5 minutes. The Fire Department anticipates 31 (19 EMS – 12 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. There 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. The response time is above the Fire Department's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time.

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**. Rezoning this property to RSF-4 is compatible with the City Plan designation, but is not compatible with the surrounding density of surrounding undeveloped and rural residential property.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed zoning for single-family use at four units per acre is not compatible with adjacent and nearby agricultural and rural residential uses. The City Plan 2025 designates this area for Residential land use. It does not designate density levels; staff, the Planning Commission and the City Council is charged with evaluating surrounding land uses and the proposal's compatibility with these uses. The proposed density is not consistent with the existing density allowed on the surrounding undeveloped properties and would create a spot zone. Rezoning this property RSF-4 adjacent to property zoned R-A and City of Farmington does not create compatible development patterns. Staff finds that the zoning request is not entirely consistent with land use planning objectives, principles and policies. Staff would recommend in favor of a rezoning request to RSF-2 to allow for a residential subdivision similar to that already under construction to be completed.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that the proposed zoning is not justified at this time. The proposed zoning would result in an isolated area of RSF-4 surrounded by rural residential and agricultural uses and either R-A zoning or City of Farmington. Although the City Plan 2025 designates this area as residential, the configuration of the proposed property to be rezoned is not appropriate given the surrounding land uses. The previously approved subdivision on the property with 28 lots (approximately 1.2-acres per lot) has a greater degree of compatibility than the proposed RSF-4 zoning. The immediate vicinity does not currently have the type of density or zoning requested by the applicant.

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

Finding: The additional density under the proposed RSF-4 zoning will create a fairly substantial increase in the amount of traffic in the surrounding rural area. The property to be rezoned adjoins Double Springs Road along the western property line which provides a major north-south connection with Wedington Drive and is not improved to its City of Fayetteville Master Street Plan designation as a Minor Arterial. Sellers Road is an unimproved gravel road along the southern property line. To develop at the maximum proposed density would produce approximately 1,380 vehicle trips per day (34.44 acres x 4 units/acre = 138 units = 1,380 average daily vehicle trips) compared to 280 vehicle trips per day if the previously approved 28-lot subdivision were developed under an RSF-1 or RSF-

2 zoning. The applicant has indicated that if rezoned RSF-4 the property would be developed with 78 lots, resulting in approximately 780 vehicle trips per day.

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

Finding: The proposed zoning would increase population density from that zoning currently in place. The 34.44 acre tract under an R-A zoning designation allows for a maximum of 17 single family residential dwelling units. With the proposed RSF-4 designation, a maximum of 138 single-family dwelling units would be permitted, resulting in the potential increase of 121 residential units. This change in zoning will substantially increase the possible number of residential units and is not in keeping with existing land uses and density in the surrounding area.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. The impact to public services was determined to be less than significant 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

CITY OF 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)

161.06 District RSF-2, Residential Single-Family – Two Units Per Acre

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (one acre and over) and areas that have developed with smaller lot sizes (8,000 sq. ft.), and to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

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

(D) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	2
----------------	---

(F) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot area minimum	17,860 Sq. Ft.
Land area per dwelling unit	17,860 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
30 ft.	15 ft.	30 ft.

- (H) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

- (I) *Building area.* None.

(Code 1991, §160.045; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

- (A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

- (B) *Uses.*

- (1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

- (2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

- (C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

- (D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.

Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

- (E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

- (F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

- (G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson *TJ*
Asst Chief Bud Thompson *BT*
From: Captain Dale Riggins
Date: November 20, 2006
Re: November 20, 2006 Zoning Review – Fire Department Comments

RZN 06-2344 (Dunnerstock – Windsor S/D)

These 34.50 acres are covered by Engine 7 at 835 Ruppel Road.

It is 3.4 miles from the station with an expected response time of 7.5 minutes to the beginning of this development. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time.

The Fire Department anticipates 31 (19 EMS – 12 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

There 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.

RZN 06-2345 (Sloan)

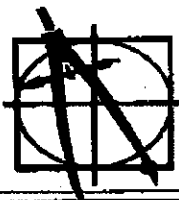
These 19.23 acres are covered by Engine 7 at 835 Ruppel Road.

It is 3.1 miles from the station with an expected response time of 7 minutes to the beginning of this development. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time.

The Fire Department anticipates 35 (22 EMS – 13 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.



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.

12/7/06

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Jeremy Pate
Re: Windsor Subd. (Rezoning Request)

Dear Jeremy;

Attached herewith please find a copy of the bill of assurance to limit the lots to 78 on the above referenced project. This makes the density 2.26. As mentioned this makes a difference in the affordability of installing sewer, the pump station and force main. If we cannot obtain the zoning that would allow 78 lots it is questionable that the cost of these improvements is justifiable.

As mentioned, Shannon Jones is working on the preliminary plans for the future pump station, gravity lines and force main that will be located in Farmington that will require easements through this property.

Please call concerning any questions you may have.

Thank you.

Sincerely;



David L. Jorgensen, P.E.

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, developer, or buyer of this property, (hereinafter "Petitioner") Dunnetstock Dev. (Mark Foster), 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 18 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, MARK BOSTER, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

December 1, 2006

Date _____

MARK FOSTER

Printed Name _____

Address

Signature

NOTARY OATH

STATE OF ARKANSAS
COUNTY OF WASHINGTON

And now on this the 14th day of December, 2006 appeared before me, MARK DOSTER 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:

0103013



JORGENSEN & ASSOCIATES
CONSULTING ENGINEERS, INC.

TRANSMITTAL FORM

TO: JEREMY
Attn: _____
FROM: _____
RE: DAVE

DATE: 11/30/06

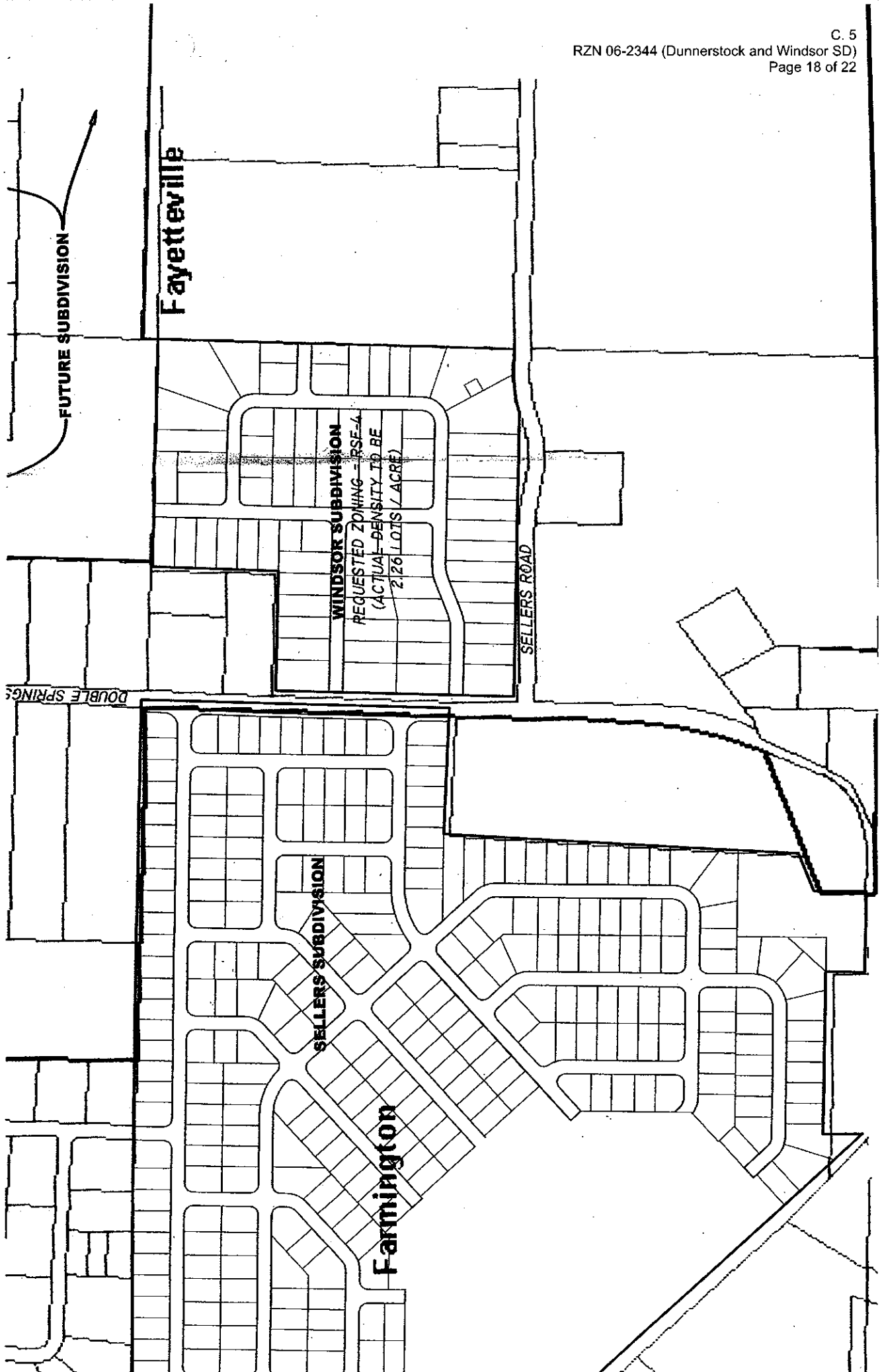
ATTACHED PLEASE FIND A DRAWING WHICH
SHOWS WINDSOR SUBD. & SURROUNDING
AREA. PLEASE NOTE THE SELLERS SUBDIVISION
THAT HAS BEEN APPROVED (PRE PLAT) TO THE
WEST. THIS IS IN FARMINGTON.

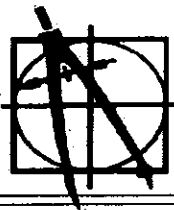
AS YOU CAN SEE, I DON'T THINK THING THE
RCF-4 REQUEST IS TOO FAR FETCHED...
WE COULD PROVIDE BILL OF ASSURANCE
FOR 78 LOTS WHICH PUTS DENSITY @ 2.26.

ALSO, PLEASE NOTE THE SEWER PLAN WHICH
CAUS FOR GRAVITY SERVICE FOR LEGACY 4,5
& ANOTHER PROJECT WE ARE WORKING ON W/SLOAN.
I HAVE ALSO BEEN WORKING W/ SPANNON JONES
ON FUTURE PLANS FOR ESMYS FOR GRAVITY SEWER
TO FARMINGTON P. STA.

124 WEST SUNBRIDGE
SUITE 5
FAYETTEVILLE, ARKANSAS 72703
PHONE: (479) 442-9127 FAX: (479) 582-4807

THANKS





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.

10/16/06

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept
Re: Windsor Subdivision/Rezoning

Attached herewith please find a preliminary plat of the Windsor Subdivision. This project was in the Farmington Growth Area and now it is annexed into the City of Fayetteville.

This subdivision is partially constructed. The waterlines, storm drain and the curb and gutter are installed. All work was done according to the City of Farmington and Washington County standards.

Since this property has been annexed, the owner has decided to resubmit this plat to the City of Fayetteville showing smaller lots which will require a rezoning request. The lots were appr. $\frac{3}{4}$ acre with individual septic systems and this revised plan will require sewer lines and a small pump station.

The existing zoning is R-A and we are requesting to rezone to RSF-4. The property to the west is City of Farmington (a proposed single family subdivision). The property to the north is R-A with a pending rezoning. The property to the east is R-A. Seller Road is to the south.

Please review and call me concerning any questions you may have.

Thank you.

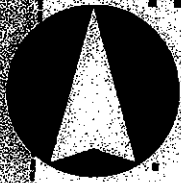
Sincerely;


David L. Jorgensen, P.E.

RZN06-2344

DUNNERSTOCK-WINDSOR S/D

Future Land Use

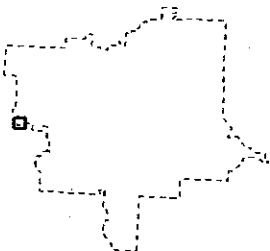


SUBJECT PROPERTY

Legend

- Community Commercial
- Industrial
- Mixed Use
- Neighborhood Commercial
- Neighborhood Plan
- Parks
- Private Open Space
- Regional Commercial
- Residential
- University
- Building (2004)

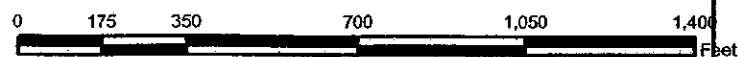
Overview



Legend

- Subject Property**
 - RZN06-2344
- Streets**
 - Existing
 - Planned
- Boundary**
 - Planning Area
 - Overlay District
 - Outside City

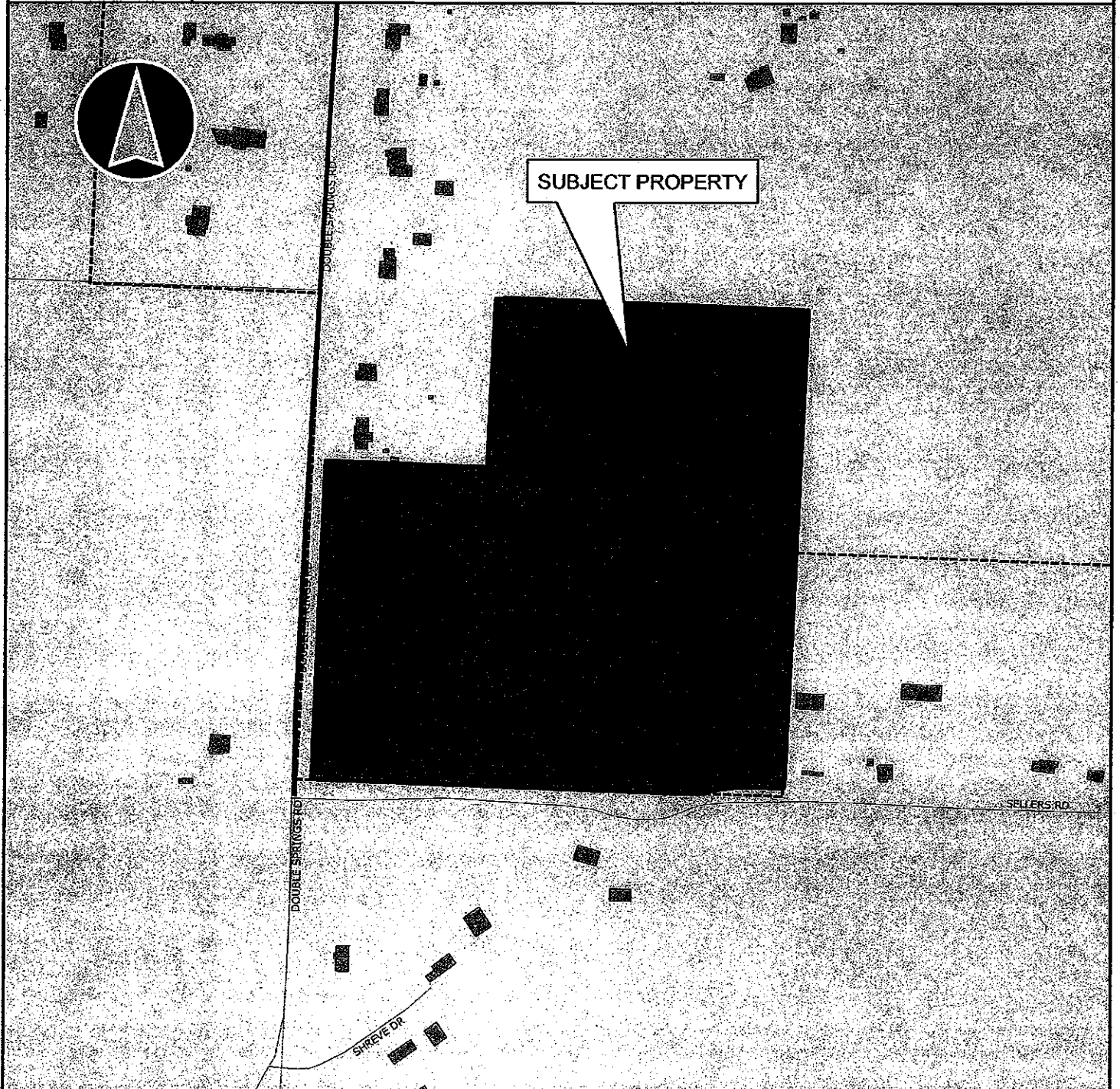
Legend



RZN06-2344

DUNNERSTOCK-WINDSOR S/D

Close Up View



Overview

Legend

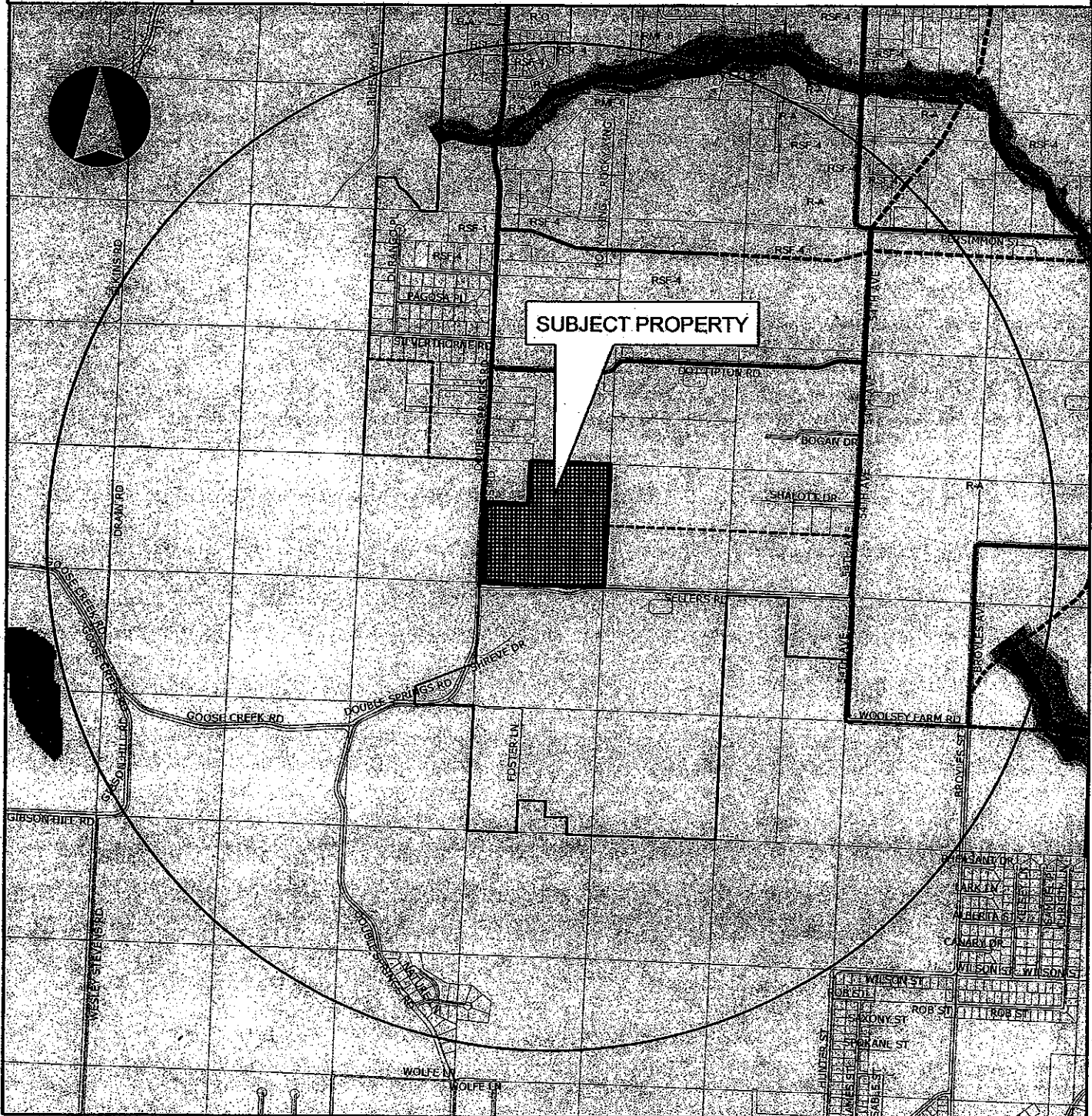
- ○ ○ ○ ○ Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RZN06-2344
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



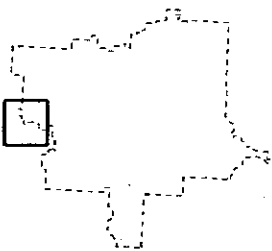
RZN06-2344

One Mile View

DUNNERSTOCK-WINDSOR S/D



Overview



Legend

Subject Property

RZN06-2344

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**

2-Jan-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 06-2349: Planned Zoning District (Westbrook Village II, 284): Submitted by Project Design Consultants for property located at Salem Road and Clabber Creek Drive and contains approximately 1.38 acres. The request is for approval of a Residential Planned Zoning District with 11 single-family lots.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item

☐

Budget Adjustment Attached

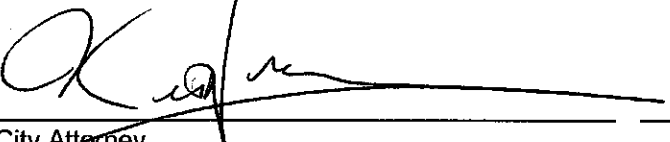
☐


Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

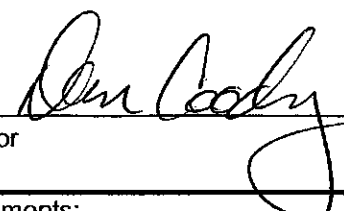

City Attorney

Original Contract Number: n/a


Finance and Internal Service Director

Date

Received in City Clerk's Office



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 *JCP*

Date: December 14, 2006

Subject: Residential Planned Zoning District for Westbrook Village II (R-PZD 06-2349)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Westbrook Village II, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 1.38 acres located at Lots 1 & 2 of the Salem Village P.U.D. The proposal consists of a residential development consisting of 11 single-family residential dwelling units.

BACKGROUND

Lots 1 and 2 were created as part of the original Salem Village P.U.D. for future development. Most of the Salem Village development has been constructed, however the two larger tracts located at the entrance into Salem Village are currently vacant and have retained the original RSF-4 zoning. Since the P.U.D. process is no longer an option for developing the remaining lots, the developer has requested a Residential Planned Zoning District to allow for similar lot sizes and configurations as those already developed in Salem Village.

A Residential Planned Zoning District was approved on the subject properties by the City Council on February 21, 2006 for development of 7 single-family homes. However, the approved development never received final plat approval and consequently was not constructed.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on December 11, 2006. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2349, WESTBROOK VILLAGE II, LOCATED AT SALEM ROAD AND CLABBER CREEK DRIVE; CONTAINING APPROXIMATELY 1.38 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 to R-PZD 06-2349 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 _____, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"
R-PZD 06-2349

TRACT ONE:

ALL OF TRACT ONE AS SHOWN ON THE FINAL PLAT OF SALEM VILLAGE P.U.D., RECORDED IN PLAT BOOK 15 AT PAGE 70, BEING PART OF THE NW1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID TRACT ONE; THENCE S87°28'49"E 198.16 FEET; THENCE S02°34'27"W 117.00 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS S47°34'27"W, 35.36 FEET, AN ARC DISTANCE OF 39.27 FEET TO A FOUND IRON PIN; THENCE N87°25'33"W 46.20 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A LONG CHORD THAT BEARS S66°03'25"W, 42.86 FEET, AN ARC DISTANCE OF 44.43 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS S66°01'47"W, 13.38 FEET, AN ARC DISTANCE OF 13.87 FEET TO A FOUND IRON PIN; THENCE N87°28'49"W 51.48 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS N42°28'49"W, 35.36 FEET, AN ARC DISTANCE OF 39.27 FEET TO A FOUND IRON PIN; THENCE N02°31'11"E 142.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.70 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

TRACT TWO:

ALL OF TRACT TWO AS SHOWN ON THE FINAL PLAT OF SALEM VILLAGE P.U.D., RECORDED IN PLAT BOOK 15 AT PAGE 70, BEING PART OF THE NW1/4 OF THE SW1/4 OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, ALSO BEING DESCRIBED AS FOLLOWS:

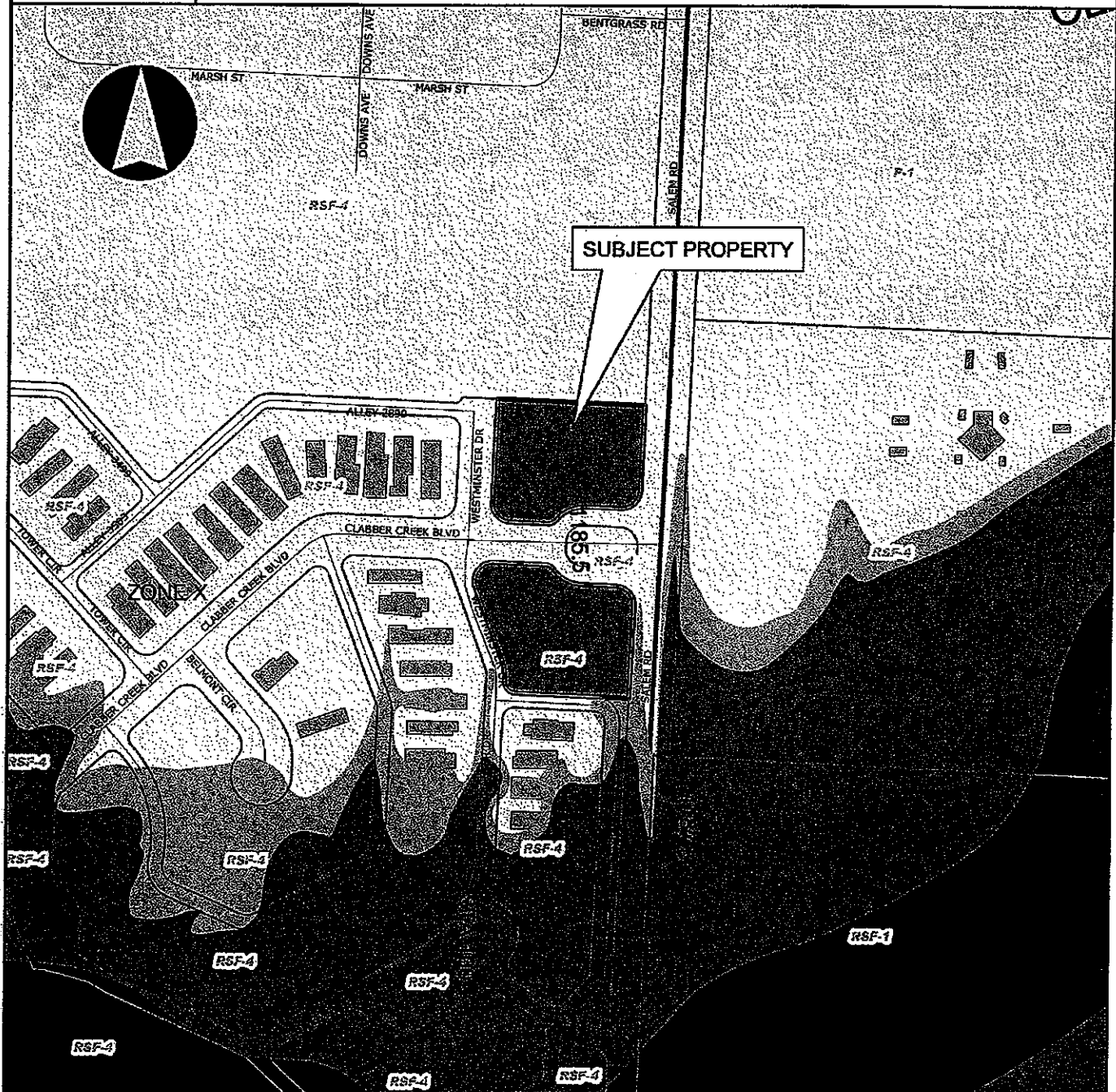
BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 2; THENCE N87°28'49"W 152.99 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS N42°27'11"W, 21.22 FEET, AN ARC DISTANCE OF 23.58 FEET TO A FOUND IRON PIN; THENCE N02°34'27"E 6.23 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 51.00 FEET, A LONG CHORD THAT BEARS N08°56'20"W, 20.36 FEET, AN ARC DISTANCE OF 20.50 FEET TO A FOUND IRON PIN; THENCE N20°27'08"W 109.75 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS N36°02'02"E, 41.69 FEET, AN ARC DISTANCE OF 49.29 FEET TO A FOUND IRON PIN; THENCE S87°28'49"E 70.64 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 15.00 FEET, A LONG CHORD THAT BEARS S61°04'04"E, 13.34 FEET, AN ARC DISTANCE OF 13.83 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 48.00 FEET, A LONG CHORD THAT BEARS S61°02'26"E, 42.66 FEET, AN ARC DISTANCE OF 44.21 FEET; THENCE S87°25'33"E 46.19 FEET TO A FOUND IRON PIN; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A LONG CHORD THAT BEARS S42°25'33"E, 35.36 FEET, AN ARC DISTANCE OF 39.27; THENCE S02°34'27"W 127.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.72 ACRES, MORE OR LESS, BEING SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.

EXHIBIT "B"

RPZD06-2349

WESTBROOK VILLAGE

Close Up View



Overview

Legend

- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2349
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 75 150 300 450 600 Feet

EXHIBIT "C"
R-PZD 06-2349
Page 1 of 2

CONDITIONS OF APPROVAL:

1. A shared driveway shall be provided for Lots 10 and 11.
2. Individual lot access shall be provided from the alleys and shall be prohibited from Salem Rd.
3. An additional 5' of right-of-way shall be dedicated for Salem Road along the property frontage.
4. All infrastructure improvements shall be installed, inspected and accepted prior to final plat approval.
5. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
6. Parks fees are due in the amount of \$6,105.00 for 11 single-family dwelling units, prior to building permit approval.
7. Street trees are required for every individual lot in a subdivision. There are existing trees for all lots except 7-9. Three (3) trees shall be planted for Lots 7-9 and the timing for installation shall be indicated on the site plans.
8. A three (3) year maintenance bond for the required street trees is required in the amount of \$750.00 prior to signing the final plat.
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.
10. 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.

Standard Conditions of Approval:

12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

EXHIBIT "C"

R-PZD 06-2349

Page 2 of 2

13. 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.
14. 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.
15. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
16. 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.
17. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



Planning Commission Meeting
November 30, 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: December 5, 2006 Updated December 12, 2006

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 a Residential Planned Zoning District containing 11 single-family lots.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property consists of Lots 1 and 2 of the original Salem Village P.U.D., which were reserved for future development. Most of the Salem Village development has been constructed, however the two larger tracts located at the entrance into Salem Village are currently vacant and have retained the original RSF-4 zoning. A Residential Planned Zoning District was approved on the subject properties by the City Council on February 21, 2006 for development of 7 single-family units. However, the approved development was never constructed and therefore the applicants have submitted a new request for 11 single-family lots.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Undeveloped	RSF-4, Res. Single Family – 4 units/acre
South	Salem Village PUD	RSF-4, Res. Single Family – 4 units/acre
East	Gary Hampton Softball Complex	RSF-4, Res. Single Family – 4 units/acre
West	Salem Village PUD	RSF-4, Res. Single Family – 4 units/acre

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 for a maximum density of 7.97 units per acre. All of the residential units will be located in Planning Areas 1 and 2 and Planning Area 3 will be utilized for community green space. This proposal does subdivide the property and will require final plat approval.

Background: Salem Village P.U.D. was approved in 1997 for a maximum of 156 single-family units, although only 111 lots were platted. The 111 platted lots did not include Tract 1, Tract 2, or Tract 3, which were reserved for future development of either residential, office, retail, community services, church grounds, recreational green or residential uses. Tract 3 was subsequently combined with previously dedicated park land for Salem Village and deeded to the City of Fayetteville in 1999. Tract 1 and Tract 2 have remained undeveloped with the original zoning designation of RSF-4 (R-1). The addition of 11 single-family homes would still be well under that which was originally permitted with the Salem Village P.U.D. *Density calculations are indicated in the table below.*

Salem Village/Westbrook Village Density

Units	Acreage	Density	Acreage Less Park Land/Green Space	Density
111-Platted	39.22	2.83	26.44	4.19
156-Permitted	39.22	3.97	26.44	5.90
11-Westbrook	1.38	7.97	1.28	8.59
122 (111 + 11)-Total	39.22	3.11	26.44	4.61

Access: All public rights-of-way were constructed with Salem Village. As with the original development, each lot will access from an alley located at the rear of the lots.

Street Improvements Proposed: No street improvements are required, since all improvements, including sidewalks, were installed with the original development. However, an alley is required to be constructed for Planning Area 1 to provide rear access to the units. With the adoption of the Master Street Plan and the designation of Salem Road as a Collector Street, an additional 5' of right-of-way is to be dedicated by this plat.

Water & Sewer: Water and sewer lines will be extended to serve the development.

Adjacent Master Street Plan Streets: Salem Road (Collector Street)

Tree Preservation: Existing Canopy: 0%
Preserved Canopy: 0%
Required Canopy: 0%
Mitigation: None-A Tree Preservation Plan Waiver Form was submitted and approved by the Urban Forester.

Parks: Salem Village P.U.D. dedicated land to meet the Park Land Dedication requirement at the time of approval. This dedication did not account for the development of an additional eleven (11) single family lots on tracts one and two. Fees in lieu will be assessed for eleven single family lots. Parks fees are due in the amount of \$6,105.00 before signing the final plat.

Recommendation: Staff recommends forwarding **R-PZD 06-2349** to the City Council with a recommendation for approval with the following conditions to approval:

Conditions of approval:

1. A shared driveway shall be provided for Lots 10 and 11.
2. Individual lot access shall be provided from the alleys and shall be prohibited from Salem Rd.
3. An additional 5' of right-of-way shall be dedicated for Salem Road along the property frontage.
4. All infrastructure improvements shall be installed, inspected and accepted prior to final plat approval.
5. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
6. Parks fees are due in the amount of \$6,105.00 for 11 single-family dwelling units, prior to building permit approval.
7. Street trees are required for every individual lot in a subdivision. There are existing trees for all lots except 7-9. Three (3) trees shall be planted for Lots 7-9 and the timing for installation shall be indicated on the site plans.
8. A three (3) year maintenance bond for the required street trees is required in the amount of \$750.00 prior to signing the final plat.
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.
10. 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.

Standard Conditions of Approval:

12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR

Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

13. 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.
14. 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.
15. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
16. 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.
17. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☐ Denied ☐ Tabled ☒ Forwarded to C.C.
Motion: **Lack**
Second: **Ostner**
Vote: **8-0-0**
Meeting Date: **December 11, 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 06-2349 (Westbrook 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 does not designate this specific area as a growth area. Rezoning this property to R-PZD 06-2349 with single-family dwelling units is consistent with the land use plan and the surrounding land use. Although some of the proposed lot sizes are smaller than the existing Salem Village development, staff finds the development to be compatible with the existing neighborhood and to support the goal of providing density nearby to public services, i.e. schools, sports complexes, etc.

- (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: All existing infrastructure, including streets, have been installed with the development of Salem Village. The proposed PZD will allow the two existing vacant lots within the subdivision to be developed in a similar and appropriate fashion as the previously developed lots.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The proposed subdivision allows for a density and land use that is compatible with adjacent properties, yet also allows for a flexible site plan and layout. A harmonious relationship with surrounding developments is achieved, while allowing for a unique style and type of development. Staff finds that the proposed use to be appropriate, finding that while the lot sizes are smaller than the existing developed subdivision, the overall land use and density are compatible.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The two properties were proposed for future development with the original Salem Village PUD. The sites are flat with trees located on the perimeter of the properties.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The proposed zoning will not create or appreciably increase traffic danger or congestion surrounding streets. Approximately 110 average two-way vehicle trips per day from this development would be created; a Collector Street, the primary means of access to the site currently, can accommodate 6,000 vehicles per day at full build-out.

- (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 rezoning of the existing RSF-4 property to the proposed R-PZD development with single family residential use at a density of 7.97 units per acre is consistent with the City Plan 2025 that identifies this area for residential use. The proposed land use is unique to the area with regard to site layout and organization, meeting many of the objectives and principles of the land use plan that promotes unique forms of development.

- (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 three (3) street trees shall be planted for Lots 7-9.

- (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: All lots will be rear loaded from alley ways interior to the site. No curb-cuts are allowed onto Salem Road.

- (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: Parking is to be provided on-site for each residential lot.

- (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: All sidewalks were installed with the development of Salem Village PUD.

- (7) *Street Lights.* As required by §166.03.

FINDING If street lights are not located within 300' of this development, they shall be constructed by the developer.

- (8) *Water.* As required by §166.03.

FINDING: Public water lines are available to each lot and shall be extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to each lot and shall be 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: A combination of public and private streets and alleys were constructed with the Salem Village P.U.D. The rear loaded alley providing access to Tract 1 will be accessed from Westminster Drive, which is a public street. The rear loaded alley providing access to Tract 2 will also be accessed from Westminster Drive, however Westminster is a private street on the south side of Clabber Creek Boulevard.

- (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: A Tree Preservation Plan Waiver Form was submitted and approved by the Urban Forester.

- (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; no commercial uses are proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed, 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. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering detached single-family housing types, lot arrangements, lot dimensions and building setbacks which are comparable to the original Salem Village PUD.

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.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 small lot, single-family homes. The requested R-PZD provides an effective relationship between similar land uses and activities on abutting parcels.

- (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 small lot residential to the west with average sized RSF-4 lots to the north and south. Density under the current zoning (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. Additionally, a greater level of compatibility is achieved by utilizing a smaller lot size, consistent with the existing Salem Village subdivision.

- (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 west of the subject property in the original Salem Village PUD.

- (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-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 RSF-4 zoning district, the lot sizes proposed are consistent with the existing lots in the Salem Village neighborhood.

***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.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The rezoning is needed to allow for the creation of a development that is consistent with the originally approved Salem Village PUD.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion surrounding streets. Approximately 110 average two-way vehicle trips per day from this development would be created; a Collector Street, the primary means of access to the site currently, can accommodate 6,000 vehicles per day at full build-out.

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: The proposed subdivision has been reviewed for access to public utilities, including water and sewer. Improvements to the water system and sewer system are required to serve all of the proposed lots.

Police: Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Fire: Fire station #7, approximately 2.2 miles away, serves this site. Fire response time to the site is approximately 6 minutes, with an anticipated 2 calls for service at maximum build-out, based on the Service Delivery Impact included as a part of the staff report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of December 11, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

LANDSCAPE REVIEW FORM

To: Fayetteville Planning Commission
From: Sarah K. Patterson, Urban Forester
Date: December 6, 2006

ITEM #: R-PZD 06-2349: Planned Zoning District (Westbrook Village)

Applicable Requirements:

NA	Site Development & Parking Lot Standards
NA	1-540 Design Overlay
Y	Street Tree Planting Standards
NA	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant
N=requested by City of Fayetteville
NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
Y		Irrigation notes either automatic or hose bib
Y		Species of plant material identified
Y		Size of plant material at time of installation indicated
Y		Soil amendments notes include that soil is amended and sod removed
Y		Mulch notes indicate organic mulching around trees and within landscape beds
Y		Plans stamped by a licensed Landscape Architect
Y		Planting details according to Fayetteville's Landscape Manual
		Site Development & Parking Lot Standards
NA		Wheel stops/ curbs
NA		Interior landscaping Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces) Tree island (8' min. width/1 tree per 12 spaces)

Preliminary Submittal	Final Submittal	
NA		Perimeter landscaping <i>Side and rear property lines (5' landscaped)</i> <i>Shade trees as described in street tree planting standards,</i> <i>Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)</i>
		Overlay District Requirements
NA		Greenspace adjacent to street R.O.W. (25' wide)
NA		Large street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscape)
NA		Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards (time of F.P. or permit)
Y		Residential Subdivisions- 1 large species shade tree/ lot tree planted within R.O.W. if possible
NA		Nonresidential Subdivision- 1 large species shade tree/30 L.F. tree planted within 15-25' greenspace
NA		Urban Tree Wells-urban streetscape only-10foot sidewalk
NA		Structural Soil-if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan
N		Timing of planting indicated on plans (subdivisions only)
N		Written description of the method for tracking plantings
		Stormwater Facilities (time of F.P. or permit)
NA		1 deciduous or evergreen tree/ 3000 square feet
NA		4 large shrubs (3 gal) or small trees / 3000 square feet
NA		6 shrubs or grasses (1 gal) / 3000 square feet
NA		Ground cover unless seed or sod is specified
NA		50% of facility planted with grass or grass like plants

Conditions of Approval:

1. With the new requirements of Chapter 177 street trees are required for every individual lot in a subdivision. Existing trees meet this requirement for all lots except lots 7-9. The applicant has proposed to add an additional 3 trees to the site.
2. Please revise the timing note in the Landscape Notes section to read that the 3 trees will be planted prior to signature of final plat. Due to the rear loading of these lots, staff would recommend planting all 3 trees before Final Plat.
3. With the new ordinance requirements, the trees must be bonded for a 3 year term to ensure health. The amount will equal \$750 and shall be deposited with the City before signature of Final Plat.



PC Meeting of December 11, 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: December 6, 2006

ITEM #: R-PZD 05-1619: Planned Zoning District (Westbrook Village)

Background:

- **The Tree Preservation Plan was approved with the original plat for Salem Village. Lots 1A-7A have no existing trees on-site outside of utility easements and/or rights of ways.**

Findings:

- **The 54 trees planted along the rights of ways and utility easements range in size from 2"-8" diameter breast height. None of the trees should be damaged or removed during this process. A Tree Preservation Waiver has been submitted and approved by the Urban Forester.**



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: November 28, 2006
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: November 30, 2006
Item: R-PZD 06-2349 Westbrook Village, 284
Park District: NW
Zoned: RSF-4
Billing Name & Address: Nock-Broyles Land Development, LLC 4921 Clear Creek Blvd.
Fayetteville, AR 72704

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	11 @ \$555 per unit = \$6,105
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- Salem Village P.U.D. dedicated land to meet the Park Land Dedication requirements at the time of approval. This dedication did not account for development of 11 single family lots on tracts one and two.
- Fees in lieu will be assessed for 11 single family lots.
- Parks fees are due in the amount of \$6,105 before building permits are issued.

December 1, 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 planned zoning district. **R-PZD 06-2349: (WESTBROOK VILLAGE, 284):** Submitted by **Project Design Consultants, Inc** for property located at **Salem Road, Clabber Creek Drive**, 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 reference to planned zoning district. **R-PZD 06-2299: (RUSKIN HEIGHTS, 370):** Submitted by **Community By Design, LLC** for property located at **West of Hwy. 265 / Crossover Road, and South of Mission Boulevard.**

It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density and create an undesirable increase in the load on police services. Without traffic improvements, the rezoning will increase traffic danger and congestion on already crowded Mission Boulevard (AR. ST. HWY. 45).



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: December 5, 2006
Re: December 5, 2006 Zoning Review – Fire Department Comments

R-PZD 06-2349 (Westbrook Village)

These 1.38 acres is covered by Engine 7 at 835 Ruppel Road.
It is 2.3 miles from the station with an expected response time of 6 minutes.
The Fire Department anticipates 2 (2 EMS – 0 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
Measured Hydrant Flow in this area is 1500 gallons/minute.
The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
There should be no adverse effects on our call volume or response time to this development.

~~R-PZD 06-2299 (Ruskin Heights)~~

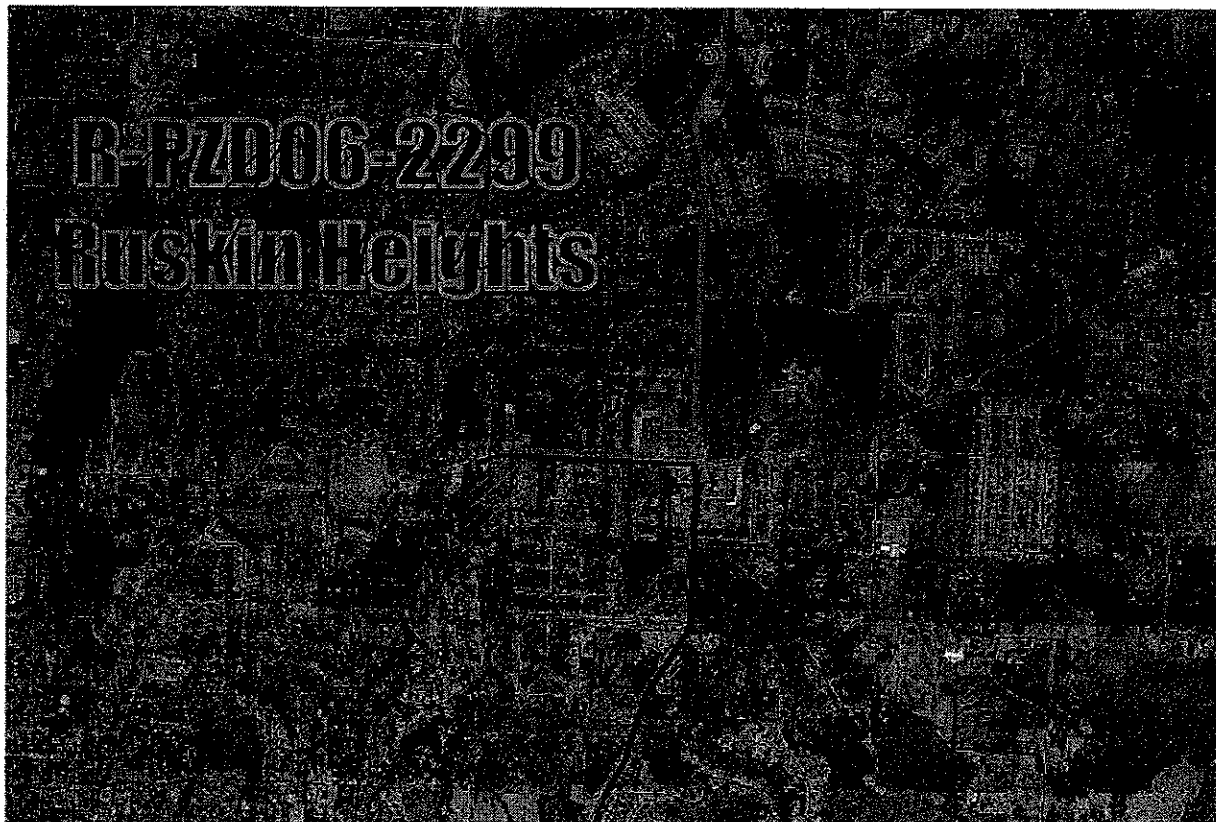
These 21.91 acres is covered by Engine 5 located at 833 N Crossover.
It is 1.6 miles from the station with an expected response time of 4 minutes. When the new Station 5 is opened at Old Wire and Crossover the response time will stay approximately the same.
The Fire Department anticipates 13 (8 EMS – 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 1500 gallons/minute.
The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
There should be no adverse effects on our call volume or response time to this development.

~~RZN 06-2366 (Wanacott)~~

These 21.91 acres is covered by Engine 7 at 835 Ruppel Road.
It is 2.1 miles from the station with an expected response time of 5.25 minutes.
The Fire Department anticipates 1 (1 EMS – 0 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.
There is no Measured Hydrant Flow recorded in this area.
The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
There should be no adverse effects on our call volume or response time to this development.

Please feel free to contact me if you have any questions concerning any of these comments.


Dale Riggins
Captain
Fayetteville Fire Department



NE CORNER
NW1/4, SW1/4
SEC 32, T17N, R30W

BASIS OF HEARINGS

CITY OF FAYETTEVILLE GPS COORDINATES
1) SIDEWALK WILL BE CONSTRUCTED
BOTH SIDES OF ALL INTERNAL STREETS
SIDEWALKS SHALL BE CONSTRUCTED BY INDIVIDUAL LOT
OWNERS AT THE TIME OF LOT DEVELOPMENT OR
DEVELOPER WILL COMPLETE WITHIN 60 DAYS
2) AMENDMENTS, ADDENDUMS, AND/OR MODIFICATIONS TO
THIS SALEM VILLAGE P.U.D. MAY BE EXECUTED WITHOUT
THE CONSENT OF THE PROPERTY OWNERS OF RECORD
WITHIN THE P.U.D. IN THE EVENT THAT A PUBLIC
HEARING IS REQUIRED BY THE CITY OF FAYETTEVILLE
ARKANSAS REGULATIONS, THEN ALL PROPERTY OWNERS OF
RECORD WILL RECEIVE PROPER NOTIFICATION PRIOR TO
SUCH AN EVENT.

3) VILLAGE CENTER LOTS
TRACT ONE, TWO AND THREE MAY REQUIRE REZONING OR A
CONDITIONAL USE PERMIT AT THE TIME OF DEVELOPMENT
CURRENT ZONING R-F-1
4) ALL GREEN SPACE EXCLUSIVE OF PRIVATE YARDS IS OPEN
TO THE PUBLIC

GRAPHIC SCALE



(IN FEET)

1 inch = 100 ft.

DEVELOPERS/OWNERS:

DBA. TRADITIONAL INVESTMENTS LIMITED PARTNERSHIP
AN ARKANSAS LIMITED PARTNERSHIP A.K.R. INVESTMENTS
INC. AS GENERAL PARTNERS

ROBERT WHITFIELD, PRINCIPLE
GERALD B. JONES, PRESIDENT
ANN W. JONES, SECRETARY

LAND USAGE SUMMARY

K PLANNED UNIT DEVELOPMENT
R-T ZONING
FRONT SETBACKS: 15' MIN.

TOTAL UNITS ALLOWABLE: 150 SINGLE FAMILY
TOTAL UNITS PLATTED: 111 SINGLE FAMILY
TOTAL ACREAGE: 39.22 ACRES
EXTERNAL R/W DEDICATION: 1.51 ACRES
PARKS DEDICATION: 1.50 ACRES
SITE AREA SUBJECT TO GREEN SPACE: 34.18 ACRES
REQUIRED GREEN SPACE: 10.23 ACRES (30%)
GREEN SPACE PROVIDED: 10.0 ACRES
CANOPY REQUIRED: 9.8 ACRES (25%)
INTERIOR CANOPY: NEW CANOPY 4.0 ACRES
WETLANDS CANOPY: NEW CANOPY 2.5 ACRES
PRESERVED CANOPY: APPROX. 5 ACRES (12% MIN)
(PRESERVED 80% OF EXISTING CANOPY)

	STREET WIDTH (BC-BC/ISLAND/BC-BC)	SR P.D.W. WIDTH
PRIVATE/PUBLIC BLVD	22' 7' 10' 7' 22'	50'
PUBLIC LOCAL	24'	40'
PRIVATE COLLECTOR	24'	28'
PRIVATE LOCAL	22'	24' AND 20'
COMMON ACCESS ALLEYS	18'	20'

CERTIFICATE OF APPROVAL OF WATER & SEWER SYSTEM

I HEREBY CERTIFY THAT WATER SUPPLY AND SEWAGE DISPOSAL UTILITY SYSTEMS INSTALLED OR TO BE
INSTALLED IN THE SUBDIVISION FULLY MEET THE REQUIREMENTS OF THE ARKANSAS STATE BOARD OF
HEALTH AND THE CITY OF FAYETTEVILLE.

11-25-97
DATE

CERTIFICATE OF APPROVAL OF STREETS, DRAINAGE AND UTILITY EASEMENTS

I HEREBY CERTIFY THAT ALL STREET AND DRAINAGE SYSTEMS INSTALLED IN THIS SUBDIVISION
FULLY MEET THE REQUIREMENTS OF THE CITY OF FAYETTEVILLE.

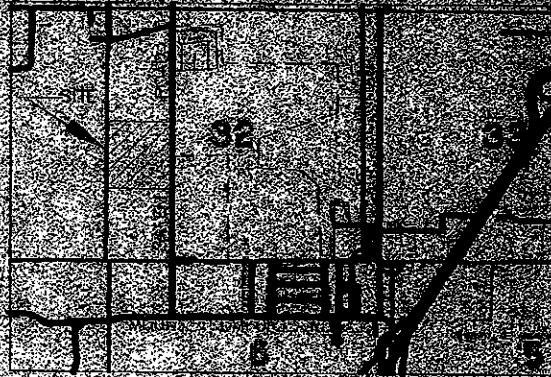
11-25-97
DATE

CERTIFICATE OF APPROVAL OF PARK LAND DEDICATION OR MONEY PAID

I HEREBY CERTIFY THAT ALL THIS PLAT HAS COMPLIED WITH SECTION 154.10 OF THE ARKANSAS CONSTITUTION
3.29 ACRES OR PAYING IN-LIEU \$4,611

WARRANTY DEED FOR PARK LAND RECORDED AS FOLLOWS

10-30-97
DATE



LEGEND

- FOUND IRON PIN
- SET IRON PIN
- FOUND STONE MONUMENT
- FOUND CHIRON SPINDAL
- SET NAIL
- TELEPHONE POST/STAKE
- POWER POLE
- GAS VALVE/METER
- WATER VALVE
- FIRE HYDRANT
- WATER METER
- SEWER MAN HOLE
- LIGHT POLE
- DUMPSTER
- PROPERTY LINE
- SURVEY LINE
- EASEMENT LINE
- SETBACK LINE
- CENTER LINE RD/DRIV
- RIGHT-OF-WAY LINE
- WIDE POND LINE
- 5' FEET WIDE TRAIL

Donald R. Jones
CITY ENGINEER

Donald R. Jones
CITY ENGINEER

Robert D. Jones
TOWN AND RECREATION DIRECTOR

Salem Village/Clabber Creek Village Property Owner's Association

P.O. Box 4753
Fayetteville, AR 72702
479-442-3965
www.wirelessxt.com

Board Members

Rob Scott, President
Laura Cate, Vice President
Chastity Clark

Jonathan Martin, Treasurer
Cathey McKinney
Cole McKinney
Kurt Meredith, Secretary

September 25, 2006

Mr. Lioneld Jordan
Alderman, Ward 4, Position 2
City of Fayetteville
1600 Arrowhead Street
Fayetteville, AR 72701

RE: Support Nock-Broyles Variance Request in Salem Village

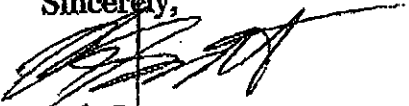
Dear Alderman Jordan:

In recognition of Nock-Broyles Land Development's continual development and improvement of Salem Village and in appreciation of the future construction of the Ruppel Road neighborhood fence, Clabber Creek Village POA, LLC / Salem Village POA supports Nock-Broyles Land Development, LLC request for a variance from seven (7) to eleven (11) homes on the two Residential Office Tracts on the corners Clabber Creek Blvd and Salem Road of Salem Village.

The Salem Village POA Executive Board have discussed all perceived issues pertaining to additional homes constructed at the front entrance and have unanimously voted to support Mr. Hank Broyles proposal increase.

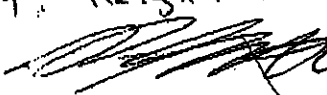
The POA Board, also, wishes to thank Aldermen Jordan and Lucas for their continual support of the neighborhood of Salem Village.

Sincerely,


Rob Scott
President

cc: Hank Broyles, Managing Member
Alderwoman Shirley Lucas

We currently understand
cost of fence to be \$25K
and construction type to
be choice of POA architecture
review board. Cedar wood
with cap and metal are
currently under consideration.
We have an estimate for
cedar and are awaiting
an estimate for metal
which we also currently
understand to be within
budget. Height to be 6 feet

 9/25/06

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

PZD Westbank C. 6
R-PZD 05-2349 (Westbank Village II)
Page 35 of 38

Will

Today's Date: 11/22/06

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Dr. Suite 104
Fayetteville, AR 72703

Bus: 479-521-5405
Fax: 479-521-0919

RECEIVED
NOV 28 2006
PLANNING DIV.

Subdivision Committee Meeting:

Thursday, 11/30/06, 9:00am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 12/11/06, 5:30pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

R-PZD (Residential Planned Zoning District)

Property is located at the corners of Salem Rd., Clabber Creek Blvd. and Westminister Dr. The property has a total of 1.4 acres, containing 11 single family residential lots.

Please see attached vicinity map.

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: I purchased my home due greatly to the fact that this area would remain empty and add aesthetic appeal. We do not want any more clutter.

Kenneth Bates
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

February 2004

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

C. 6
R-PZD 06-2349 (Westbrook Village II)
Page 36 of 38

Today's Date: 11/22/06

APPLICANT/REPRESENTATIVE CONTACT INFO:

Project Design Consultants, Inc.
4285 N. Shiloh Dr. Suite 104
Fayetteville, AR 72703

Bus: 479-521-5405
Fax: 479-521-0919

Subdivision Committee Meeting:

Thursday, 11/30/06, 9:00am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

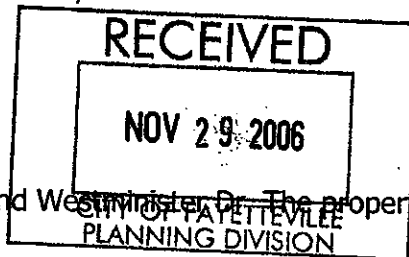
Planning Commission Meeting:

Monday, 12/11/06, 5:30pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

R-PZD (Residential Planned Zoning District)

Property is located at the corners of Salem Rd., Clabber Creek Blvd. and Westminster Dr. The property has a total of 1.4 acres, containing 11 single family residential lots.



Please see attached vicinity map.

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 congestion in our area already.*

Joe Lynn Henley
Name of Property Owner (Printed)

Joe Lynn Henley
Signature of Property Owner

February 2004

RPZD06-2349

WESTBROOK VILLAGE

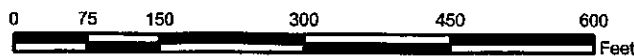
Close Up View



Overview

Legend

- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2349
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



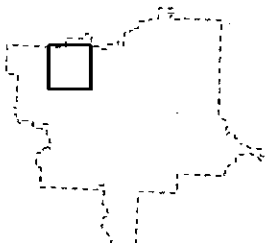
RPZD06-2349

One Mile View

WESTBROOK VILLAGE



Overview



Legend

Subject Property

RPZD06-2349

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**

2-Jan-07

City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

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 25.24 acres. The request is to vacate sewer and electric easements.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 12-19-06
Department Director Date

[Signature] 12-15-06
City Attorney Date

Paul a. Bahr 12-18-06
Finance and Internal Service Director Date

[Signature] 12/19/06
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office

ENTERED
12/15/06
[Signature]

Received in Mayor's Office

ENTERED
12/15/06
[Signature]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: December 12, 2006

Subject: Easement Vacation for Springwoods Lot 2 (VAC 06-2362)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating sewer and electric easements located in Lot 2 of the Springwoods Planned Zoning District subdivision.

BACKGROUND

On April 24, 2006, the Planning Commission approved the Large Scale Development for the Arbors at Springwoods (LSD 06-1974). The LSD contained 122 multi-family dwelling units. This development is located in west Fayetteville, north of Moore Lane and east of Deane Solomon Road. The site contains 25.24 acres and is identified as Lot 2 of the Springwoods Planned Zoning District subdivision.

The subject property is an existing sewer easement (0.18 acres) and electric easement (0.30 acres) that were platted/installed prior to this development approval. An existing lift station and some of the sanitary sewer laterals that were installed with previous development will be removed or replaced as part of the Arbors at Springwoods development. In addition, the electric easement that supplies electricity to the lift station is no longer needed. The applicant's request is to vacate the sewer and electric easements in order to develop the Arbors at Springwoods.

DISCUSSION

Notification was provided to all appropriate utility representatives and adjoining property owners; there were no objections to this request. The Planning Commission voted 8-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE APPROVING VAC 06-2362 SUBMITTED
BY H2 ENGINEERING FOR PROPERTY LOCATED AT LOT 2 OF THE
SPRINGWOODS C-PZD TO VACATE SEWER AND ELECTRIC EASEMENTS,
A TOTAL OF 0.48 ACRES, IN ORDER TO DEVELOP THE ARBORS AT
SPRINGWOODS LARGE SCALE DEVELOPMENT.

WHEREAS, the City Council has the authority under A.C.A. §14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility 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 Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easements:

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. **This vacation is subject to the memorandum dated November 6, 2006 from David Jurgens, City Water/Wastewater Director outlining the proper way to abandon the existing wastewater infrastructure (memorandum is attached to the staff report).**
2. **The City of Fayetteville shall request disconnection of power to the lift station, and any cost to retire the transformer and underground power cable are paid by the developer.**
3. **Any relocation of existing utilities shall be at the owner/developer's expense.**

PASSED and APPROVED this ___ day of ___, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

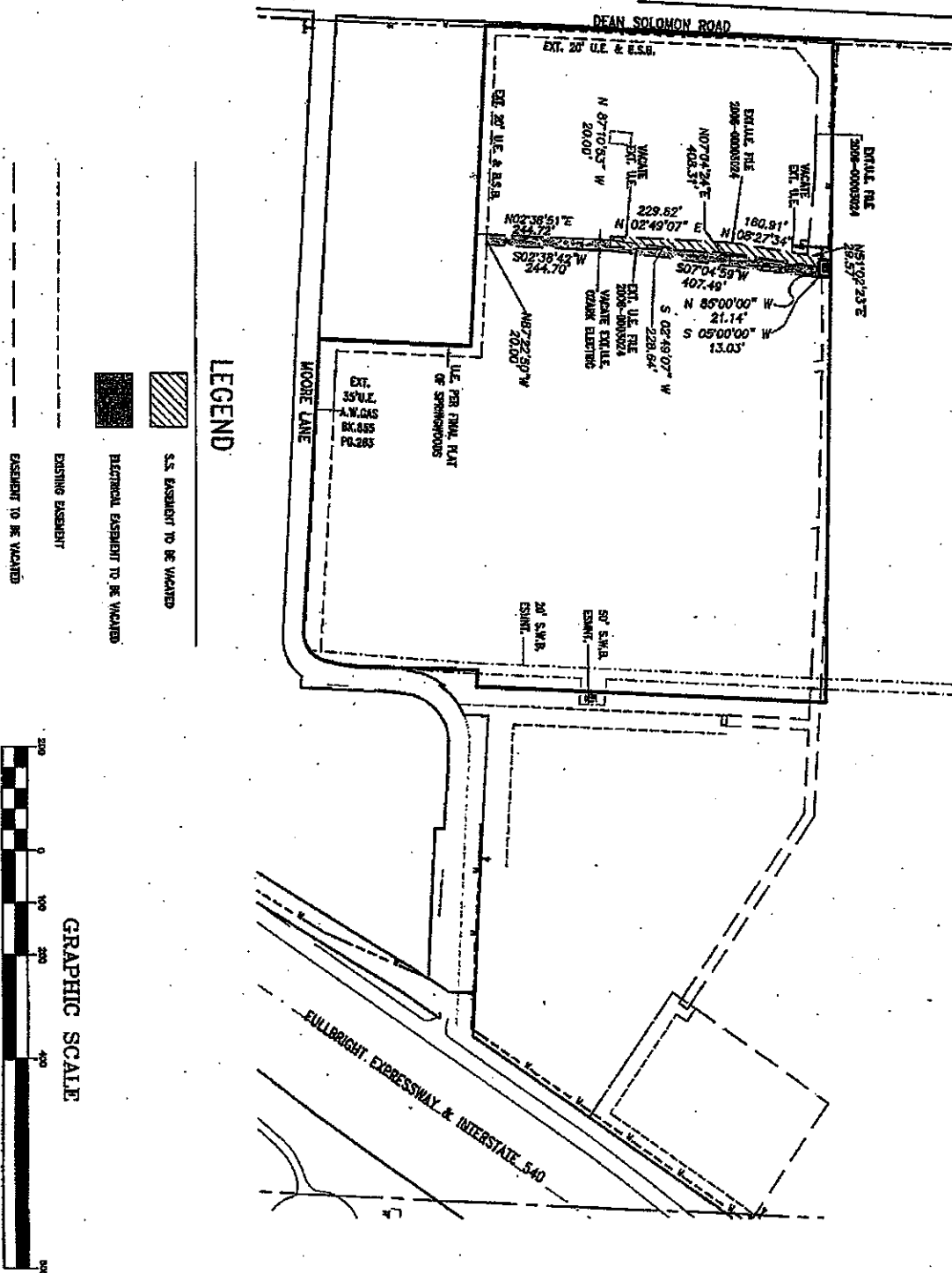
EXHIBIT "A"
VAC 06-2362

SEWER EASEMENT

A TWENTY FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30, WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WITT: COMMENCING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 33; THENCE S02°28'26"W 1816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE S89°06'39"E 807.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE S08°27'34"W 181.68 FEET; THENCE S02°49'07"W 228.64 FEET; THENCE N87°10'53"W 20.00 FEET; THENCE N02°49'07"E 229.62 FEET; THENCE N08°27'34"E 160.91 FEET; THENCE N51°02'23"E 29.56 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

OZARK ELECTRIC EASEMENT

A 20-FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30, WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WITT: COMMENCING AT THE NW CORNER OF SAID SECTION 33 AND RUNNING THENCE S02°28'26"W 1816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE S89°06'38"E 807.12 FEET TO THE TRUE POINT OF BEGINNING; AND RUNNING THENCE S85°00'00"E 20.01 FEET; THENCE S07°04'59"W A DISTANCE OF 407.49 FEET; THENCE S02°38'42"W 244.70 FEET; THENCE N87°22'50"W 20.00 FEET; THENCE N02°38'42"E 244.58 FEET; THENCE N07°04'24"E 408.44 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.30 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHT-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.



**SPRINGWOOD LOT 2
EASEMENT VACATION**

[illegible]

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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PC Meeting of December 11, 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: ~~December 6, 2006~~ Updated December 14, 2006

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 25.24 acres. The request is to vacate sewer and electric easements (a total of 0.48 acres) that have been moved and replaced for the approved Large Scale Development, The Arbors at Springwoods within Lot 2 of the Springwoods, PZD.

Property Owner: SPRINGWOODS LEISURE LIVING, LLC
Planner: ANDREW GARNER

Findings:

Background: On April 24, 2006, the Planning Commission approved the Large Scale Development for the Arbors at Springwoods (LSD 06-1974). The LSD contained 122 multi-family dwelling units. This development is located in west Fayetteville, north of Moore Lane and east of Deane Solomon Road. The site contains 25.24 acres and is identified as Lot 2 of the Springwoods Planned Zoning District subdivision. The property is zoned C-PZD 03-08.00, part of the Planned Zoning District for Springwoods development. Surrounding zoning and land use is presented in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped Springwoods Subdivision	C-PZD 03-08.00, Commercial Planned Zoning District
South	Rural Residential; Westark Agricultural Operations	R-A, Residential-Agricultural; C-2, Thoroughfare Commercial
East	Undeveloped Springwoods Subdivision	C- PZD 03-08.00, Commercial Planned Zoning District
West	Undeveloped	RSF-4, Residential Single Family – 4 units/acre

Property: The subject property is an existing sewer easement (0.18 acres) and electric easement (0.30 acres) that were platted/installed prior to this development approval. An existing lift station and some of the sanitary sewer laterals that were installed with previous development will be removed or replaced as part of the Arbors at Springwoods development. In addition, the electric easement that supplies electricity to the lift station is no longer needed.

Request: The applicant's request is to vacate the sewer and electric easements in order to develop the Arbors at Springwoods. The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No objections provided that the City of Fayetteville request disconnection of power to the lift station, and that any cost to retire transformer and underground power cable are paid by the developer.

Cox Communications

No Objections.

Southwestern Electric Power Company

No Objections.

Arkansas Western Gas

No Objections.

Southwestern Bell Telephone

No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No objections provided abandonment/vacation follows the requirements as detailed by the Water/Wastewater Director.

Transportation

No Objections.

Solid Waste

No Objections.

Engineering

No Objections.

Public Comment: Staff has not received any opposition to this vacation.

Recommendation: Staff recommends approval of the proposed sewer and electric

easement vacations VAC 06-2362 with the following conditions:

Conditions of Approval:

1. This vacation is subject to the memorandum dated November 6, 2006 from David Jurgens, City Water/Wastewater Director outlining the proper way to abandon the existing wastewater infrastructure (memorandum is attached to this report).
2. The City of Fayetteville shall request disconnection of power to the lift station, and any cost to retire the transformer and underground power cable are paid by the developer.
3. Any relocation of existing utilities shall be at the owner/developer's expense.
4. ~~Typographical errors in the legal description shall be corrected and the legal description re-submitted to Planning Staff for review and approval prior to City Council. The errors are attached to this report, and noted as follows:~~
 - ~~* sewer easement call N89 06 39E 807.11 should be south east~~
 - ~~* electric easement call S02 28 26W 816.10 should be 1,816.10.~~

THIS ITEM WAS ADDRESSED IN THE REVISIONS PROVIDED PRIOR TO CITY COUNCIL.

PLANNING COMMISSION ACTION: yes Required
Recommendation to be: X Approved Denied
Motion: Clark
Second: Ostner
Vote: 8-0-0
Date: December 11, 2006
Comments: Approved on consent agenda.

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total, without exception by the entity requesting approval of this development item.

By _____

Title _____

Date _____



October 25, 2006

City of Fayetteville
Planning Department
113 W. Mountain Street
Fayetteville, AR 72701

RE: THE ARBORS AT SPRINGWOODS EASEMENT VACATION

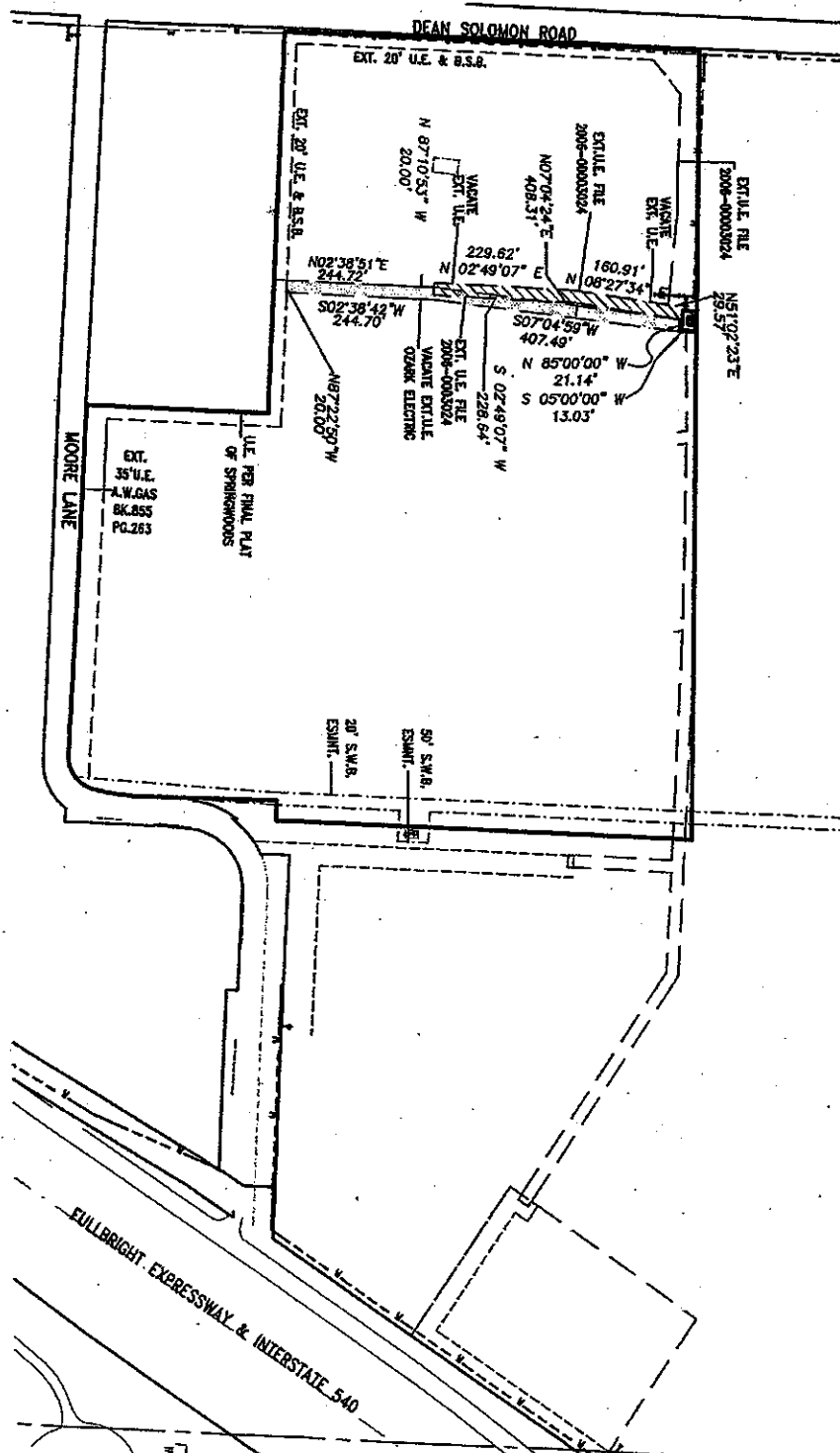
Staff,

On behalf of our client, Mr. Don Marley, we are requesting vacation of some existing utility easements on lot number 2 of the Springwoods development. An existing sewer lift station and some of the sanitary sewer laterals which were installed as part of the Springwoods Development are being removed or replaced as part of the recently approved Arbors at Springwoods large scale development. Specifically the easement which runs north and south supplying electricity to the lift station is no longer needed. We are requesting that this easement be permanently vacated. The two western most north south sewer laterals are still needed but will be slightly realigned. The easements for these sewer laterals will be rededicated with the, soon to be submitted, easement plat. We appreciate your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

Thomas A. Hennelly, P.E.
President



LEGEND

S.S. EASEMENT TO BE VACATED

ELECTRICAL EASEMENT TO BE VACATED

EXISTING EASEMENT

EASEMENT TO BE VACATED



(IN FEET)
1 inch = 200 ft.

PETITION TO VACATE AN EASEMENT**PETITION TO VACATE AN EASEMENT LOCATED ON LOT 2 OF THE SPRINGWOODS
SUBDIVISION OF THE ORIGINAL PLAT OF THE CITY OF FAYETTEVILLE, ARKANSAS*****TO: The Fayetteville City Planning Commission and The Fayetteville City Council***

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in lot 2 of the Springwoods Subdivision of the original Plat of the City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley which is described as follows:

SURVEY DESCRIPTION FOR SEWER EASEMENT

A TWENTY FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 33; THENCE S02°26'28"W 1816.10 FEET; THENCE S02°20'44"W 1633.78 FEET; THENCE N69°06'30"E, 807.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE S08°27'34"W 181.88 FEET; THENCE S02°49'07"W 228.84 FEET; THENCE N07°10'53"W 20.00 FEET; THENCE N02°48'07"E 228.62 FEET; THENCE N08°27'34"E 168.91 FEET; THENCE N51°02'23"E 29.56 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION FOR OZARK ELECTRIC EASEMENT

A 20 FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NW CORNER OF SAID SECTION 33 AND RUNNING THENCE S02°26'28"W 816.10 FEET; THENCE S02°30'44"W 1633.78 FEET; THENCE S08°06'30"E 807.12 FEET TO THE TRUE POINT OF BEGINNING; AND RUNNING THENCE S15°00'30"E 28.01 FEET; THENCE S07°04'58"W A DISTANCE OF 437.48 FEET; THENCE S02°38'12"W 244.70 FEET; THENCE N07°22'50"W 20.00 FEET; THENCE N02°38'42"E 244.88 FEET; THENCE N07°04'24"E 408.44 FEET TO THE POINT OF BEGINNING; CONTAINING 0.30 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

That the abutting real estate affected by said abandonment of the easement on Lot 2 in the Springwoods Subdivision of the original Plat of the City of Fayetteville, Arkansas used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

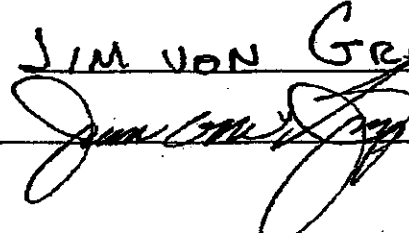
The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated: September 6, 2006

Printed Name: JIM VON GREMP

Signature: 

Printed Name: _____

Signature: _____

UTILITY APPROVAL FORM
FOR UTILITY EASEMENT VACATION

DATE: September 6, 2006

UTILITY COMPANY: Arkansas Western Gas

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address:

Lot 2 of Springwoods subdivision, located on the North side of Moore Lane just West of Hwy 540.

See attached legal description and graphic representation of what is being vacated

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

NA REGIONAL MANAGER

Title

10-27-06

Date

UTILITY APPROVAL FORM
FOR UTILITY EASEMENT VACATIONDATE: September 6, 2006UTILITY COMPANY: Ozarks Electric Co-opREQUESTED 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 easement, described as follows:

General location / Address:

Lot 2 of springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.*See attached legal description and graphic representation of easement being vacated.*

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

THAT CITY OF FAY REQUEST DISCONNECTION OF
POWER AND THAT ANY COST TO RETIRE TRANSFORMER
AND UG POWER CABLE ARE PAID BY DEVELOPER.

Mike Phipps
Signature of Utility Company RepresentativeSYSTEM STAKING TECH
Title9-19-06
Date

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY AND UTILITY EASEMENT VACATIONS

DATE: 10/6/06

UTILITY COMPANY: Southwestern Bell Telephone d.b.a. AT&T Arkansas

REQUESTED VACATION:

Street

X UTILITY EASEMENT

Street and all the utility easements located within the vacated street

Right-of-Way for alley or street

Right-of-Way for alley or streets and all utility easements located within the vacated right-of-way

Alley

Alley and all utility easements located within the vacated alley

I have been notified of the petition to vacate the following right-of-way.

Described as follows:

A twenty foot (20') wide utility easement located in a part of the SW ¼ of Section 33, Township 17 North, Range 30 West of the Fifth Principal Meridian in Washington County, Arkansas, and being more particularly described as follows: Commencing at the NW corner of the NW ¼ of the NW ¼ of Section 33; thence S 02°28'26"W 1816.10 feet; thence S02°30'44"W 1833.78 feet; thence N89°06'39"E, 807.11 feet to the true point of beginning; thence S08°27'34"W 181.68 feet; thence S02°49'07"W 228.64 feet; thence N87°10'53"W 20.0 feet; thence N02°49'07"E 229.62 feet; thence N08°27'34"E 160.91 feet; thence N51°02'23"E 29.56 feet; to the point of beginning; containing 0.18 acres, more or less, and being subject to the rights-of-way of Moore Lane and Deane Solomon Road and any easements of record;

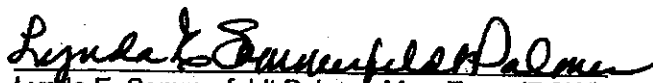
Also, a twenty foot (20') wide utility easement located in a part of the SW ¼ of Section 33, Township 17 North, Range 30 West of the Fifth Principal Meridian in Washington County, Arkansas, and being more particularly described as follows: Commencing at the NW corner of said Section 33 and running thence S02°28'26"W 816.10 feet; thence S02°30'44"W 1833.78 feet; thence S89°06'38"E 807.12 feet to the true point of beginning; and running thence S85°00'00"E 20.01 feet; thence S07°04'59"W a distance of 407.49 feet; thence S02°38'42"W 244.70 feet; thence N87°22'50"W 20.00 feet; thence N02°38'42"E 244.58 feet; thence N07°04'24"E 408.44 feet to the point of beginning; containing .30 acres more or less and being subject to the rights-of-way of Moore Lane and Deane Solomon Road and any easements of record.

UTILITY COMPANY COMMENTS:

No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)



Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way & Joint Use Poles

AT&T Arkansas
1111 West Capitol
Room 941
Little Rock, AR 72201

C. 7
VAC 06-2362 (Springwoods)
Page 15 of 32
T: 501.373.5255
F: 501.373.0229
lynda.palmer@att.com

I am enclosing a copy of the concurrence to the easement release for the
easement release for the easement release for the easement release for the
easement release for the easement release for the easement release for the
easement release for the easement release for the easement release for the

October 6, 2006

H2 Engineering
2758 Millennium Drive
Fayetteville, AR 72703

Gentlemen:

RE: easement release-Springwoods S/D

Please find enclosed AT&T's concurrence in your request to the above
mentioned easement vacation.

This concurrence must be recorded at the Washington County Courthouse in the
office of the circuit clerk to be complete and legal. I would appreciate you
returning a copy of the document to me at the above address for my files.

If you have any questions or comments, please call me at 501-373-5255.

Sincerely,

Lynda Palmer

attachments



CONCURRENCE TO VACATE A DEDICATED EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the closing of the following dedicated utility easement, to-wit:

A twenty foot (20') wide utility easement located in a part of the SW ¼ of Section 33, Township 17 North, Range 30 West of the Fifth Principal Meridian in Washington County, Arkansas, and being more particularly described as follows: Commencing at the NW corner of the NW ¼ of the NW ¼ of Section 33; thence S 02°28'26"W 1816.10 feet; thence S02°30'44"W 1833.78 feet; thence N89°06'39"E, 807.11 feet to the true point of beginning; thence S08°27'34"W 181.68 feet; thence S02°49'07"W 228.64 feet; thence N87°10'53"W 20.0 feet; thence N02°49'07"E 229.62 feet; thence N08°27'34"E 160.91 feet; thence N51°02'23"E 29.56 feet; to the point of beginning; containing 0.18 acres, more or less, and being subject to the rights-of-way of Moore Lane and Deane Solomon Road and any easements of record;

Also, a twenty foot (20') wide utility easement located in a part of the SW ¼ of Section 33, Township 17 North, Range 30 West of the Fifth Principal Meridian in Washington County, Arkansas, and being more particularly described as follows: Commencing at the NW corner of said Section 33 and running thence S02°28'26"W 816.10 feet; thence S02°30'44"W 1833.78 feet; thence S89°06'38"E 807.12 feet to the true point of beginning; and running thence S85°00'00"E 20.01 feet; thence S07°04'59"W a distance of 407.49 feet; thence S02°38'42"W 244.70 feet; thence N87°22'50"W 20.00 feet; thence N02°38'42"E 244.58 feet; thence N07°04'24"E 408.44 feet to the point of beginning; containing .30 acres more or less and being subject to the rights-of-way of Moore Lane and Deane Solomon Road and any easements of record.

Signed and executed this 9th day of October, 2006.

By: F. Jean Davis

F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

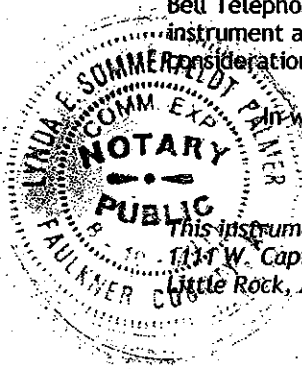
STATE OF ARKANSAS
COUNTY OF PULASKI

On this the ____ day of October, 2006, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

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

This instrument prepared by AT&T
1111 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)

Lynda E. Sommerfeldt Palmer
Lynda E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co., AR
My commission expires August 10, 2011



UTILITY APPROVAL FORM
FOR UTILITY EASEMENT VACATION

DATE: September 6, 2006

UTILITY COMPANY: SWEPCO

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following easement, described as follows:

General location / Address:

Lot 2 of springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

See attached legal description and graphic representation of easement being vacated.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Signature of Utility Company Representative

Kenny Sullivan, SWEPCO R-O-W agent

973-2303

Title

8-18-06

Date

UTILITY APPROVAL FORM
FOR UTILITY EASEMENT VACATIONDATE: September 6, 2006UTILITY 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

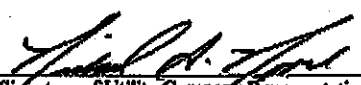
I have been notified of the petition to vacate the following easement, described as follows:

General location / Address:

Lot 2 of springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.*See attached legal description and graphic representation of easement being vacated.*

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative_____
Title_____
DateProject Coordinator9-21-06

UTILITY APPROVAL FORM
FOR UTILITY EASEMENT VACATION

DATE: September 6, 2006

UTILITY COMPANY: City of Fayetteville, Streets Superintendent

REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following easement, described as follows:

General location / Address:

Lot 2 of springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

See attached legal description and graphic representation of easement being vacated.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)



Signature of Utility Company Representative

Transportation Supt. City of Fayetteville

Title

9/19/06

Date

575-8227

UTILITY APPROVAL FORM

FOR UTILITY EASEMENT VACATION

DATE: September 6, 2006UTILITY COMPANY: City of Fayetteville, Sanitation SuperintendentREQUESTED 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 easement, described as follows:

General location / Address:

Lot 2 of springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.*See attached legal description and graphic representation of easement being vacated.*

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Brian Paul
Signature of Utility Company RepresentativeWaste Reduction Coordinator
Title9-20-06
Date

UTILITY APPROVAL FORM
FOR UTILITY EASEMENT VACATION

DATE: September 6, 2006

UTILITY COMPANY: City of 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 (alley, easement, right-of-way), described as follows:

General location / Address:

Lot 2 of Springwoods subdivision, located on the North side of Moore Lane just West of Hwy 540.

See attached legal description and graphic representation of what is being vacated

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, *subject to the following:*
provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Memo dated November 6, 2006 from David Jurgens outlining the
proper way to abandon the existing wastewater infrastructure.

Shannon W. Jones
Signature of Utility Company Representative

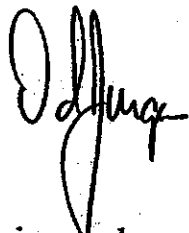
Water & Wastewater Staff Engineer
Title

11/7/2006
Date



WATER AND WASTEWATER DEPARTMENT
DEPARTMENTAL CORRESPONDENCE

TO: Jan Gambill, Planning

FROM: David Jurgens, Water & Wastewater Director 

DATE: November 6, 2006

SUBJECT: Easement Vacation Request, The Arbors at Springwoods

I concur with the easement vacation request at the Arbors at Springwoods, but the easement cannot be abandoned until the requirements listed in this memorandum are met. Per the letter dated November 1, 2006, the engineer of record, H2 Engineering, Inc., stated that "The developers of The Arbors at Springwoods will abandon the sewer lift station and existing gravity lines." The engineer has submitted drawings to the Engineering Department for review. The drawings must be modified to identify which lines are to be abandoned, and how they will be abandoned.

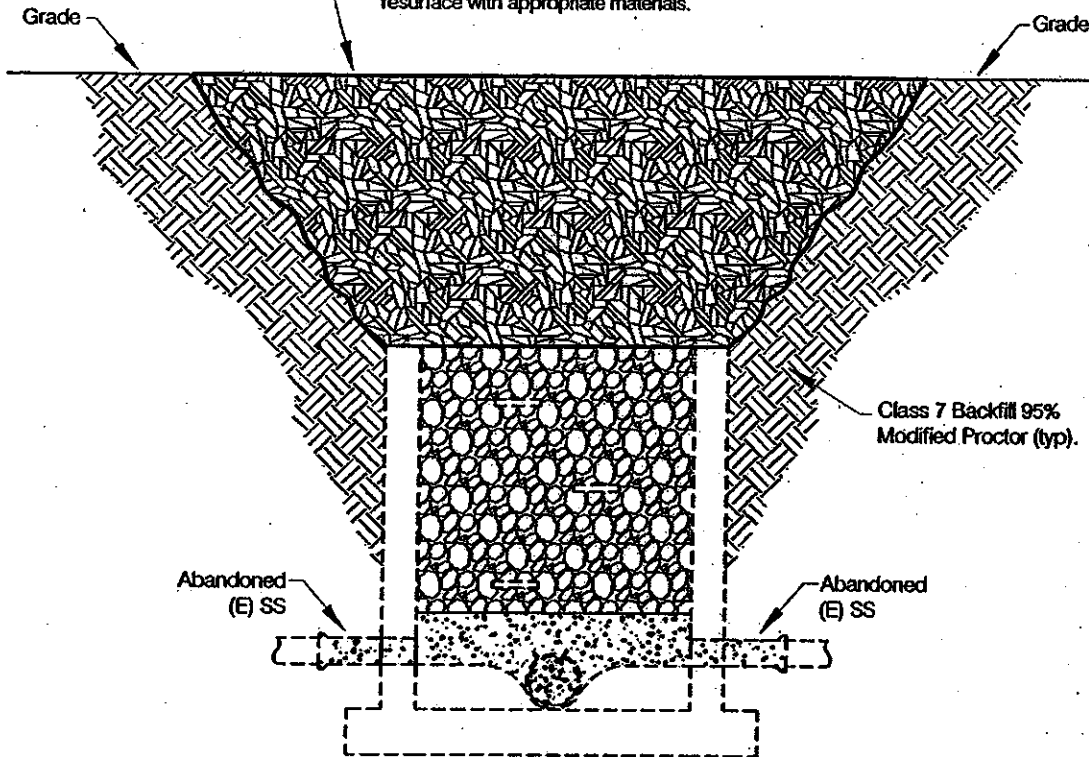
1. All existing manholes and the wet well to be abandoned shall be abandoned per the attached detail.
2. All existing sewer lines to be abandoned that tie to a manhole that will remain in service, must be identified and must be dug up outside the manhole that will remain in service, and physically plugged with a water tight plug in every direction.
3. All existing pump station equipment shall be salvaged and delivered to the City of Fayetteville. Any wet wells or valve vaults shall be abandoned in accordance with the manhole abandonment detail attached.

The existing pump station was constructed within a deeded, platted lot. I believe this has to be handled as a property sale rather than an easement or right of way vacation.

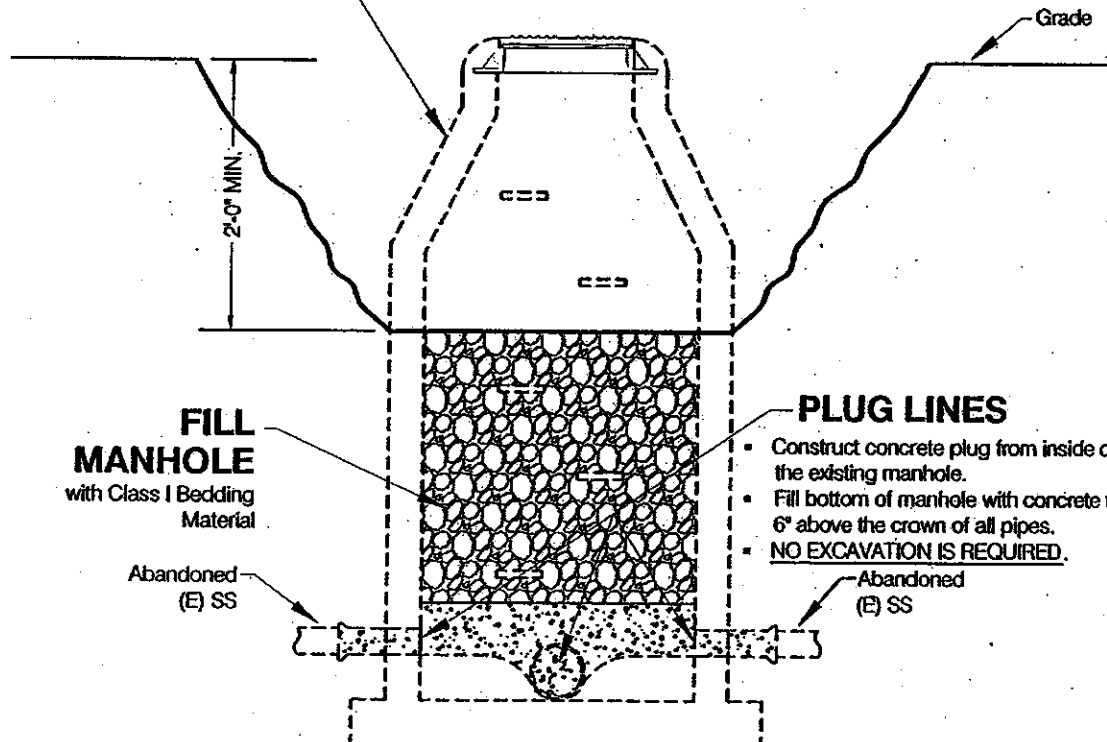
Cc: Engineering
Water/Sewer Operations
H2 Engineering

BACKFILL, REPAVE or RESURFACE

- Backfill Abandonments in PAVED AREAS, and perform pavement repair as per Standard Specifications appropriate detail.
- Backfill Abandonments in NONPAVED AREAS with select native material, and resurface with appropriate materials.



REMOVE
MH Ring & Cover, Cone
and/or Barrel to a min. of
2'-0" below existing grade
elevation.



**FILL
MANHOLE**
with Class I Bedding
Material

PLUG LINES

- Construct concrete plug from inside of the existing manhole.
- Fill bottom of manhole with concrete to 6" above the crown of all pipes.
- **NO EXCAVATION IS REQUIRED.**

EXISTING MANHOLE ABANDONMENT DETAILS

Standard Details
for
Sewer Construction

Prepared By: City of Fayetteville - Engineering
Date: January 2006

Fayetteville
ARKANSAS

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR AN EASEMENT VACATION REQUEST

Date: September 6, 2006

Address / location of vacation: Lot 2 of Springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

SURVEY DESCRIPTION FOR SEWER EASEMENT

A TWENTY FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WITT: COMMENCING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 33; THENCE S02°28'26"W 1816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE N89°06'39"E, 807.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE S08°27'34"W 181.88 FEET; THENCE S02°49'07"W 228.64 FEET; THENCE N87°10'53"W 20.00 FEET; THENCE N02°49'07"E 229.62 FEET; THENCE N08°27'34"E 160.94 FEET; THENCE N51°02'23"E 29.56 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION FOR OZARK ELECTRIC EASEMENT

A 20-FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NW CORNER OF SAID SECTION 33 AND RUNNING THENCE S02°28'26"W 816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE S89°06'38"E 807.12 FEET TO THE TRUE POINT OF BEGINNING; AND RUNNING THENCE S85°00'00"E 20.01 FEET; THENCE S07°04'59"W A DISTANCE OF 407.49 FEET; THENCE S02°38'42"W 244.70 FEET; THENCE N87°22'50"W 20.00 FEET; THENCE N02°38'42"E 244.58 FEET; THENCE N07°04'24"E 408.44 FEET TO THE POINT OF BEGINNING; CONTAINING 0.30 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☒ I do not object to the vacation described above.

☐ I do object to the requested vacation because:

HUNTER HAYNE
Name of Property Owner (printed)

[Signature]
Signature of Property Owner

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR AN EASEMENT VACATION REQUEST

Date: September 6, 2006

Address / location of vacation: Lot 2 of Springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

SURVEY DESCRIPTION FOR SEWER EASEMENT

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ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☒ I do not object to the vacation described above.

☐ I do object to the requested vacation because:

HUNTER HAYNE
Name of Property Owner (printed)

[Signature]
Signature of Property Owner

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR AN EASEMENT VACATION REQUEST

Date: September 6, 2006

Address / location of vacation: Lot 2 of Springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

SURVEY DESCRIPTION FOR SEWER EASEMENT

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ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☒ I do not object to the vacation described above.

☐ I do object to the requested vacation because:

NANCY E BOHNHOFF, DVM
Name of Property Owner (printed)

Nancy E Bohnhoff DVM
Signature of Property Owner

ADJACENT PROPERTY OWNER NOTIFICATION FORM

C. 7
VAC 06-2362 (Springwoods)
Page 27 of 32

FOR AN EASEMENT VACATION REQUEST

Date: September 6, 2006

Address / location of vacation: Lot 2 of Springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

SURVEY DESCRIPTION FOR SEWER EASEMENT

A TWENTY FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT: COMMENCING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 33; THENCE S02°28'26"W 1816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE N89°06'39"E, 807.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE S08°27'34"W 181.68 FEET; THENCE S02°49'07"W 228.64 FEET; THENCE N87°10'53"W 20.00 FEET; THENCE N02°49'07"E 229.62 FEET; THENCE N08°27'34"E 160.91 FEET; THENCE N51°02'23"E 29.56 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

SURVEY DESCRIPTION FOR OZARK ELECTRIC EASEMENT

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ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☒ I do not object to the vacation described above.

☐ I do object to the requested vacation because:

David P Hartman
Name of Property Owner (printed)

[Signature]
Signature of Property Owner

9/19/06

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR AN EASEMENT VACATION REQUEST

Date: September 6, 2006

Address / location of vacation: Lot 2 of Springwoods subdivision, located on the north side of Moore Lane just west of Hwy 540.

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

SURVEY DESCRIPTION FOR SEWER EASEMENT

A TWENTY FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WITT: COMMENCING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 33; THENCE S02°28'26"W 1816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE N89°06'39"E, 807.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE S08°27'34"W 181.68 FEET; THENCE S02°49'07"W 228.64 FEET; THENCE N87°10'53"W 20.00 FEET; THENCE N02°49'07"E 229.62 FEET; THENCE N08°27'34"E 160.91 FEET; THENCE N51°02'23"E 29.56 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD.

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ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☒ I do not object to the vacation described above.

☐ I do object to the requested vacation because:

Chris King
Name of Property Owner (printed)

CB 146
Signature of Property Owner

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

49
VAC 06-2362 (Springwoods)
Page 29 of 32

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

PLANNING DIVISION CORRESPONDENCE

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

Project Name: VAC 06-2362 Springwoods Lot 2 Return by: _____

Parcel: 765-23600-000

Plat Page#: 286
Section: 33
Township: 17
Range: 30

Current Zoning: PZD
Proposed Zoning: _____

Submittal: 1st 2nd 3rd

Closure error / comments:

First submittal closure is good. I think there are a couple of
typos - sewer easement call N89-06-39E 807.11 should be
SOUTH - EAST, electr. easement call S02-28-26W 816.10
should be 1,816.10.

Has the applicant been contacted with requested revisions:

YES NO

Checked by: TJ

Date shape file was created:

11/17/06

SURVEY DESCRIPTION FOR SEWER EASEMENT

A TWENTY FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WITT: COMMENCING AT THE NW CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 33; THENCE S02°28'26"W 1816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE N89°06'39"E, 807.11 FEET TO THE TRUE POINT OF BEGINNING; THENCE S08°27'34"W 181.68 FEET; THENCE S02°49'07"W 228.64 FEET; THENCE N87°10'53"W 20.00 FEET; THENCE N02°49'07"E 229.62 FEET; THENCE N08°27'34"E 160.91 FEET; THENCE N51°02'23"E 29.56 FEET; TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD. call
S/B
South - East

SURVEY DESCRIPTION FOR OZARK ELECTRIC EASEMENT

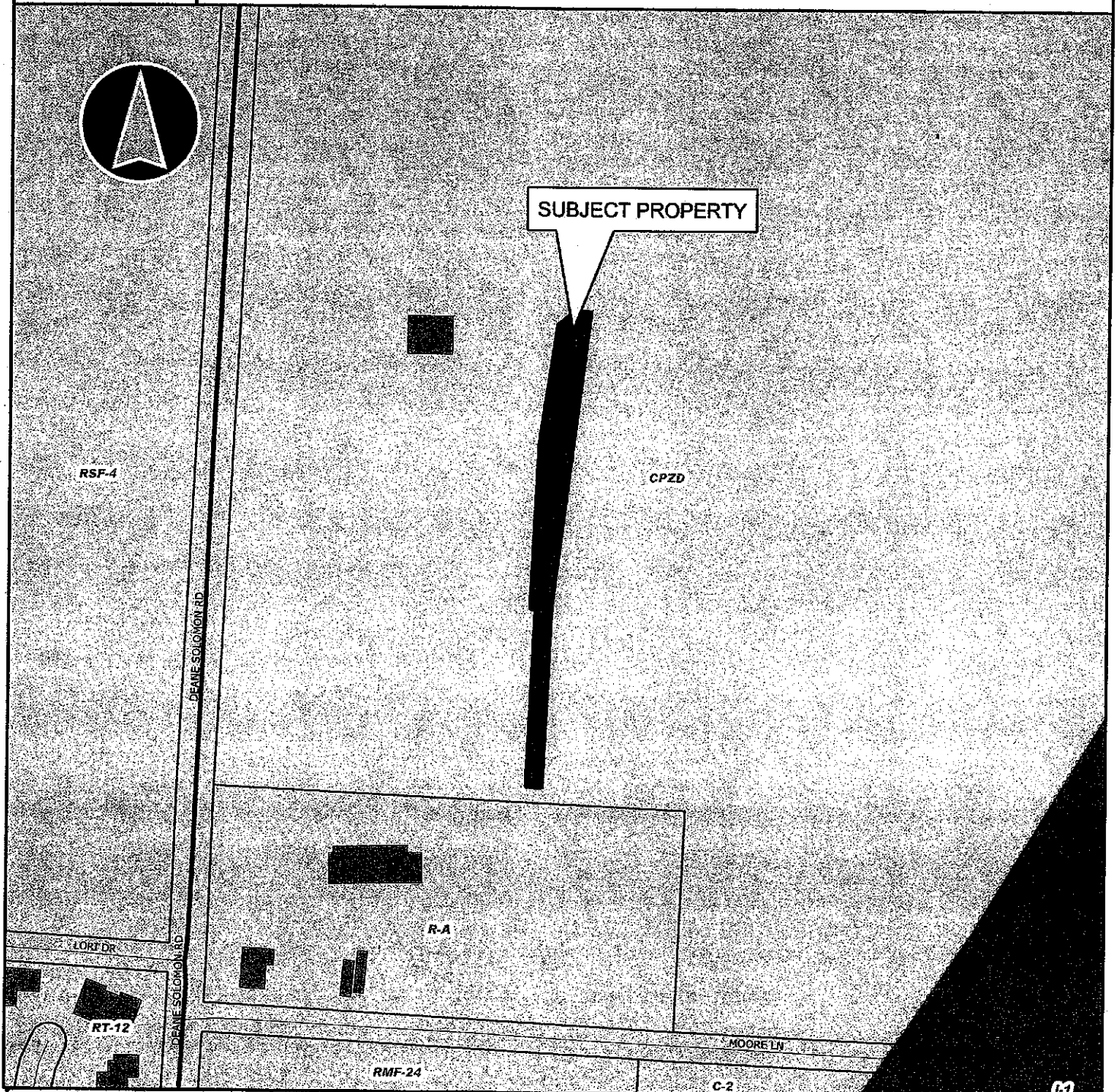
A 20-FOOT WIDE UTILITY EASEMENT LOCATED IN A PART OF THE SW ¼ OF SECTION 33, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS TO-WIT: COMMENCING AT THE NW CORNER OF SAID SECTION 33 AND RUNNING THENCE S02°28'26"W 816.10 FEET; THENCE S02°30'44"W 1833.78 FEET; THENCE S89°06'38"E 807.12 FEET TO THE TRUE POINT OF BEGINNING; AND RUNNING THENCE S85°00'00"E 20.01 FEET; THENCE S07°04'59"W A DISTANCE OF 407.49 FEET; THENCE S02°38'42"W 244.70 FEET; THENCE N87°22'50"W 20.00 FEET; THENCE N02°38'42"E 244.58 FEET; THENCE N07°04'24"E 408.44 FEET TO THE POINT OF BEGINNING; CONTAINING 0.30 ACRES MORE OR LESS AND BEING SUBJECT TO THE RIGHTS-OF-WAY OF MOORE LANE AND DEANE SOLOMON ROAD AND ANY EASEMENTS OF RECORD. S/B
1816.10

First submittal as.
VAC 06-2362
closure good
2 typas
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VAC06-2362

Close Up View

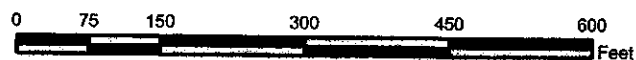
SPRINGWOODS LOT 2



Overview

Legend

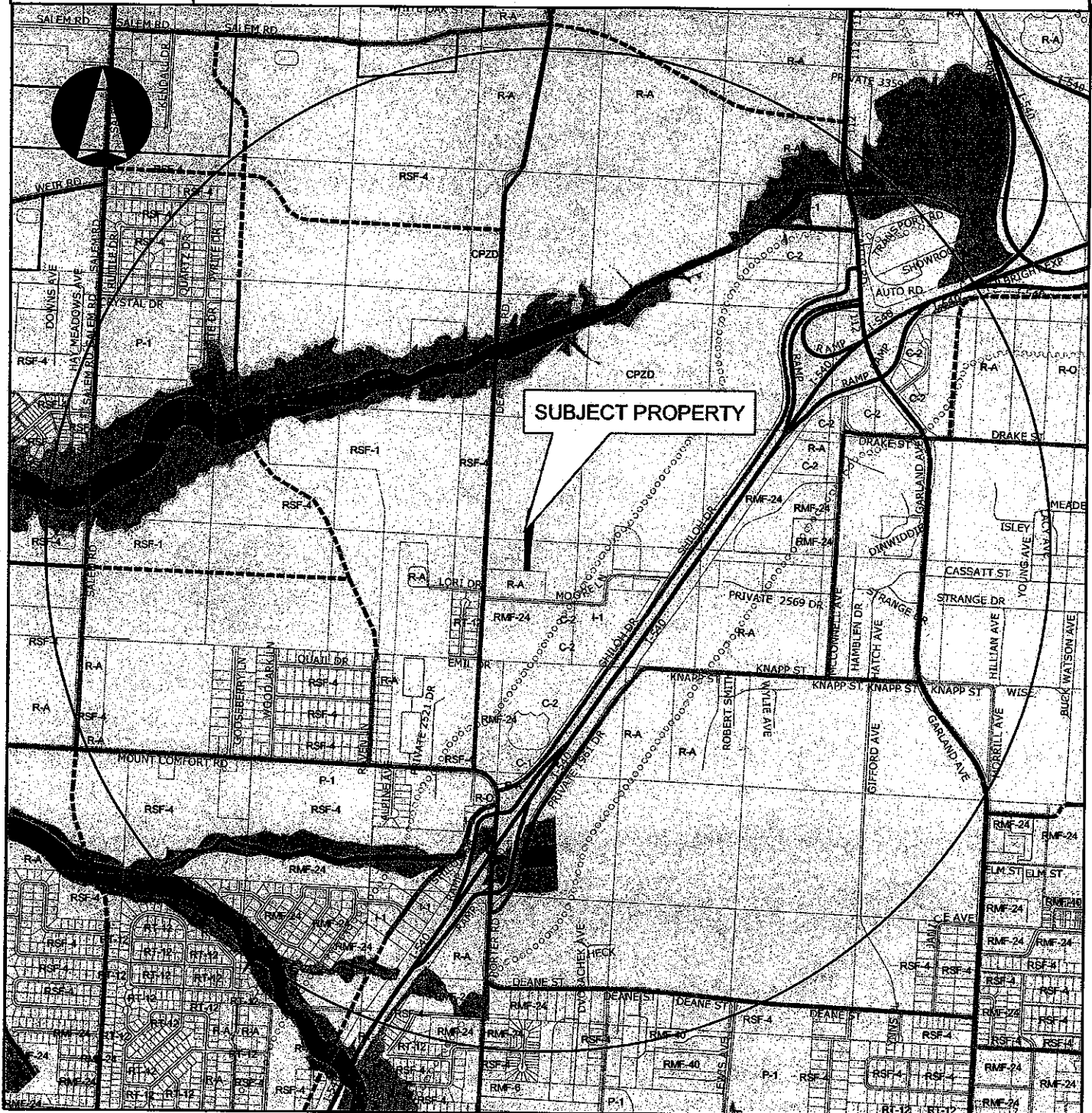
- ○ ○ ○ ○ Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- VAC06-2362
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



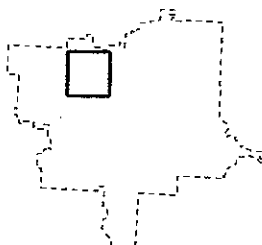
VAC06-2362

One Mile View

SPRINGWOODS LOT 2



Overview



Legend

Subject Property



Boundary

 Planning Area

 **Outside City**

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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 Meeting of January 2, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: December 14, 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 the 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.

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 _____, 2007.

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. City Council determination of appropriate connectivity:

- a. The applicant proposes two full access public streets: 1) An extension of Ray Avenue into the property which loops through the site and 2) a full-access public street connection to Helen Street through an existing platted lot purchased as part of the subject property. *The connection to Helen Street was the subject of much discussion at the Planning Commission, with two options being presented, one with the full street connection to provide two means of ingress/egress for the development and another with pedestrian and emergency vehicle access only with break away bollards located at the north and south entrance. No consensus was reached on either option.*
- b. The applicant proposes a future street connection to the west, with signs and an assessment for construction to the west property line to indicate the future street. *Staff recommends that approximately 20' of the western stub-out be constructed to city standards for a public residential street at the time of development, with an assessment required for the remainder of the street section due to the location of the existing creek that splits the property lines. The street construction and assessment shall include pavement, curb and gutter, storm drainage and any construction required for the crossing of the floodplain on the subject property, and a 4' sidewalk along the south side of the right-of-way. The developer shall dedicate 40' of right-of-way from the extension of Ray Ave. to the western property line. 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.*

2. 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. *Should the access to Helen Street become a full-access public street, the applicant shall coordinate with the Engineering Division prior to discussion to determine the necessary final design of the four-way intersection, to ensure the public alley does not become utilized as a public street.*
- e. *Street lights shall be installed every 300' along the public street, public alleys and at all intersections.*

EXHIBIT "C"

R-PZD 06-2196

Page 2 of 4

- f. Staff recommends a 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. This connection shall be permitted to occur at a future date, if desired by the City, with the construction of the trail.*
3. **City Council 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.*
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. 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.
6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. One (1) large species tree shall be planted in between each of the multi-family driveways and shall be depicted on the landscape plan.
8. 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.
9. 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.

EXHIBIT "C"
R-PZD 06-2196
Page 3 of 4

10. 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.
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. 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.
13. All structures shall meet City of Fayetteville ordinances for floodplain development, including finish floor elevations, grading and erosion control and floodplain development permits.
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. 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. 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.
 - iii. Page 8 of the project booklet (Current Zoning vs. Proposed PZD): The information within this table does not match the most current numbers. This table shall be updated to reflect the current proposal.
 - iv. 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.
 - v. Include the area between the public trail/alley access and Planning Area 5 within a 20' trail access easement and label as such, 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.

EXHIBIT "C"
R-PZD 06-2196
Page 4 of 4

- vi. Page 1 and Page 11 of the project booklet refer to the 20' public alley for fire access and pedestrians only, with break away bollards. If the alley is now proposed as a public street, remove these statements.
 - vii. Page 5 of the project booklet indicates that the lot area minimum for Planning Area 3 is 9,654 sq. ft. The actual lot area minimum is 10,811 sq. ft.
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 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

1000' S.I.
0.43 ACRES

EXHIBIT OF
SIDEWALK CONNECTIONS
TO FUTURE TRAIL

1000' S.I.
0.23 ACRES

R-PZD 06-2196 West Fork Place
Page 34 of 22

S87°22'4" 789.38'

4-1
142 S.F.
0.003 ACRES

PA-4
19068 S.F.
0.44 ACRES

PA-1
37617 S.F.
0.86 ACRES

50' EXISTING
EASEMENT

INTERPOLATED
BASE FLOOR
ELEVATION

12' PROPOSED TRAIL BY PARKS

N70°07'11"E
144.90'

N00°37'26"E
10.33'

N46°25'21"W
57.75'

N10°30'06"W
10.23 ACRES

N70°07'11"E
144.90'

N46°25'21"W
57.75'

N00°37'26"E
10.33'

N10°30'06"W
10.23 ACRES

N70°07'11"E
144.90'

N46°25'21"W
57.75'

N00°37'26"E
10.33'

N10°30'06"W
10.23 ACRES



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

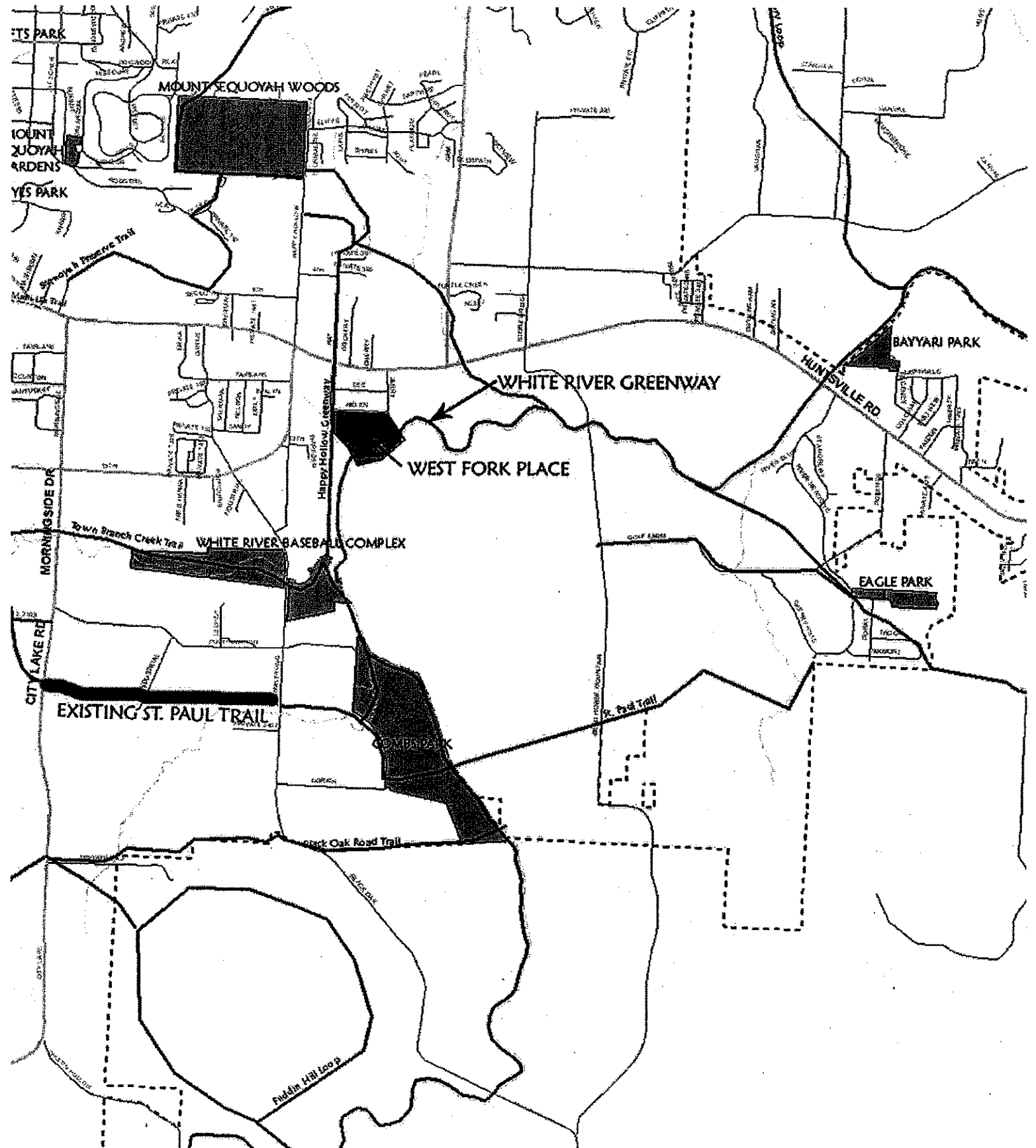
ENGINEERING DIVISION - TRAILS CORRESPONDENCE

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.**



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 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 a horizontal line.

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.

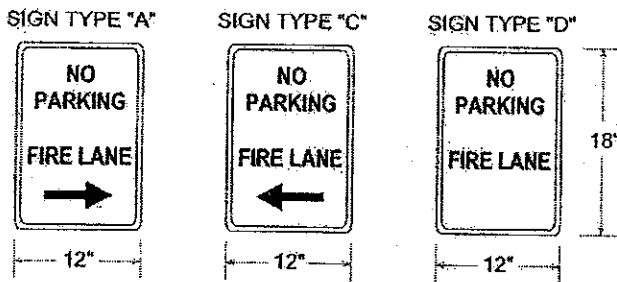


FIGURE D103.6
FIRE LANE SIGNS

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 over-all 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 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 decided 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 amenable 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. Its 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 intense 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 Commission 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 disoussed 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 S9 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 it 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.

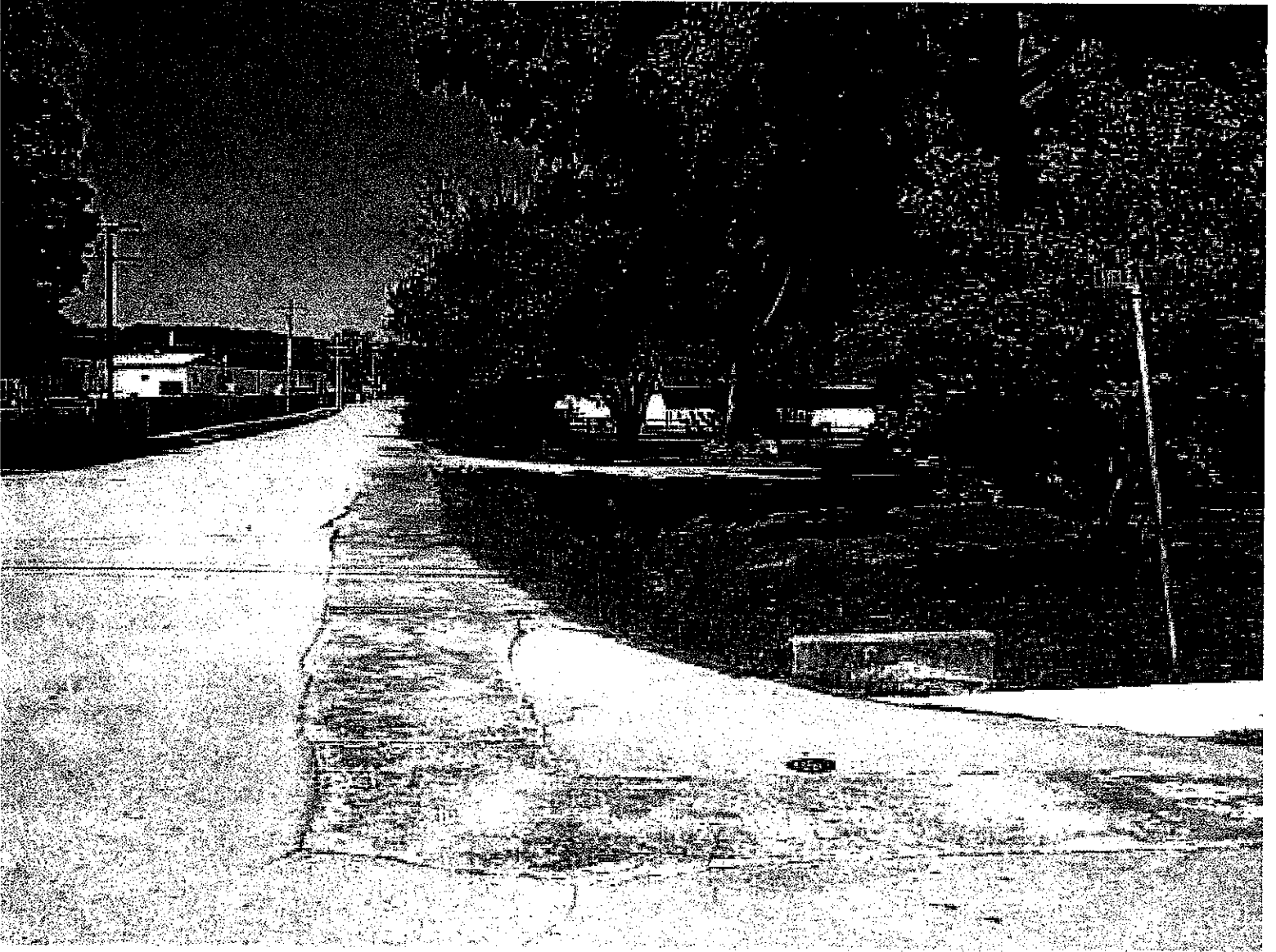
Ostner: Roughly, thank you.

DRAFT

ATTACHMENT A

Aerial photograph and photographs of Ray Avenue





HELEN RAY - LOOKING NORTH (EAST SIDE)



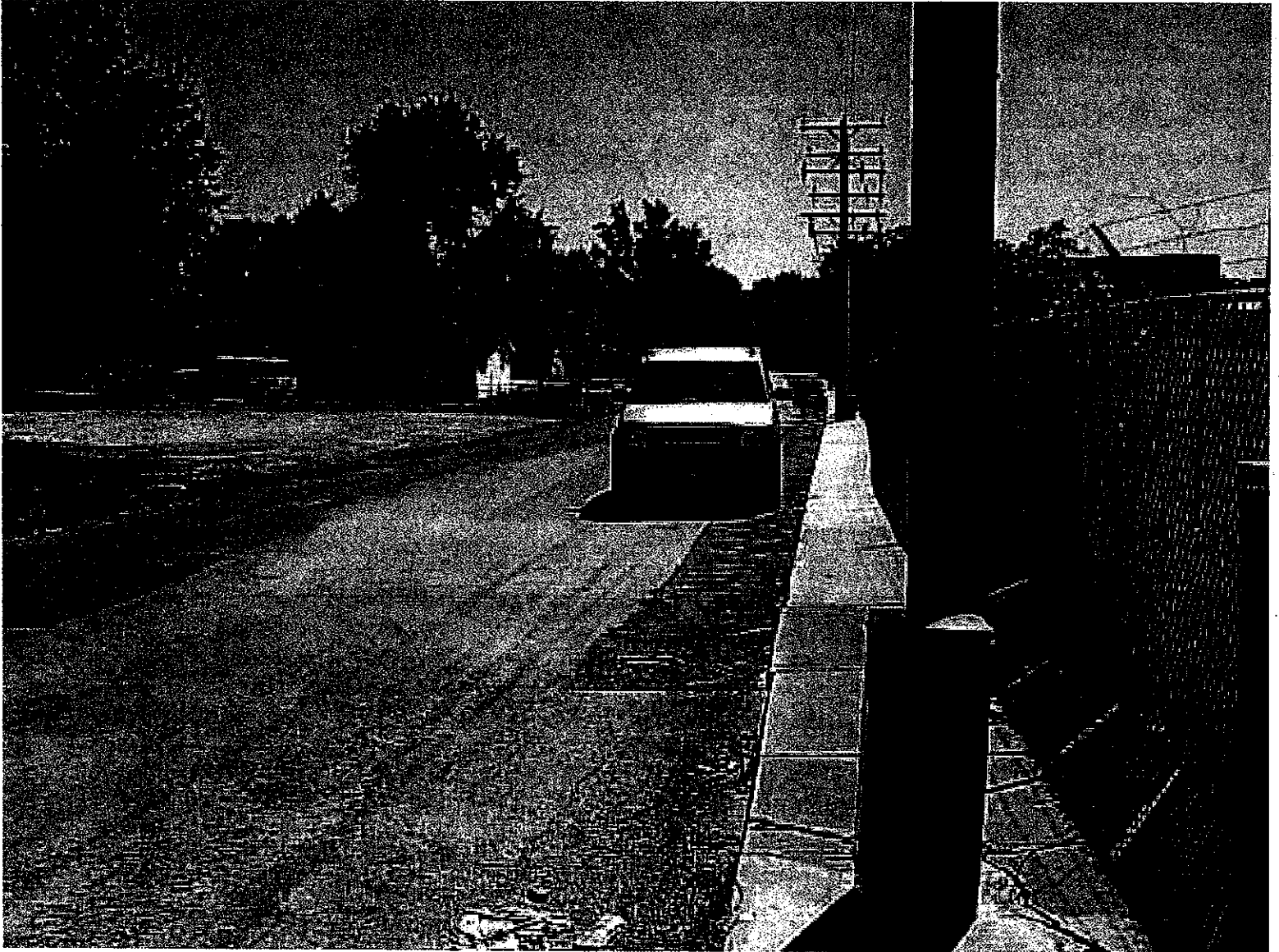
HELEN RAY - LOOKING NORTH (WEST SIDE)



LEE/RAY - LOOKING NORTH (EAST SIDE)



LEE/RAY - LOOKING SOUTH



RD, SOUTH OF HUNTSVILLE - LOOKING SOUTH



RAY, SOUTH OF HUNTSVILLE - LOOKING NORTH

ATTACHMENT B

- **Waiver request from applicant**

PROJECT DESIGN CONSULTANTS, INC.

September 19, 2006

Mr. Jesse Fulcher
City of Fayetteville
Planning Department
125 West Mountain
Fayetteville, AR 72703

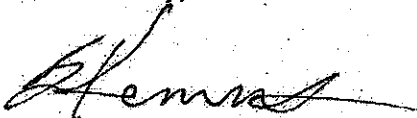
**RE: Request for Waivers of Minimum Street Standards
West Fork Place R-PZD # 00-2196**

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

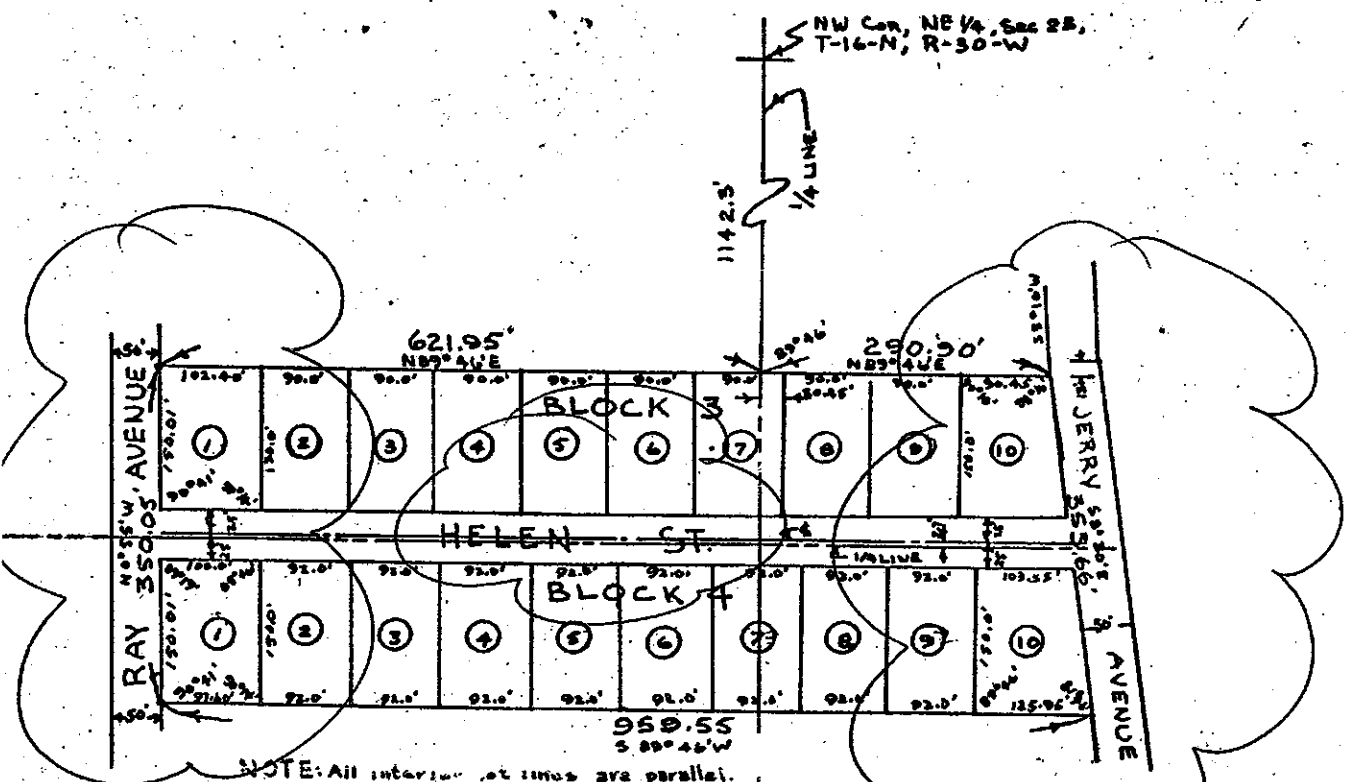
ATTACHMENT C

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.



NOTE: All interior lot lines are parallel.
PLAT OF
BLOCKS 3 & 4
WATSON'S ADDITION
WASHINGTON CO., ARK.

CERTIFIED CORRECT
J.E. MAHARREY
ARK. P.E. No. 84

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

1. JCD MED

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: Alett S. Little, City Planner
Don Bunn, P.E., City Engineer
FROM: Jim Beavers, P.E. *JB*
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 or 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.

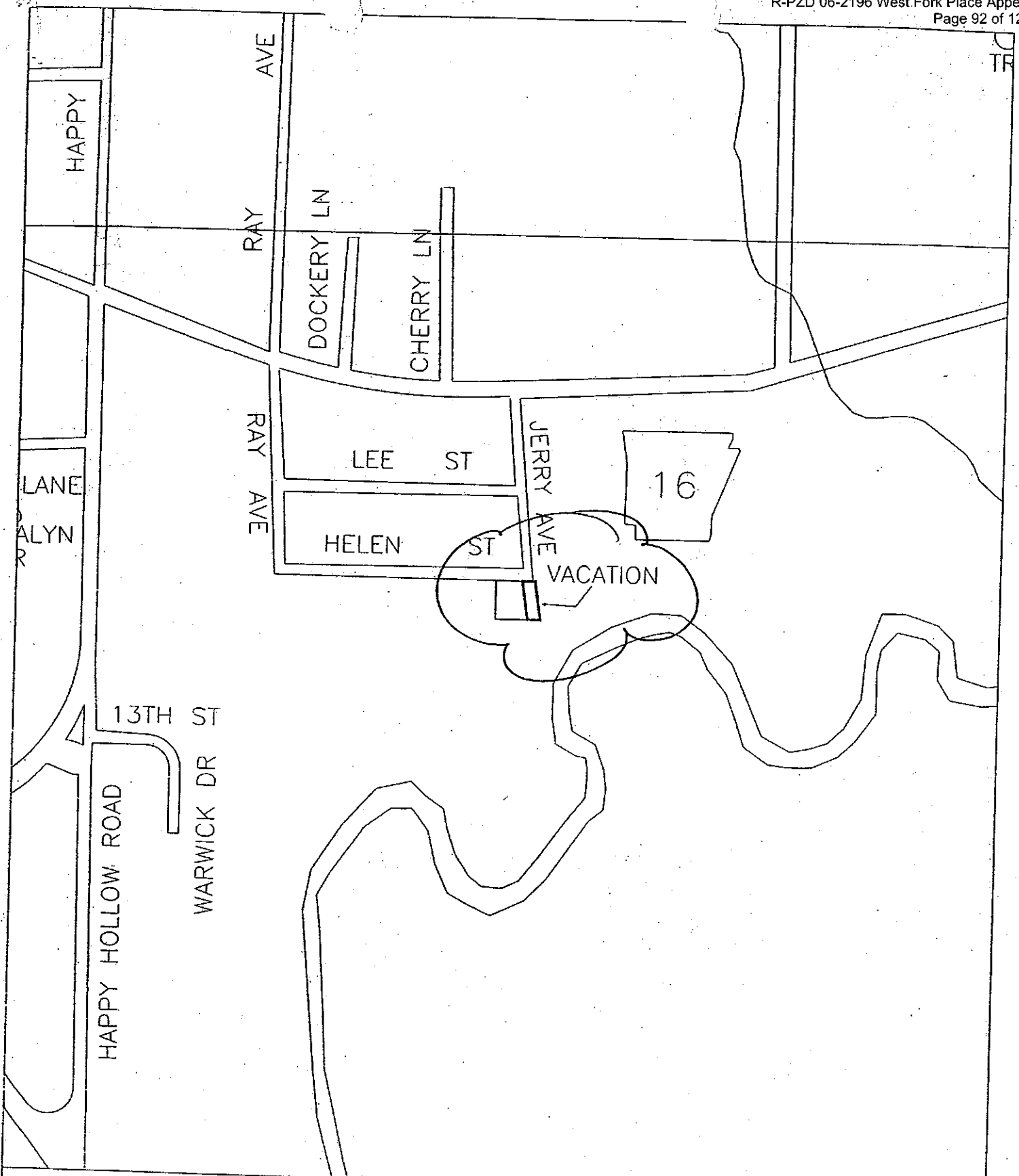
Mr. Foster, representing the applicant, stated he would comply with the conditions of approval.

MOTION

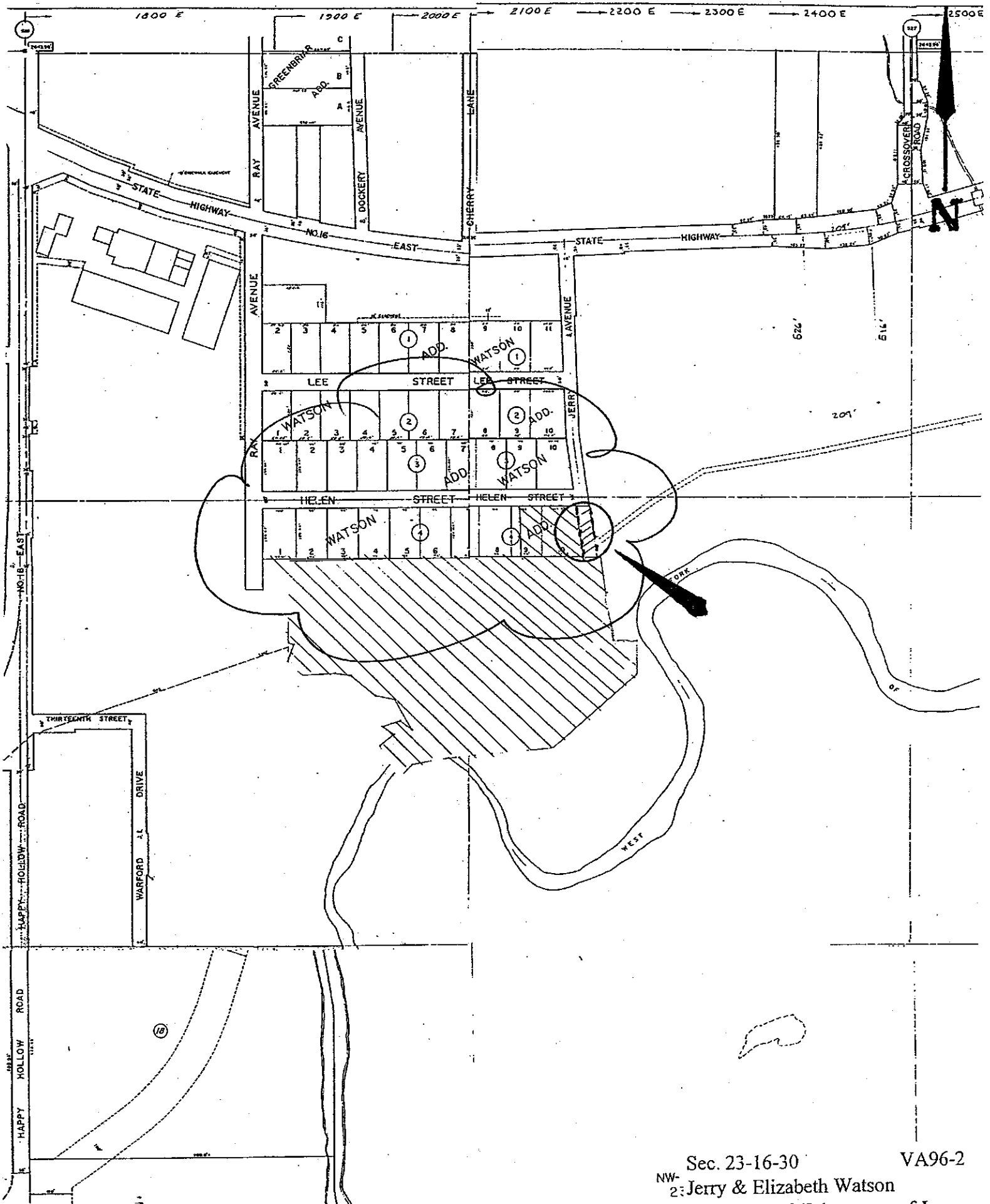
Mr. Reynolds made a motion to approve the street right of way vacation subject to the conditions of approval as set forth above.

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
P.C. 1/8/96



17003

10-0-5

LEE STREET

HELEN STREET

JERRY

2 ADD.

3 ADD.

4 ADD.

765-15191-000

765-11915-000

765-11914-000

765-15186-000

RENT
R-15
10-0-5

MILSON

LOCATED
216190
16702

FORK

1013

1026

103.42

PP# 564

'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:

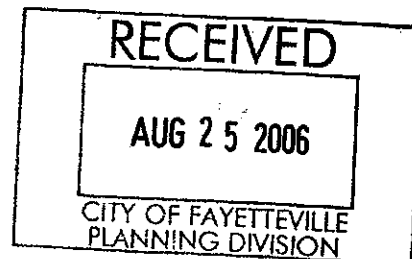
*too much traffic
we can't get on 16 Hwy
now.*

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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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

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☐ 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. ARYON

Name of Property Owner (Printed)

Mark R. Aryon
Signature of Property Owner

ing as enalymen

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

WF Place

Today's Date August 9, 2006

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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

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- ☒ 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

West Fork Place
C. 8
R-PZD-06-08-196 West Fork Place Appeal
Page 101 of 122

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING**

Today's Date August 9, 2006

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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

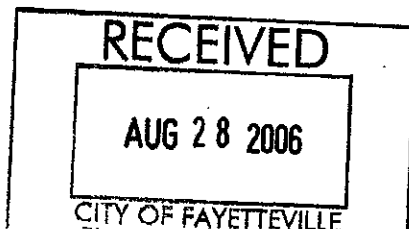
(Return Comments to City of Fayetteville Planning Division in Stamped Enclosed Envelope)

☐ 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:

JUDY RITCHIE
Name of Property Owner (Printed)

Judy Ritchie
Signature of Property Owner

The road cannot handle the traffic. I have to go to the stop light at the doctor's office to turn around so I can turn left on 16 Hiway. The river floods also
Judy Ritchie



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PROJECT DESCRIPTION:

Property located at THE END [REDACTED] SINGLE FAMILY [REDACTED] ACRE 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.

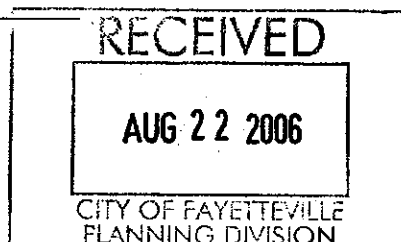
ADJOINING PROPERTY OWNERS COMMENTS

(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 Keller
Name of Property Owner (Printed)

Imogene Keller
Signature of Property Owner



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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. BOORQUIN
Name of Property Owner (Printed)

A. G. Boorquin
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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☐ I do object to the project described above because:

RECEIVED

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

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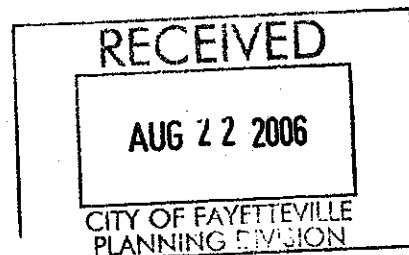
ADJOINING PROPERTY OWNERS COMMENTS

(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**

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PROJECT DESCRIPTION:

Property [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.

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:

Tennay P. Watkins
Name of Property Owner (Printed)

Tennay P. Watkins
Signature of Property Owner

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

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RECEIVED
AUG 15 2006
PLANNING DIV.

PROJECT DESCRIPTION:

Property located at T [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.

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- ☒ 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.

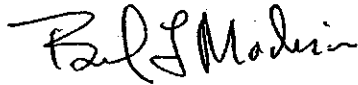
We also have some questions:

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?

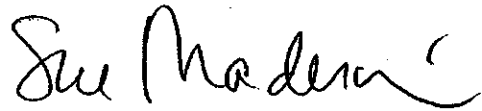
We understand the city's efforts toward "connectivity" of streets; however, this "looping" makes a farce out of connectivity. Both Ray St. and Jerry St. access Huntsville Rd. a few hundred yards apart. There should be some connection to Happy Hollow Road to the west for this neighborhood; that would 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 (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:

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

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113 W. Mountain Street, Room 219

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Planner: Jesse Fulcher

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Parcel: 765-15191-000 : Owner Name: **FLYING MONKEY, LLC**

Parcel: 765-11915-000 **FLYING MONKEY**

ADJOINING PROPERTY OWNERS COMMENTS

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RMT I have been notified of the above meetings for the described project.

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

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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**

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☒ 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

RECEIVED
OCT 17 2006
PLANNING DIV.

HELEN STREET 2006014- 06-2196

ADJOINING PROPERTY OWNERS NOTIFICATION OF UPCOMING PUBLIC HEARING

Today's Date: 10/10/2006

APPLICANT/REPRESENTATIVE CONTACT INFO:

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Planning Commission Meeting

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113 W. Mountain Street, Room 219

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Parcel: 765-11915-000 **FLYING MONKEY**

ADJOINING PROPERTY OWNERS COMMENTS

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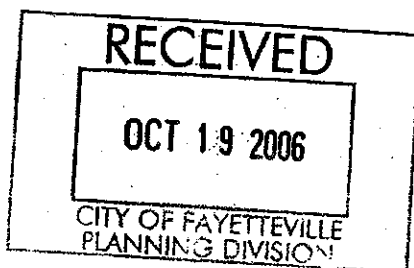
_____ I do not object to the project described above.

_____ I do object to the project described above because:

Name of Property Owner (Printed)

TEVWEK 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:

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113 W. Mountain Street, Room 219

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Parcel: **765-15191-000** : Owner Name: **FLYING MONKEY, LLC**

Parcel: **765-11915-000** **FLYING MONKEY**

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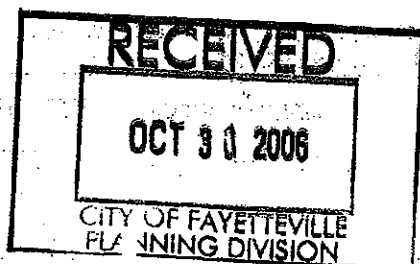
☒ I do object to the project described above because:

Name of Property Owner (Printed)

Signature of Property Owner

*if all these 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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Planning Commission Meeting

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113 W. Mountain Street, Room 219

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Property Owner:

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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: **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:

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Planning Commission Meeting

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Planner: Jesse Fulcher

Property Owner:

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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:

A. BOORQUIN
Name of Property Owner (Printed)

A. Boorquin
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

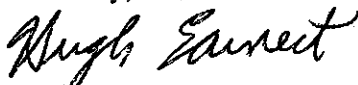
Several weeks ago, we had an opportunity to briefly discuss the housing that Hometown development is attempting to construct adjacent to Helen Street. At that time, you acknowledged the obvious need for the construction of Workforce housing in this area. You were also, as an adjacent property owner, 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,

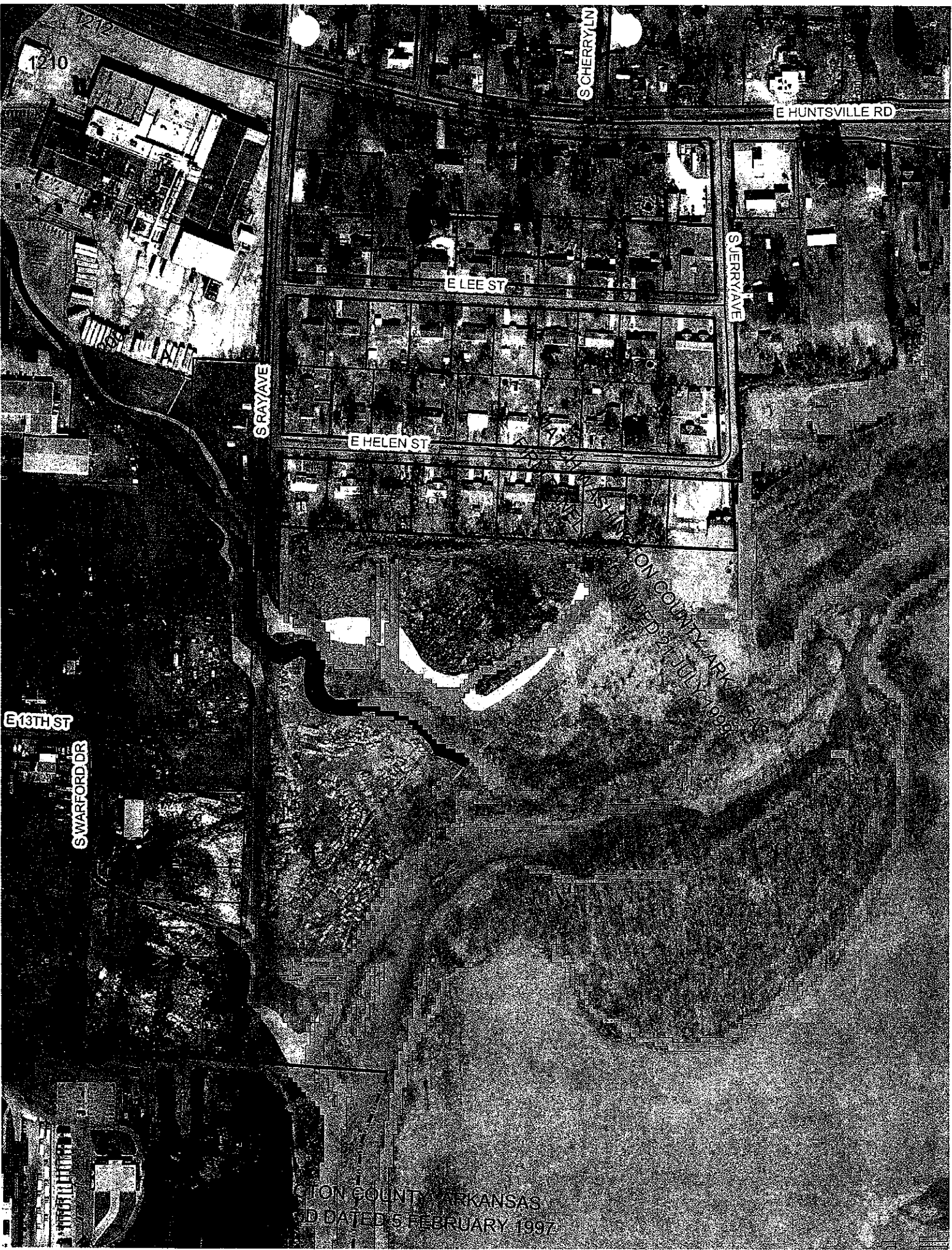


Hugh Earnest
Econsulting

cc: ✓ Jeremy Pate, City of Fayetteville Planning Director
City of Fayetteville Planning Commission

ATTACHMENT E

Vicinity Maps

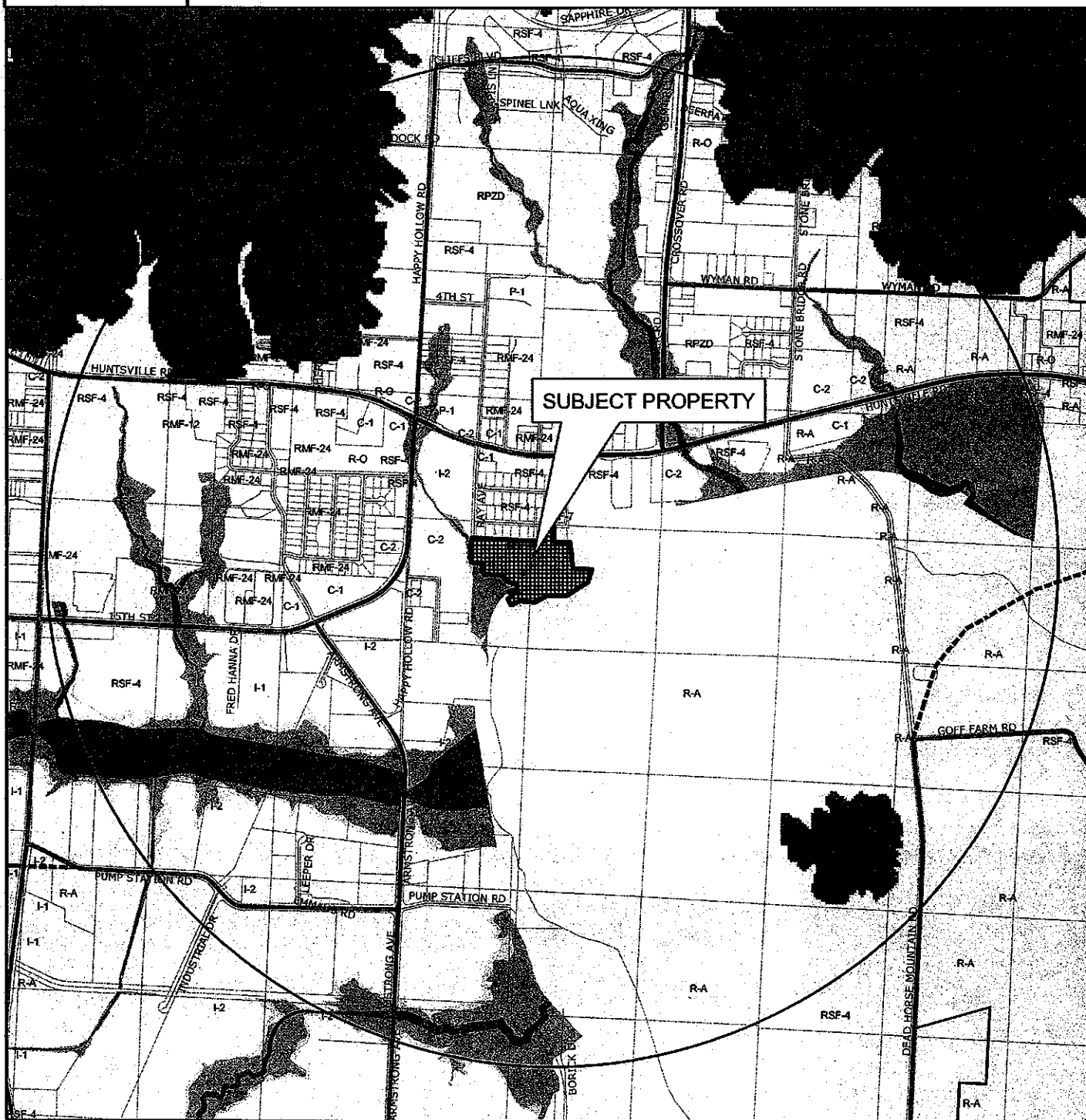


BENTON COUNTY, ARKANSAS
AERIAL PHOTO DATED 5 FEBRUARY 1997

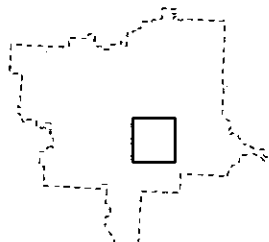
RPZD06-2196

WEST FORK PLACE

One Mile View



Overview



Legend

Subject Property

RPZD06-2196

Boundary

Planning Area

Overlay District

Outside City

Legend

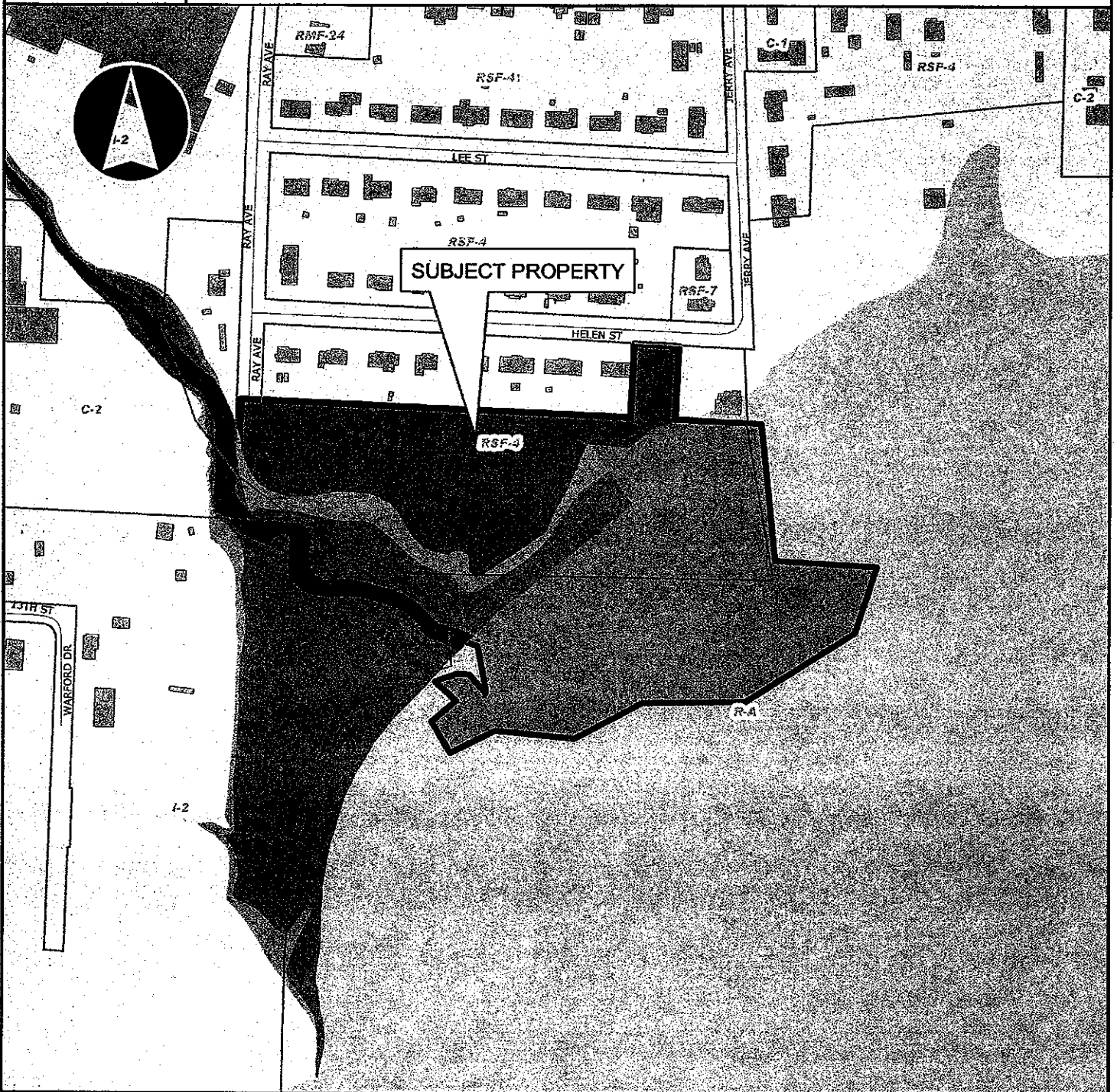
Hillside-Hilltop Overlay District



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

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy 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
January 2, 2007**

A meeting of the Fayetteville City Council will be held on January 2, 2007 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**

Oaths of Office of the 2007 Elected Officials – Judge Rudy Moore

Report on the Firemen's and Policemen's Pension and Relief Fund – Mayor Coody

Election of Vice Mayor

A. CONSENT:

1. **Approval of the December 5, 2006 City Council meeting minutes.**

2. **WSIP Deed Restriction Covenant:** A resolution approving the filing of a deed restriction for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by U.S. Army Corps of Engineers Section 404 Permit Number 14207.

3. **Adjustable Frequency Drive Unit Purchase:** A resolution approving the purchase of one (1) Adjustable Frequency Drive Unit from WESCO in the amount of \$31,891.85 for WSIP Subprojects WL-6, Hamstring Pump Station, and WL-7, Gregg Avenue Pump Station.

- ✓ 4. **Bell-Corley Construction, LLC Contract:** A resolution awarding a contract to Bell-Corley Construction, LLC in the amount of \$1,270,000.00 for the construction of two (2) corporate hangars at the Fayetteville Municipal Airport; approving a project contingency in the amount of \$63,500.00; and approving a budget adjustment in the amount of \$33,500.00 for same.
- ✓ 5. **Assistance to Firefighter's Fire Prevention and Safety Grant:** A resolution authorizing the Fayetteville Fire Department to apply for and accept a Department of Homeland Security FY2006 Assistance to Firefighters Fire Prevention and Safety Grant in the amount of \$12,000.00.

B. UNFINISHED 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. *This ordinance was left on the Second Reading at the December 19, 2006 City Council meeting.*

C. NEW BUSINESS:

- ✓ 1. **Northwest Arkansas Economic Development District Contract:** An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$62,500.00 to provide public recreation services for the senior citizens of Fayetteville for 2007.
- ✓ 2. **Amend Chapter 174 & Chapter 153; Signs:** An ordinance to enact a replacement Chapter 174 Signs and § 153.08 (G) Signs to clarify sign regulations in Fayetteville.
- ✓ 3. **Amend Chapter 159; Road Impact Fees:** An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159: Fees by enacting § 159.05 Road Impact Fees of the Unified Development Code and to refer this ordinance to the voters for their adoption or rejection.
- ✓ 4. **RZN 06-2366 (Wonnacott):** An ordinance rezoning that property described in Rezoning Petition RZN 06-2366, for approximately 1.50 acres, located at 655 and 657 north Genevieve Street from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.
- ✓ 5. **RZN 06-2344 (Dunnerstock and Windsor SD):** An ordinance rezoning that property described in Rezoning Petition RZN 06-2344, for approximately 34.44 acres located at the northeast corner of Double Springs Road and Sellers Road, from R-A, Residential Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

Give
Response
time Once
improvements
are made.

Jeremy
will put in
Council boxes

- 16. R-PZD 06-2349 (Westbrook Village II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2349, Westbrook Village II, located at Salem Road and Clabber Creek Drive; containing approximately 1.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

VAC 06-2362 (Springwoods): An ordinance approving VAC 06-2362 submitted by H2 Engineering for property located at Lot 2 of the Springwoods C-PZD to vacate sewer and electric easements a total of 0.48 acres, in order to develop the Arbors at Springwoods Large Scale Development.

- 8. 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.

INFORMATIONAL:

City Council Tour: None

City Offices will be closed January 1, 2007.

Call and
let them know
this has been
moved to
January 16,
2007 meeting.

Pre-Agenda Meeting
12/20/06

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
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D. INFORMATIONAL:

City Council Tour: None

City Offices will be closed December 25, 2006, December 26, 2006 and January 1, 2007.

City Council Agenda Session for this agenda will be on Thursday, December 28, 2006 at 4:30 PM in Room 326.

Handwritten text at the top of the page, possibly a title or header, including a circled number '5'.

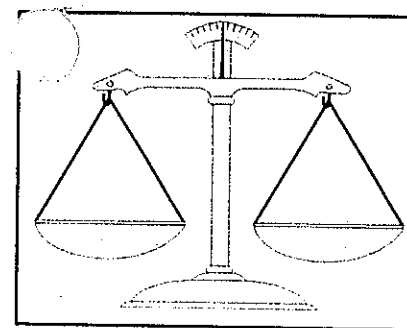
First main paragraph of handwritten text, consisting of several lines.

Second main paragraph of handwritten text, continuing the narrative or list.

Third main paragraph of handwritten text, located in the lower middle section.

Large block of handwritten text at the bottom of the page, possibly a conclusion or a long list.

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

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

DATE: **January 3, 2007**

RE: **Passed Ordinances and Resolutions from City Council meeting
of January 2, 2007**

1. **WSIP Deed Restriction Covenant:** Resolution approving filing a deed restriction for Wastewater System Improvement Project Wetland Compensatory Mitigation Site, as required by U.S. Army Corps of Engineers §404, Permit No. 14207;
2. **Adjustable Frequency Drive Unit Purchase:** Resolution approving purchase of an Adjustable Frequency Drive Unit from WESCO Distribution, Inc. in amount of \$31,891.85 for WSIP Subprojects WL-6, Hamstring Pump Station and WL-7, Gregg Avenue Pump Station;
3. **Bell-Corley Construction, LLC contract:** Resolution awarding contract to Bell-Corley Construction, LLC in amount of \$1,270,000.00 for construction of two corporate hangars at Fayetteville Municipal Airport; approving project contingency in amount of \$63,500.00 and approving budget adjustment in amount of \$33,500.00 for same;
4. **Firefighter's Fire Prevention & Safety Grant:** Resolution authorizing Fayetteville's Fire Dept. to apply for and accept a Department of Homeland Security FY 2006 Assistance to Firefighters Fire Prevention and Safety Grant in amount of \$12,000.00;

5. **RZN 06-2336:** Ordinance rezoning property described in RZN 06-2336, for approximately 36.62 acres, located at southwest corner of Broyles Avenue and Persimmon Street from R-A, Residential Agricultural, to RSF-8. Residential Single-Family, 8 units per acre with Bill of Assurance;
6. **NWA Economic Development District Contract:** Ordinance waiving requirements of formal competitive bidding and approving contract between City of Fayetteville and Northwest Arkansas Economic Development District in amount of \$62,500.00 to provide public recreation services for senior citizens of Fayetteville for 2007;
7. **RZN 06-2366:** Ordinance rezoning property described in RZN 06-2366, for approximately 1.50 acres located at 655 and 657 N. Genevieve Street from R-A, Residential Agricultural to RSF-4, Residential Single Family, 4 units per acre;
8. **R-PZD 06-2349:** Ordinance establishing Residential Planned Zoning District, R-PZD 06-2349, Westbrook Village II, located at Salem Road and Clabber Creek Drive; containing approximately 1.38 acres; amending Official Zoning Map of City of Fayetteville and adopting Associated Master Development Plan;
9. **VAC 06-2362:** Ordinance approving VAC 06-2362 submitted by H2 Engineering for property located at Lot 2 of the Springwoods C-PZD to vacate sewer and electric easements a total of 0.48 acres, in order to develop the Arbors at Springwoods Large Scale Development;
10. **Aspen Ridge Expiration Date Extension:** Ordinance repealing and replacing Ordinance No. 4818, extending expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2007.

RECEIVED

JAN 05 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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:

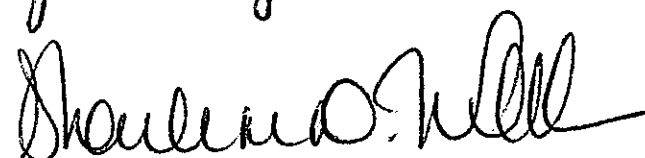
January 1, 2007

Publication Charge: \$147.70

Subscribed and sworn to before me

This 2 day of January, 2007.

Notary Public



My Commission Expires:

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

RECEIVED

JAN 05 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
JANUARY 2, 2007**

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on January 2, 2007 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

Oaths of Office of the 2007 Elected Officials - Judge Rudy Moore

Report on the Firemen's and Policemen's Pension and Relief Fund - Mayor Coody
Election of Vice Mayor

A. CONSENT:

1. Approval of the December 5, 2006 City Council meeting minutes.

2. WSIP Deed Restriction Covenants: A resolution approving the filing of a deed restriction for the Wastewater System Improvement Project (WSIP) Wetland Compensatory Mitigation Site, as required by U.S. Army Corps of Engineers Section 404 Permit Number 14207.

3. Adjustable Frequency Drive Unit Purchases: A resolution approving the purchase of one (1) Adjustable Frequency Drive Unit from WESCO Distribution, Inc. in the amount of \$31,891.85 for WSIP Subprojects WL-6, Hamestring Pump Station, and WL-7, Gregg Avenue Pump Station.

4. Bell-Corley Construction, LLC Contract: A resolution awarding a contract to Bell-Corley Construction, LLC in the amount of \$1,270,000.00 for the construction of two (2) corporate hangars at the Fayetteville Municipal Airport; approving a project contingency in the amount of \$63,500.00; and approving a budget adjustment in the amount of \$33,500.00 for same.

5. Assistance to Firefighter's Fire Prevention and Safety Grant: A resolution authorizing the Fayetteville Fire Department to apply for and accept a Department of Homeland Security FY2006 Assistance to Firefighters Fire Prevention and Safety Grant in the amount of \$12,000.00.

B. UNFINISHED 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. This ordinance was left on the Second Reading at the December 19, 2006 City Council meeting.

C. NEW BUSINESS:

1. Northwest Arkansas Economic Development District Contract: An ordinance waiving the requirements of formal competitive bidding and approving a contract between the City of Fayetteville, Arkansas and the Northwest Arkansas Economic Development District in the amount of \$62,500.00 to provide public recreation services for the senior citizens of Fayetteville for 2007.

2. Amend Chapter 174 & Chapter 153; Signs: An ordinance to enact a replacement Chapter 174 Signs and § 153.08 (G) Signs to clarify sign regulations in Fayetteville.

3. Amend Chapter 159; Road Impact Fees: An ordinance to amend Title XV Unified Development Code of Fayetteville, Chapter 159: Fees by enacting § 159.05 Road Impact Fees of the Unified Development Code and to refer this ordinance to the voters for their adoption or rejection.

4. RZN 06-2386 (Wonnepott): An ordinance rezoning that property described in Rezoning Petition RZN 06-2386, for approximately 1.50 acres, located at 655 and 657 north Genevieve Street from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

5. RZN 06-2344 (Dunnetstock and Windsor SD): An ordinance rezoning that property described in Rezoning Petition RZN 06-2344, for approximately 34.44 acres located at the northeast corner of Double Springs Road and Sellers Road, from R-A, Residential Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

6. R-PZD 06-2349 (Westbrook Village II): An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2349, Westbrook Village II, located at Salem Road and Clabber Creek Drive, containing approximately 1.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

7. VAC 06-2362 (Springwoods): An ordinance approving VAC 06-2362 submitted by H2 Engineering for property located at Lot 2 of the Springwoods C-PZD to vacate sewer and electric easements a total of 0.48 acres, in order to develop the Arbors at Springwoods Large Scale Development.

8. Aspen Ridge Expiration Date Extension: An ordinance repealing and replacing Ordinance No. 4848, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2007.

D. INFORMATIONAL:

City Council Tour: None

New Year's Day Holiday - January 1, 2007 - City offices will be closed