Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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
February 20, 2007

A meeting of the Fayetteville City Council will be held on February 20, 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

"Justin Minkel Day" Proclamation: A Proclamation in Honor of Justin Minkel for being named among four finalists for the National Teacher of the Year Award.

A. CONSENT:

1. **Approval of the February 6, 2007 City Council meeting minutes and the February 13, 2007 Special City Council meeting minutes.**

   APPROVED.

2. **Historic District Commission Appointment:** A resolution confirming the Mayor's appointment of Mr. Vince Chadick to the Historic District Commission.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 26-07.

3. **New World Systems, Inc:** A resolution approving a three-year renewal of the Public Safety Software Maintenance Agreement with New World Systems, Inc. in the amount of $78,579.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 27-07.

4. **Cruise Uniform and Equipment:** A resolution to approve a bid purchase of 140 replacement Glock handguns with related holsters and magazine holders from Cruise Uniform and Equipment for a net cost of $69,724.20 (after trade-in of used handguns and magazines).

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 28-07.

5. **Arkansas Western Gas Utility Easement:** A resolution granting a 10' x 138' Utility Easement to Arkansas Western Gas Company across a portion of Red Oak Park.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 29-07.

6. **Mediastar SG:** A resolution approving the purchase of a Digital Master Control System from Mediastar SG in the amount of $95,255.00 for cable-casting of the Fayetteville Government and Public Access Channels.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 30-07.

B. UNFINISHED BUSINESS:

1. **Pebble Creek Flats Appeal:** An appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598): Submitted by N. Arthur Scott for property located at the Intersection of 18th Street and Custer Lane. ***This appeal was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 31-07.

2. **RZN 06-2399 (West Side Annexation C-1):** An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 3.93 acres, located at the southwest and southeast corners of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to C-1, Neighborhood Commercial. ***This ordinance was left on the Second Reading at the February 6, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4983.

3. **RZN 06-2399 (West Side Annexation RSF-4):** An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 17.63 acres, located at the southeast corner of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre. ***This ordinance was left on the Second Reading at the February 6, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4984.

4. **AT&T Proposed Agreement:** A resolution to approve an agreement with AT&T Arkansas to allow it to offer internet protocol/cable TV type service in Fayetteville. ***This resolution was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 32-07.

C. NEW BUSINESS:

1. **Amend 2007 Budget:** A resolution approving a budget adjustment to re-appropriate $163,698,250.00 in order to retain current fiscal year project funding for identified, scheduled and on going Capital Improvements; and authorizing the Budget and Research Division to make any needed reductions.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 33-07.

2. **Mobile Data Terminals:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Mobile Data Terminals with the associated hardware and software in the amount of $268,600.00 for use by the Fayetteville Fire Department.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4985.

3. **RZN 07-2419 (Kelly):** An ordinance rezoning that property described in rezoning petition RZN 07-2419, for approximately 44.74 acres, located at 3184 South City Lake Road from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

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

4. **Wedington Circle Appeal:** An appeal of the Planning Commission's decision to approve the Wedington Circle Preliminary Plat (PPL 06-2302) located north of Wedington Drive, west of Garland Avenue.

   THIS ITEM WAS TABLED TO THE MARCH 20, 2007 CITY COUNCIL MEETING.

5. **R-PZD 06-2299 (Ruskin Heights):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2299, Ruskin Heights, located west of highway 265/Crossover Road, on the south side of Mission Boulevard; containing approximately 28.93 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

6. **Amend § 161.21 and § 161.22 Height Regulations:** An ordinance to amend § 161.21 (G) Height Regulations of Main Street Center and § 161.22 (G) Height Regulations of downtown general of the Unified Development Code by limiting the height of new development to three stories or 45 feet, whichever is less.

   THIS ITEM WAS TABLED TO MARCH 6, 2007 CITY COUNCIL MEETING.

7. **City's intervention in the application of SWEPCO:** A resolution to approve the city's intervention in the application of SWEPCO for a Certificate of Public Convenience and Necessity to convert its existing 69 kV transmission line to a 161 kV line from its Powerhouse location to the Fayetteville North Substation.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 34-07.

D. INFORMATIONAL:

City Council Tour: February 22, 2007 – 4:30 PM

President's Day – February 19, 2007 – City offices will be closed.

Meeting adjourned at 11:00 p.m.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE **LEGAL DEPARTMENT**

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **February 21, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of February 20, 2007**

1. **Historic District Commission Appointment:** Resolution confirming Mayor's appointment of Vince Chadick to the Historic District Commission;

2. **New World Systems, Inc.:** Resolution approving three-year renewal of Public Safety Software Maintenance Agreement with New World Systems, Inc. in amount of $78,579.00;

3. **Cruise Uniform & Equipment:** Resolution approving bid purchase of 140 replacement Glock handguns with related holsters and magazine holders from Cruise Uniform & Equipment for new cost of $69,724.20 (after trade-in of used handguns and magazines);

4. **Arkansas Western Gas Utility Easement:** Resolution granting a 10'x138' utility easement to Arkansas Western Gas Company across a portion of Red Oak Park;

5. **Mediastar SG:** Resolution approving purchase of digital master control system from Mediastar SG in amount of $95,255.00 for cable-casting of Fayetteville Government and Public Access channels;

6. **Pebble Creek Flats Appeal:** Resolution granting appeal of Planning Commission's approval of LSD 07-2414 and approving a modified Large Scale Development;

7. **AT&T Proposed Agreement:** Resolution approving agreement with AT&T Arkansas to allow it to offer internet protocol/cable TV-type service in Fayetteville;

8. **Amend 2007 Budget:** Resolution approving budget adjustment to reappropriate $163,698,250.00 in order to retain current fiscal year project funding for identified, scheduled and on-going capital improvements; and authorizing Budget & Research Division to make any needed reductions;

9. **Mobile Data Terminals:** Ordinance waiving requirements of formal competitive bidding and approving purchase of mobile data terminals with associated hardware and software in amount of $268,600.00 for use by Fayetteville Fire Department;

10. **Intervention in SWEPCO's Application:** Resolution to approve City's intervention in application of SWWEPCO for Certificate of Public Convenience and Necessity to Convert its existing 69 kV transmission line to a 161 kV line from its Powerhouse location to Fayetteville North Substation.

City Council Meeting February 20, 2007 Adjourn 11:00 PM

Subject:		Roll			
Motion To:					
Motion By:					
Seconded:					
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody	✓			
		9			

Subject:		Consent			
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
Passed	Ferrell	✓			
	Lucas	✓			
Minutes	Jordan	✓			
approved	Gray	✓			
Res. 26-07	Thiel	✓			
to 30-07	Mayor Coody				
		8-0			

City Council Meeting February 20, 2007

Subject:	Pebble Creek Flats Appeal				
Motion To:		Amend large Scale development			
Motion By:		Jordan			Nacia Parker Gibson
Seconded:		Lucas			
B.I. Unfinished Business passed	Cook	N			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

7-1

Subject:	Pebble Creek Flats Appeal				
Motion To:		Approve as amended			
Motion By:		Jordan			
Seconded:		Allen			
B.I. Unfinished passed	Cook	N			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
31-07	Mayor Coody				

7-1

City Council Meeting February 20, 2007

Subject:	RZN 06-2399 (West Side Annexation C-1)				
Motion To:		3rd read	Pass		
Motion By:		Lucas			
Seconded:		Jordan			
B.2.	**Cook**	✓	N		
Unfinished	**Allen**	✓	N		
	Rhoads	✓	✓		
4983	**Ferrell**	absent during the vote.	✓		
passed	**Lucas**	✓	✓		
	Jordan	✓	N		
Mayor	**Gray**	✓	✓		
Coody	**Thiel**	✓	N		
voted yes.	**Mayor Coody**		yes ✓		
		7-0	5-4		

Subject:	RZN 06-2399 (West side Annexation RSF-4)				
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Cook			
B.3.	**Cook**	✓	✓		
Unfinished	**Allen**	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
passed	**Lucas**	✓	✓		
	Jordan	✓	N		
	Gray	✓	✓		
	Thiel	✓	✓		
4984	**Mayor Coody**				
		8-0	7-1		

City Council Meeting February 20, 2007

Subject:	AT&T Proposed Agreement				
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
B.4.	**Cook**	✓			
Unfinished	**Allen**	✓			
Business	**Rhoads**	✓			
	Ferrell	✓			
	Lucas	✓			
passed	**Jordan**	✓			
	Gray	✓			
	Thiel	✓			
32-07	**Mayor Coody**				

8-0

Subject:	Amend 2007 Budget				
Motion To:		Pass			
Motion By:		Jordan			
Seconded:					
C.1.	**Cook**	✓			
New	**Allen**	✓			
Business	**Rhoads**	✓			
	Ferrell	✓			
passed	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
33-07	**Mayor Coody**				

8-0

City Council Meeting February 20, 2007

Subject:		Mobile Data Terminals			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Jordan		
Seconded:		Thiel			
C.2. New Business	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
Passed	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
4985	Mayor Coody				
		8-0	8-0	8-0	

Subject:		RZN 07-2419 (Kelly)			
Motion To:		2nd read			
Motion By:		Rhoads			
Seconded:		Gray			
C.3. New Business	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	absent during the vote			
Left on the Second Reading	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				
		7-0			

City Council Meeting February 20, 2007

Subject:		Wedington Circle Appeal			
Motion To:		Table to March 20, 2007			
Motion By:		Jordan			
Seconded:		Lucas			
C.4. New Business Tabled to March 20, 2007	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				

8-0

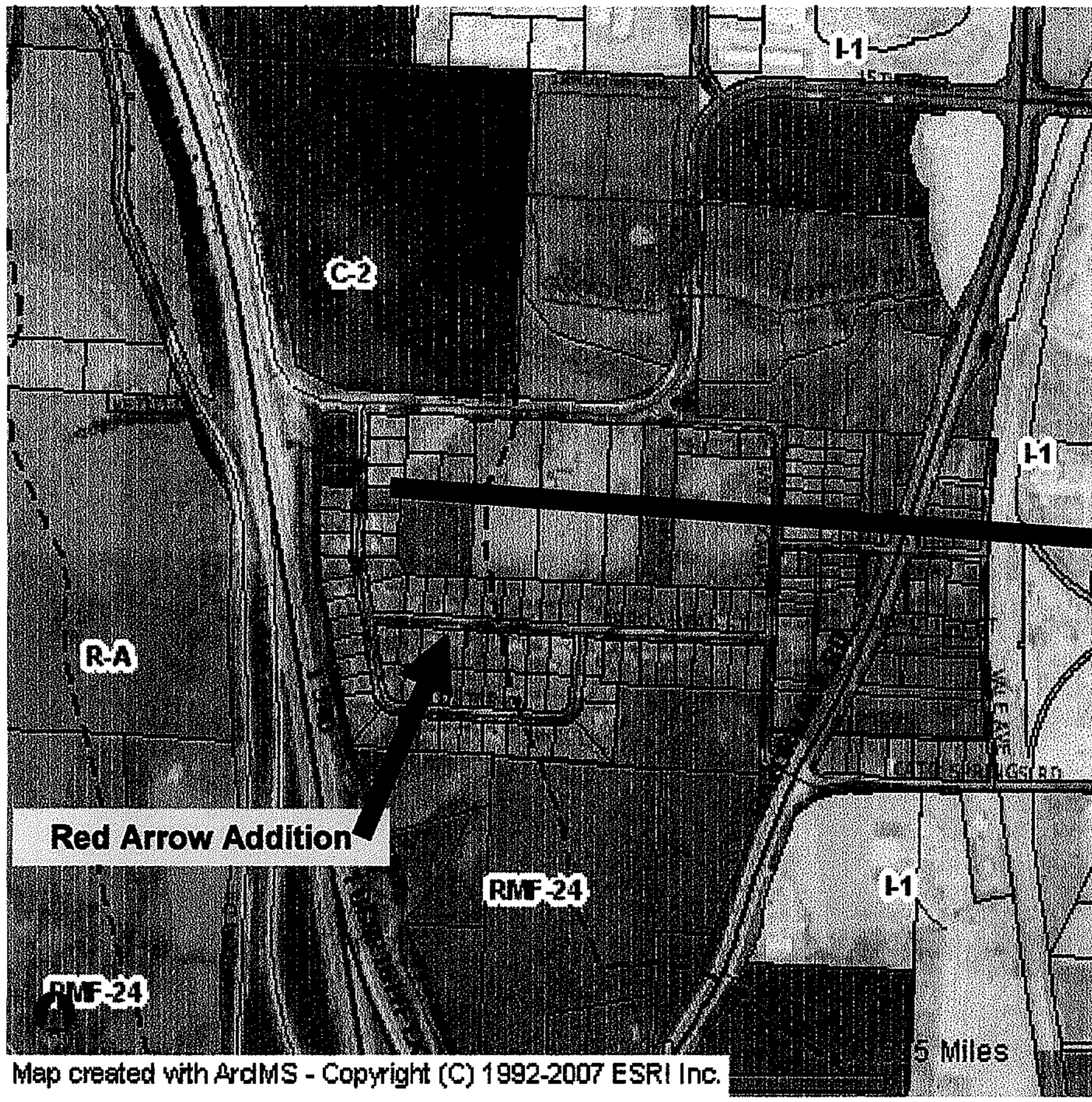
Subject:		R-PZD 06-2299 (Ruskin Heights)			
Motion To:					Enders Soil
Motion By:					
Seconded:					
C.5. New Business Left on the First Reading	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Mayor Coody				

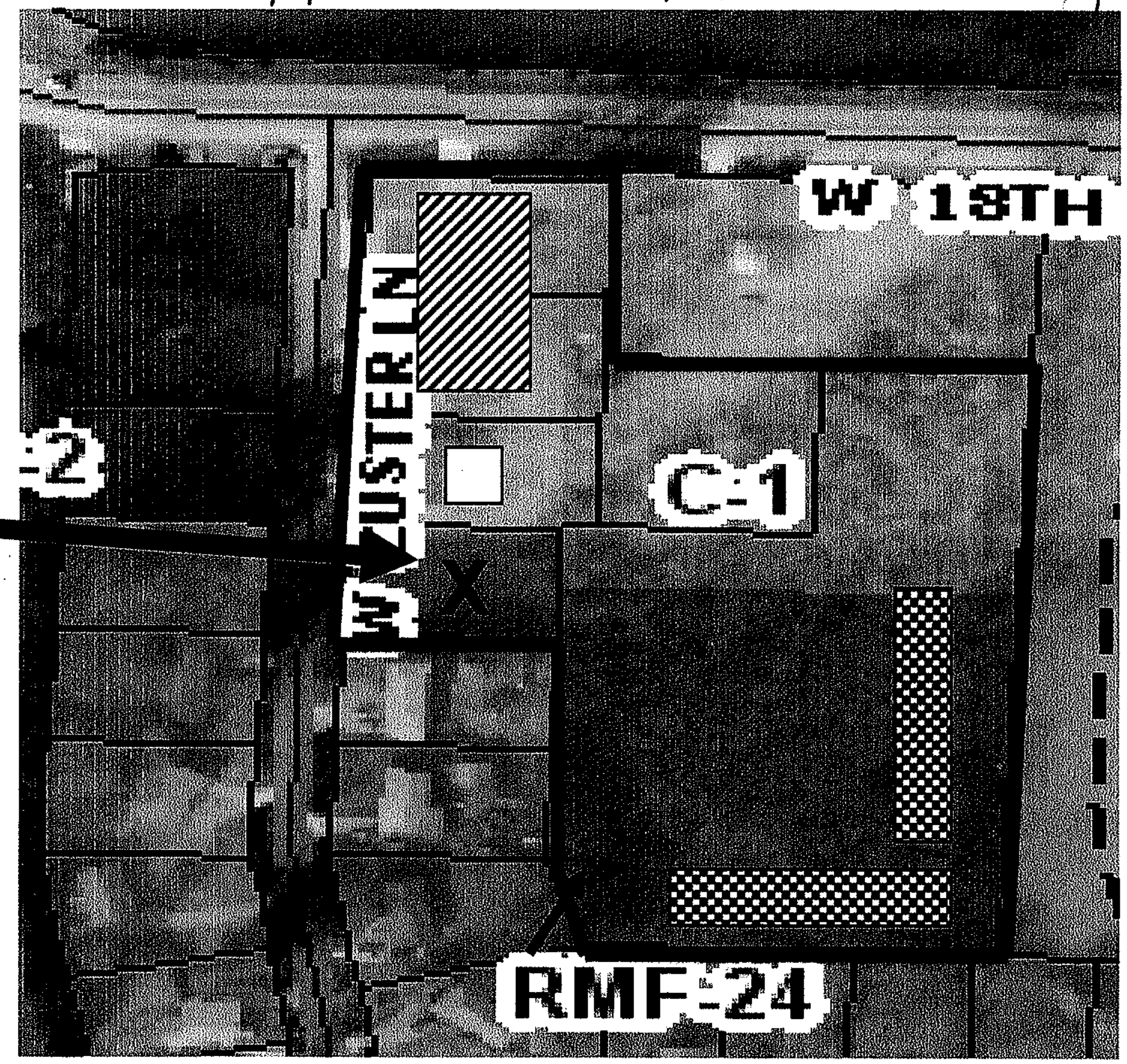
City Council Meeting February 20, 2007

Subject:		Amend 161.21 & 161.22 Height Regulation			
Motion To:		Table to 3/6/07			
Motion By:		Allen			
Seconded:					
C.6. New Business Tabled to 3/6/07	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				
		8-0			

Subject:		City's Intervention in the Application of Salepco			
Motion To:		Add to the agenda		Pass	
Motion By:		Jordan		Jordan	
Seconded:		Thiel			
Added & approved	Cook	✓		✓	
	Allen	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		N	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Gray	✓		✓	
	Thiel	✓		✓	
34-07	Mayor Coody				
		8-0		7-1	

Pebble Creek Flats Appeal. 2/20/07 Council Meeting





OVERVIEW OF AREA

RSF-4

RMF-24

C-1

C-2

BLOW UP (area to be developed outlined in red)

X = empty lot to be used as driveway & parking

= proposed apartment bldg.

= proposed commercial bldg.

= existing duplex

Ruskin Heights
Facts and Concerns

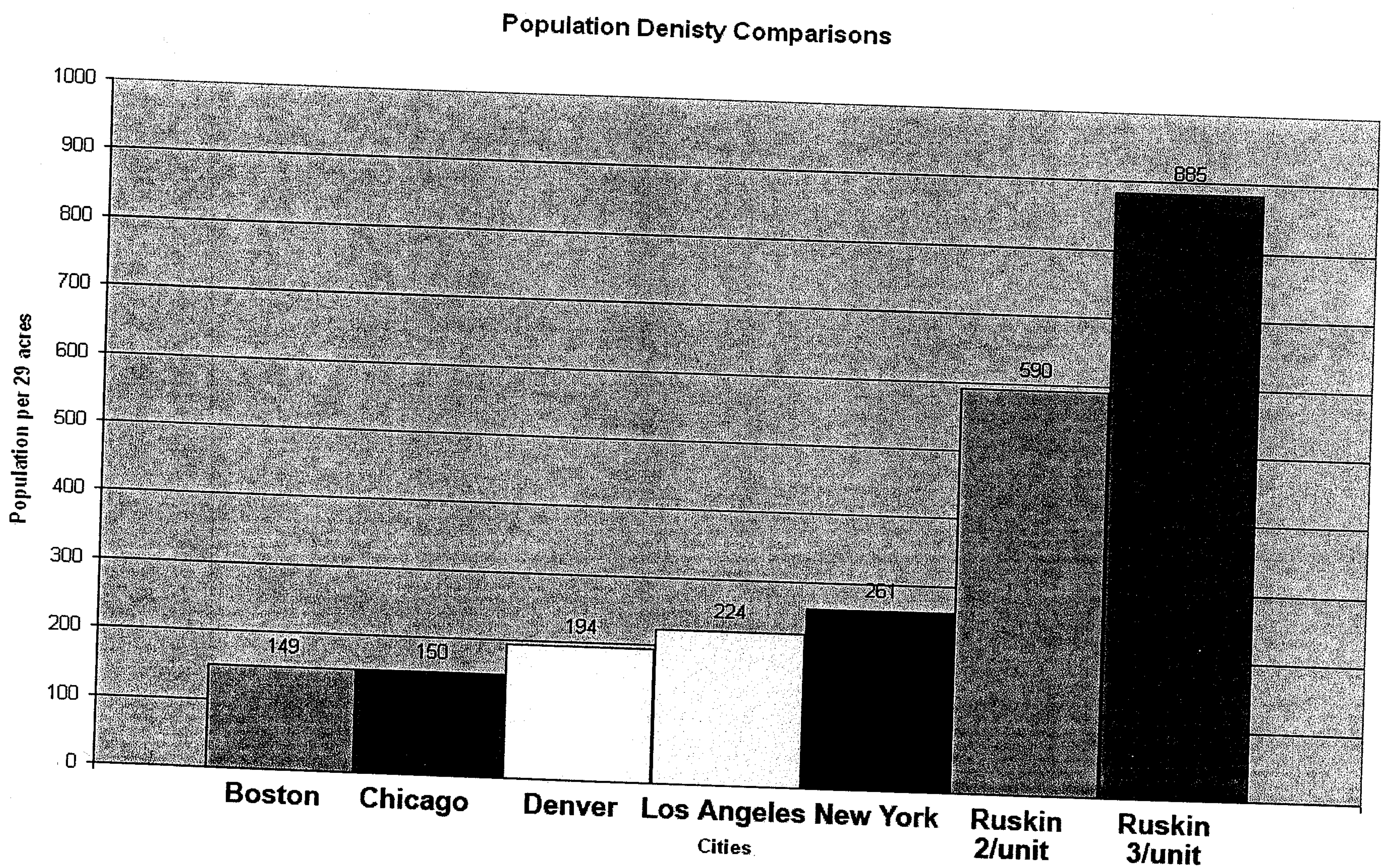
Neighborhood Concerns

- Density
- Traffic
- Non-compatibility with surround neighborhoods
- Forest destruction/ slope destabilization
- Run-off onto existing properties

City Density per square mile

- City Population/Square mile
- Boston 3,110 /sq. mile
- Chicago 4,303 /sq. mile
- Denver 3,318 /sq. mile
- Los Angeles 5,800 /sq. mile
- New York 4,977 /sq. mile
- RUSKIN Heights 6,515 HOUSEHOLDS
- (295X 22.07 to create 1 square mile) = / sq. mile

Population Density

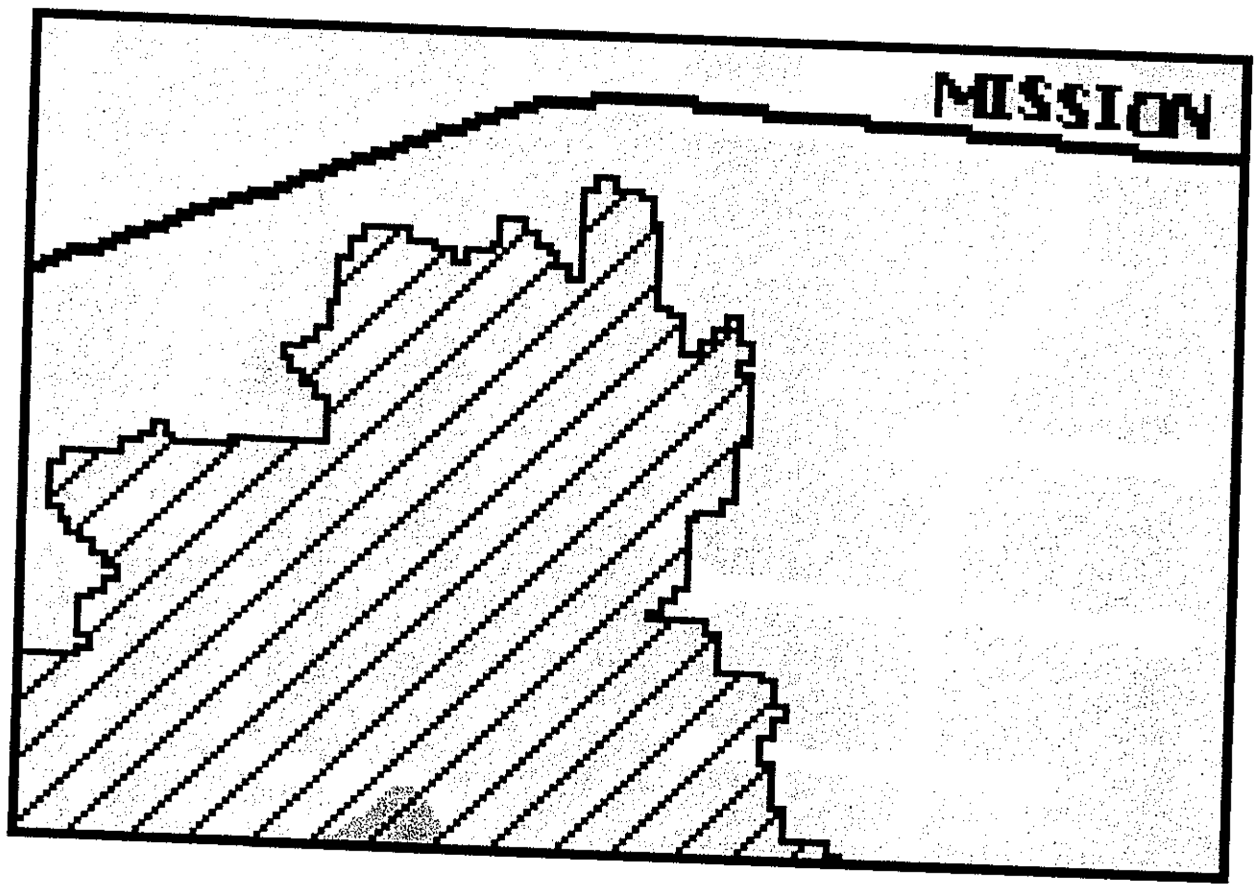


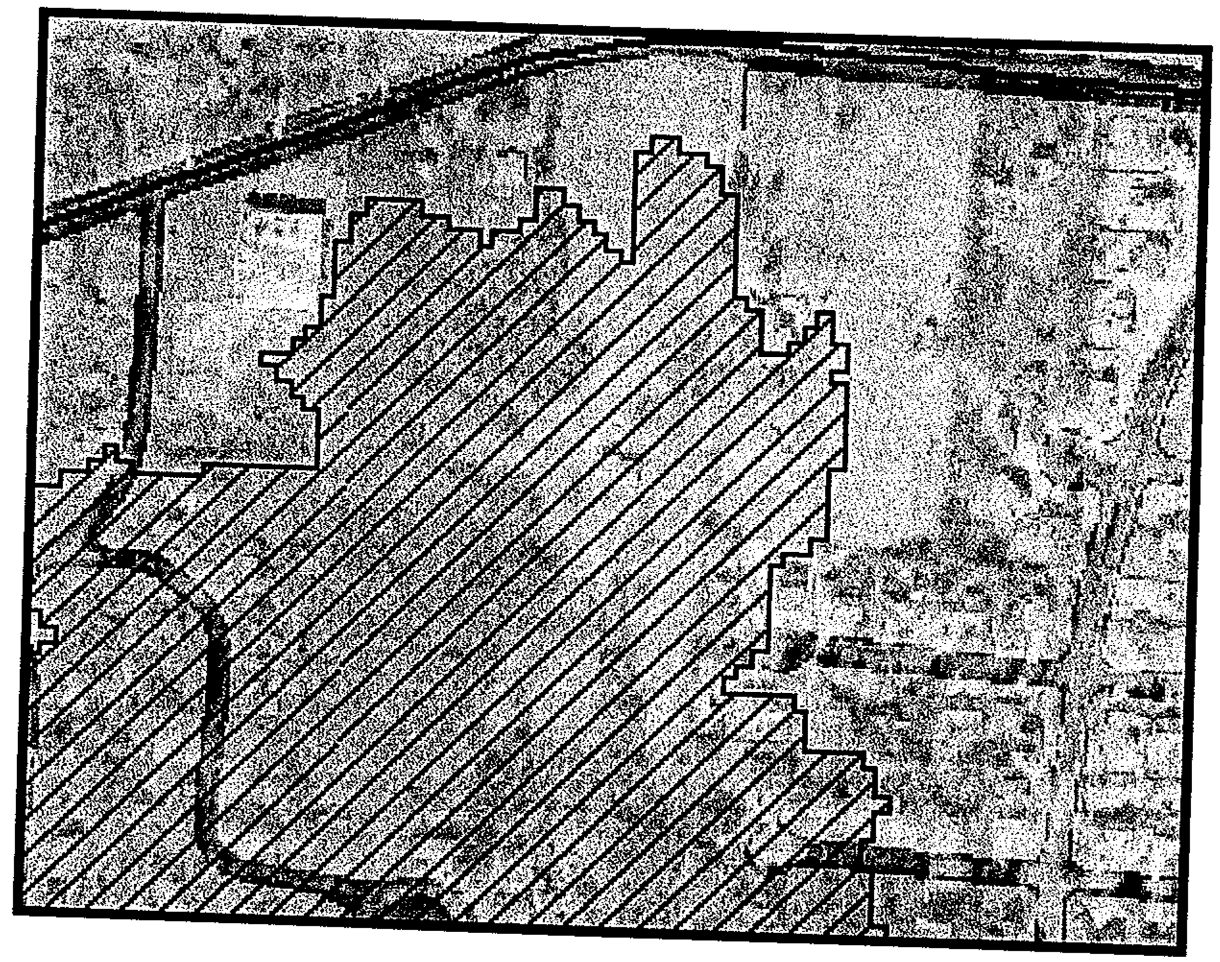
Traffic

- Traffic is headed south is backed from Maple to Prospect and from North St. to Viewpoint at 8:00 am
- All traffic from this subdivision will exit on Mission whether from the subdivision directly or by cut-through traffic exiting onto Greenview -why destroy the walkability of this neighborhood when the traffic still exits on the same street?
- Greenview use is grossly underestimated
- Improvements need to be made to Mission BEFORE construction begins!
- Best traffic control - lessen the density of the development

Land Use and Hill slope Overlay from 2025 Plan

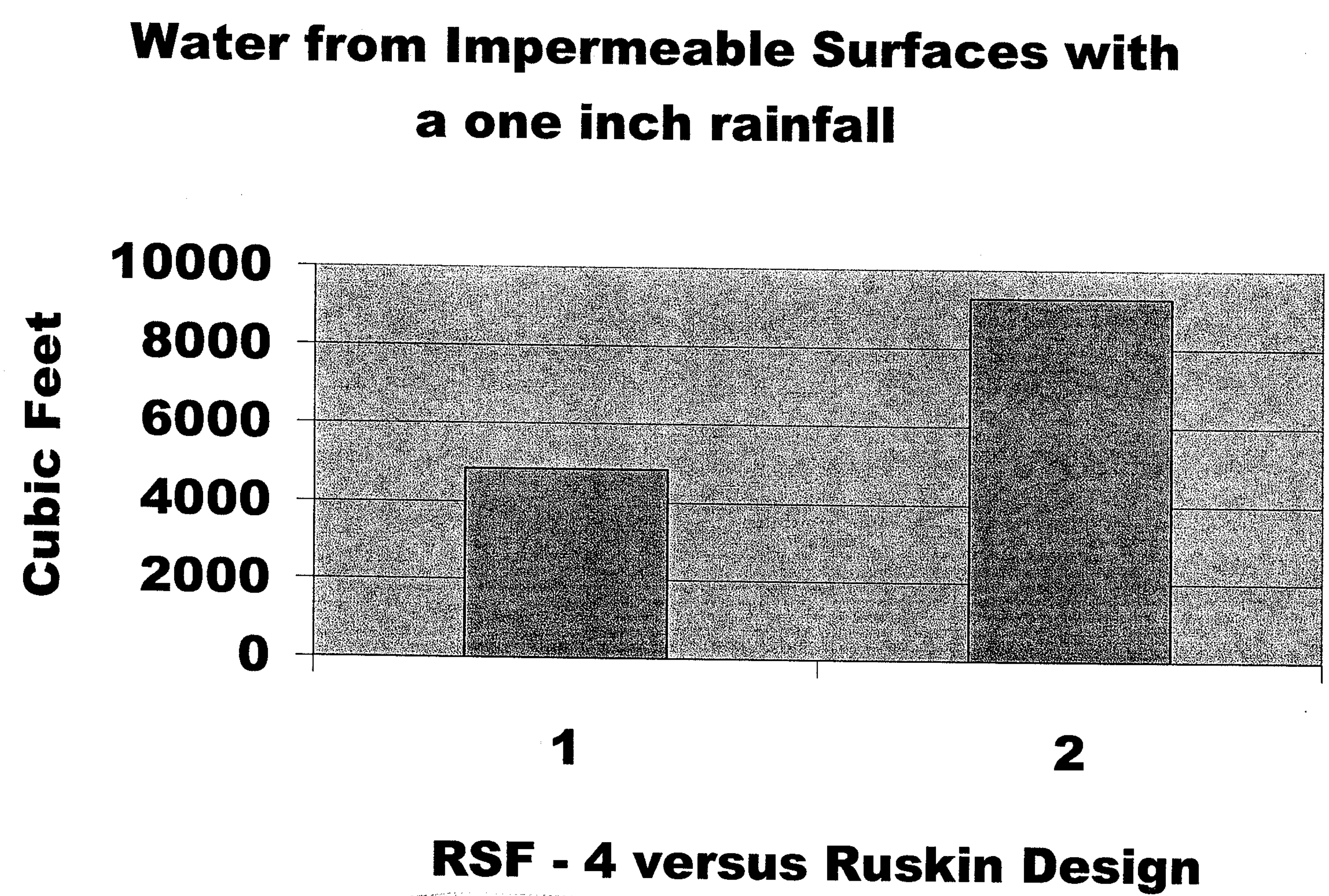
Note: Yellow is RSF-4 zoning





Forest

- Eight acres of forest will be reduced to 1.1 acre
- Trees necessary to help stop erosion and run-off – especially important with development on the steep slopes
- Tree canopy should not be traded for cash or a tower


Water from Impermeable Surfaces with
a one inch rainfall
Cubic Feet
10000
8000
6000
4000
2000
0
1
2
RSF - 4 versus Ruskin Design

How trees canopy helps to stabilize hill slopes

- With full leaves rainfall reduced by 32% under the canopy on the ground surface
- With partial leaves rainfall reduced by 26% under the canopy on the ground surface
- Dew moisture on ground also reduced between 54-80% under the canopy
- Presented at Joint-South-Central and North-Central Sections GSA 11-13 April 2007

Forested Area

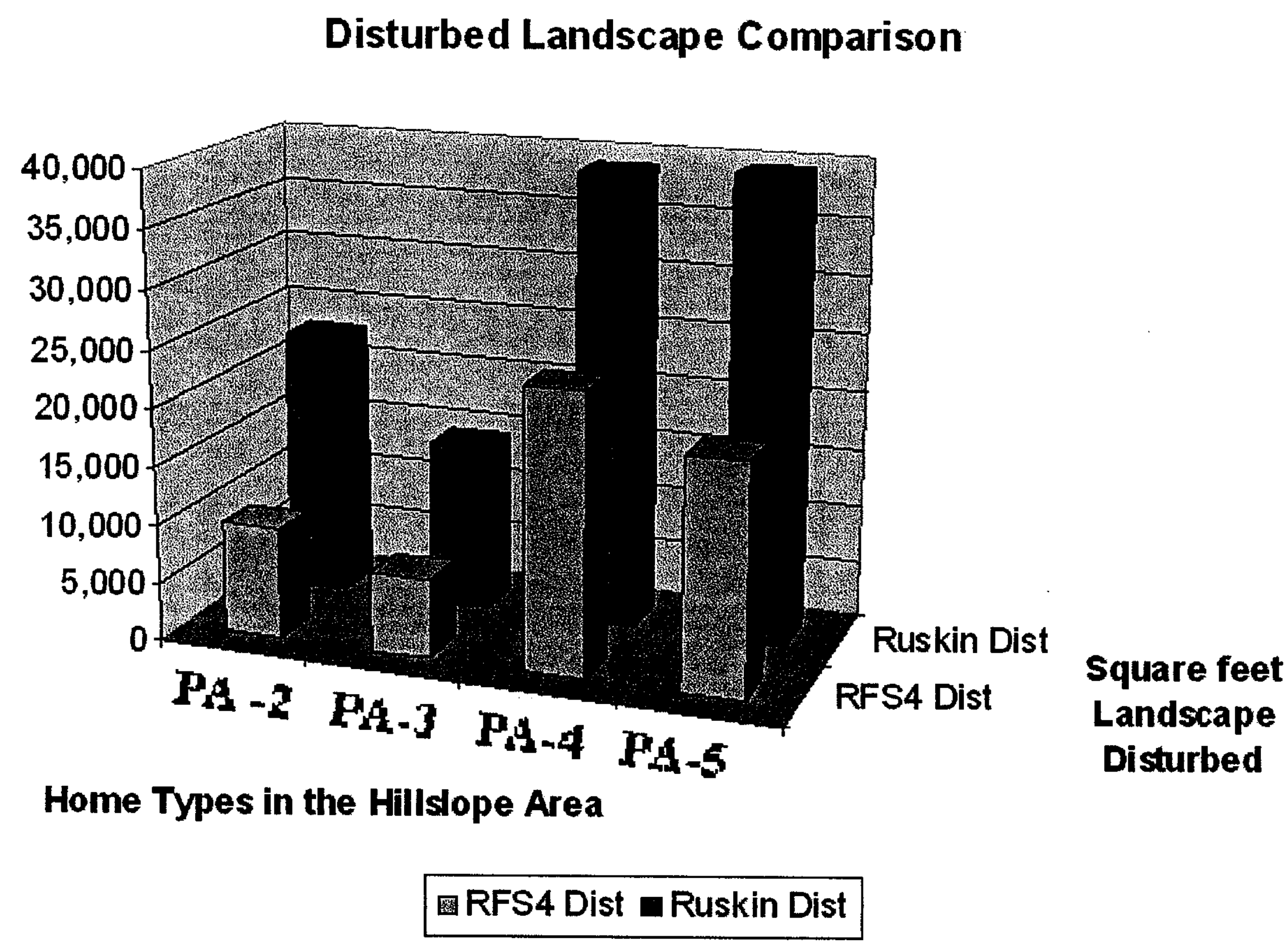
- View from Live local.com

City Plan 2025

We will assemble an enduring green network

This property's forest is one identified by the Fayetteville Natural Heritage Commission as a property to protect

Land Displaced by Units within the Hillslope Designated Area



Letters to the Planning Department

- 74 Against the project
- 10 Requested you to follow 2025 plan (this is RSF-4 on the 2025 Future Land Use Map)
- 2 Neutral
- 7 For this project

Enders Soil on Hillslope

- Most slopes too steep for terraces and diversions
- Low strength and stability for pond embankment
- Low seepage rate which creates greater runoff

(Washington County Soil Survey 1969)

Possible Solutions

- Cut the density of development
- Larger and better screens (i.e. vegetation/trees) for existing neighborhoods
- Denser development near Mission and preserve forest as a “natural parkland” (i.e., no city maintenance)
- Correct traffic problems BEFORE construction begins
- No connection to Greenview since all goes onto Mission anyway

Requests

- Require entire plan to be evaluated to obtain PZD (otherwise we will approve, or deny, a product with only a small part complete)
- Require a performance bond to protect neighbors from problems caused by the construction
- Do not injure healthy neighborhoods for a profit margin

Your decision will set a precedence for future land development.

Thank you for your thoughtful consideration.

From: <Hsw5348@aol.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/20/2007 12:43 PM
Subject: (no subject)

Please send this on to all the council members

To Mayor Coody and the City Council Respresentatives,
I am writing to voice my opposition for the proposed Ruskin Heights development
as it currently stands and hope that you will take into consideration the concerns
of the neighborhood residents before voting on its approval.
I have lived on Greenview Drive for almost twenty years and have witnessed
first hand some of the problems that go along with living on a hillside. Removing
almost 7 acres of forested area as proposed in the Ruskin Heights development
can only cause severe water run-off and erosion problems to new and exisitng homes.
The area is zoned 4 homes per acre and the developers are requesting
approximatedly 10 units per acres. This is way too dense.. The city is trying to solve
it's growth problems with in fill as a solution which may work in some parts
of the city but not on this proposed location. Accessing Mission Blvd. from
the neighborhood at peak traffic times is already an existing problem and will only be
greatly magnified when adding at the least 295 additional vehicles. The proposed
Greenview Drive as a cut through street doesn't seem to be a very adequate solution.
And where will all these cars park in inclement weather when it is impossible
to access our very steep narrow streets?
These are just some of the issues that I feel warrant much consideration when
deciding upon approval of the Ruskin Heights Development. When attending a
Ward 1 meeting recently, it was very evident that the developers were not willing
to make any compromises to their existing plans, no matter what the concerns
voiced by the residents were. I don't think it's too late for making changes that may
impact the quality of the neighborhood and for the city as a whole for many
many years to come.
Thank you all for your time and consideration,

Susie Walker
1981 Greenview Drive
Fayetteville, AR 72701

and much more.

Added At Council Meeting 2/20/07

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
City Council
Historic District Commission

FROM: **Kit Williams**, City Attorney

DATE: **February 16, 2007**

RE: In The Matter Of The Application Of SWEPCO For A Certificate Of Public Convenience And Necessity To Rebuild And Convert Its Existing 69 kV Transmission Line To 161 kV Between SWEPCO's Fayetteville and North Fayetteville Substations

Attached please find a letter the City received notifying us as a "landowner" that we must file a notion of intervention if we wish to have any input on the Public Service Commission's decision on the 161 kV line connecting the Powerhouse Substation with the northern Fayetteville substation.

I have prepared a Resolution so the City Council can decide if it desires to make its comments and concerns known to the PSC. This must be addressed during the February 20th meeting (or a specially called meeting) in order to comply with the March 6th deadline.

Please note that I cannot appear before the PSC during its 9:30 A.M. public hearing on April 5, 2007 because I will be in the Supreme Court for arguments on the TIF appeal at 10:00 A.M.

Please suspend the rules at your February 20th meeting to add this resolution so I can learn what you what to do. Otherwise, I will have to ask the Mayor to call a special meeting for that purpose before March 6th.

AGENDA REQUEST FORM

Feb 20th

FOR: COUNCIL MEETING OF [redacted], 2007

FROM: KIT WILLIAMS, City Attorney

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve The City's Intervention In The Application Of Swepco For A Certificate Of Public Convenience And Necessity To Convert Its Existing 69 Kv Transmission Line To A 161 Kv Line From Its Powerhouse Location To The Fayetteville North Substation

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APPROVED FOR AGENDA:

City Attorney — Date: Feb 16, 07

Director of Operations — Date: 2-16-07

Mayor — Date: 2/16/07

RESOLUTION NO. ______

A RESOLUTION TO APPROVE THE CITY'S INTERVENTION IN THE APPLICATION OF SWEPCO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONVERT ITS EXISTING 69 kV TRANSMISSION LINE TO A 161 kV LINE FROM ITS POWERHOUSE LOCATION TO THE FAYETTEVILLE NORTH SUBSTATION

WHEREAS, the City of Fayetteville is concerned about the possible adverse economic and aesthetic effect of tall electrical transmission towers carrying the 161 kV transmission line across Dickson Street, Lafayette and Maple Streets and throughout Fayetteville; and

WHEREAS, if the City desires to make any comments about SWEPCO's application for Certificate of Public Convenience and Necessity, it must file its intervention by March 6, 2007 for the April 5, 2007 hearing.

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 directs the City Attorney to file an intervention In The Matter Of The Application Of SWEPCO For A Certificate Of Public Convenience And Necessity at the Public Service Commission to inform the Public Service Commission of the concerns of the City Council and Mayor.

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED:

By: ______________________________
DAN COODY, Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk/Treasurer

Matthews
Campbell
Rhoads
McClure
Thompson
& Fryauf
P.A.
ATTORNEYS

119 South Second Street
Rogers, AR 72756-4525

PH 479/636-0875
FX 479/636-8150

*David R. Matthews**
Craig A. Campbell
*George R. Rhoads**
Edwin N. McClure
Larry J. Thompson
*Mark T. Fryauf***
*Mauricio A. Herrera****
Sarah L. Waddoups
C. Eric Vester
Heather Schmiegelow
Vicki S. Vasser-Murray

Mary B. Matthews
of counsel

**also admitted in Oklahoma*
***also admitted in Texas & Missouri*
****also admitted in Missouri*

Email
drm@mcrmt.com

Website
www.mcrmt.com

February 9, 2007

RE: IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN ELECTRIC POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO REBUILD AND CONVERT ITS EXISTING 69 kV TRANSMISSION LINE TO 161 kV BETWEEN SWEPCO'S FAYETTEVILLE AND NORTH FAYETTEVILLE SUBSTATIONS, ALL LOCATED IN WASHINGTON COUNTY IN ARKANSAS
DOCKET NO: 06-172-U

Dear Landowner:

On the 22nd day of December, 2006 Southwestern Electric Power Company (SWEPCO or Company) filed an Application for a Certificate of Public Convenience and Necessity with the Arkansas Public Service Commission. This application is recorded in Docket No. 06-172-U and is available for public view on the website of the Arkansas Public Service Commission. The application seeks authority for SWEPCO to rebuild approximately four miles of a 69 kV transmission line connecting the existing North Fayetteville Substation located at the corner of Mall Street and Van Ash Drive in the City of Johnson to the existing Fayetteville Substation located on Powerhouse Avenue east of the intersection of University Avenue and Whiteside Street in the City of Fayetteville. The proposed transmission line will be rebuilt to operate at 161 kV.

When SWEPCO announced its intention to rebuild this transmission line along the route which had been existence since before the 1930s, officials at the City of Fayetteville requested that SWEPCO study and consider alternative routes for this transmission line. SWEPCO retained a nationally recognized consulting firm, PBS&J, to delineate and evaluate alternative routes for consideration by the Company and the Arkansas Public Service Commission.

You are hereby notified that you own property which may be traversed by this proposed transmission line, depending upon which route is ultimately selected. **Therefore, I am notifying you that a public hearing for the final selection of the route for this project is scheduled for April 5, 2007 beginning at 9:30 a.m. in Hearing Room 1 at the Arkansas Public Service Commission located at 1000 Center Street in Little Rock, Arkansas. Pursuant to Arkansas law, you are notified that if you wish to intervene in this proceeding you must do so at least 30 days prior to the hearing date unless for good cause shown the Public Service Commission extends the time for your intervention petition.** According to Procedural Order No. 4 entered February 7, 2007, the intervenor prefiled testimony is due by March 2, 2007. SWEPCO is allowed to file rebuttal testimony to any intervenor or staff testimony by March 16, 2007 and intervenors and the Arkansas Public Service Commission Staff are required to file any surrebuttal testimony by March 30, 2007.

SWEPCO's application identifies the existing route of the 69 kV transmission line as the preferred route for the project. Enclosed with this letter you will find a map which shows all of the alternate routes being considered. The existing transmission line is identified on the map by a solid black line. A new transmission line built on this route would require no additional right-of-way clearing and existing area roads and the existing right-of-way would be used to access the area for construction purposes. No new road construction is proposed or anticipated for this alternative. This alternative is the most direct of the alternatives resulting in the shortest route with the fewest angles and would require no new right-of-way purchases and no additional landowners would be impacted beyond those currently affected by the existing line.

At the Commission hearing on April 5, 2007, the Commission may select any of the alternative routes considered or any combination thereof. Therefore, your comments and opinions concerning this matter are welcomed and encouraged.

A description of the alternative routes under consideration follows and the routes are shown on the map enclosed with this letter. All descriptions begin at the North Fayetteville Substation and run toward the Fayetteville Substation.

WESTERN ROUTE:

The western route alternative combines links A, B, & K as shown on the map enclosed with this letter. The emphasis of this alternative route would be to rebuild and reconductor approximately 1 mile of the existing line from the North Fayetteville Substation to a point just south of Interstate 540 (links A and B). At this point the route turns to the west and then southwest generally paralleling Interstate 540 to Wedington Drive. At Wedington Drive the route turns to the east for a short distance then makes a right angle and proceeds to the south on private road 2411. The route follows private road 2411 for approximately 1,200 feet and then makes another right angle to the east for approximately 600 feet, then proceeds south for approximately 4,500 feet, eventually turning back to the east on Nettleship Street. The route parallels Nettleship Street until it reaches Razorback Road where it turns back to the north. Upon reaching Meadow Street, the route turns east continuing through the University of Arkansas property in a generally east-southeast direction then turns north on University Street. The route parallels University Street for approximately 900 feet prior to entering the Fayetteville Substation.

RAILROAD ROUTE:

There are several alternative routes generally following the Arkansas-Missouri Railroad. The first variation for this alternative includes a combination of links A, B, C, E, F, G, & H. This alternative route would include rebuilding and reconductoring approximately 1.3 miles of the existing line from the North Fayetteville Substation to North Drake Street. Once the route reaches North Drake Street, it turns east and parallels Drake Street until it reaches the Arkansas-Missouri railroad. Upon reaching the Arkansas-Missouri railroad, the proposed route proceeds south, occupying a right-of-way parallel and adjacent to the railroad right-of-way for the remainder of the route until it approaches the southern end where, just prior to reaching the Fayetteville Substation, the route leaves the railroad corridor and makes a right angle to the west continuing into the Fayetteville Substation.

RAILROAD USING LINK I:

This alternative route includes links A, B, C, E, F, G & I as shown on the map. It has one small deviation from the Railroad Route described above, which is a variation on the southern end of the route. This alternative route would include rebuilding and reconductoring approximately 1.3 miles of the existing line from the North Fayetteville Substation to North Drake Street. Once the route reaches North Drake Street, it turns east and parallels Drake Street until it reaches the Arkansas-Missouri railroad. Upon reaching the Arkansas-Missouri railroad, the route proceeds in a generally southern direction occupying a right-of-way parallel and adjacent to railroad right-of-way until it reaches Maple Street. On Maple Street the route turns west for approximately 300 feet before turning south on North Arkansas Avenue. The route parallels North Arkansas Avenue prior to reaching Dickson Street. At Dickson Street it makes a slight jog to the west then parallels University Street for a short distance prior to entering the Fayetteville Substation.

RAILROAD ROUTE USING LINK D:

This alternative route includes links A, D, F, G & H and only deviates from the aforedescribed Railroad Route on the northern end of the route. This route would require rebuilding and reconductoring a portion of the existing route from the North Fayetteville Substation down to Interstate 540. At Interstate 540, it turns east for approximately 800 feet before it reaches the Arkansas-Missouri railroad.

At the Arkansas-Missouri railroad, the proposed transmission proceeds in a generally southern direction occupying a right-of-way parallel and adjacent to railroad right-of-way for the remainder of the route, until it approaches the southern end. Just prior to reaching the Fayetteville Substation the route leaves the railroad corridor and makes a right angle to the west continuing into the Fayetteville Substation.

RAILROAD ROUTE USING D & I:

This alternative route includes links A, D, F, G, & I. This alternative route would also require rebuilding and reconductoring a portion of the existing route from the North Fayetteville Substation down to Interstate 540. At Interstate 540, it turns east for approximately 800 feet before it reaches the Arkansas-Missouri railroad. At the Arkansas-Missouri railroad the proposed transmission line proceeds in a generally southern direction occupying a right-of-way parallel and adjacent to the railroad until it reaches Maple Street. At Maple Street the route turns west for approximately 300 feet before turning south on North Arkansas Avenue. The route parallels North Arkansas Avenue until it reaches Dickson Street. At Dickson Street it makes a slight jog to the west then parallels University Street for a short distance prior to entering th Fayetteville Substation.

EASTERN ROUTE USING B, C, & E:

This alternative route uses links A, B, C, E, F, & J. It would require rebuilding and reconductoring approximately 1.3 miles of the existing route from the North Fayetteville Substation down North Drake Street. The alternative route turns due east and parallels North Drake Street until it reaches the Arkansas-Missouri railroad. At the Arkansas-Missouri railroad it turns southwest and parallels the railroad for approximately 0.4 miles, crosses the railroad, follows a small drainage, turns south and runs somewhat parallel to North Green Acres Road. North Green Acres road runs into North College Avenue (also known as Business US 71). This alternative will continue south-southwest on North College Avenue to West Spring Street. At West Spring Street the route turns to the west and parallels the street for approximately 0.4 miles before making a slight turn to the northwest across a parking lot and the railroad tracks entering the Fayetteville Substation from the east.

EASTERN ROUTE USING D:

The final alternative route uses links A, D, F, & J as shown on the map. This alternative route would require rebuilding and reconductoring approximately 0.75 miles of the existing route from the North Fayetteville Substation to Interstate 540. On the south side of Interstate 540, this alternative turns due east for approximately 900 feet until it reaches the Arkansas-Missouri railroad. At the Arkansas-Missouri railroad it turns southwest and parallels the railroad for approximately 0.9 miles, crosses the railroad, follows a small drainage, turns south and runs somewhat parallel to North Green Acres Road. North Green Acres road runs into North College Avenue (also known as Business US 71). This alternative will continue south-southwest on North

College Avenue to West Spring Street. At West Spring Street the route turns to the west and parallels the street for approximately 0.4 miles before making a slight turn to the northwest across a parking lot and the railroad tracks entering the Fayetteville Substation from the east.

As indicated above, SWEPCO has evaluated all of the above alternative routes and has recommended to the Public Service Commission that the existing route be utilized rather than create new impacts on previously unaffected property owners. The alternative routes are being presented to the Public Service Commission only at the request of officials of the City of Fayetteville due to their desire to move as much of the transmission line as possible out of the Dickson Street area.

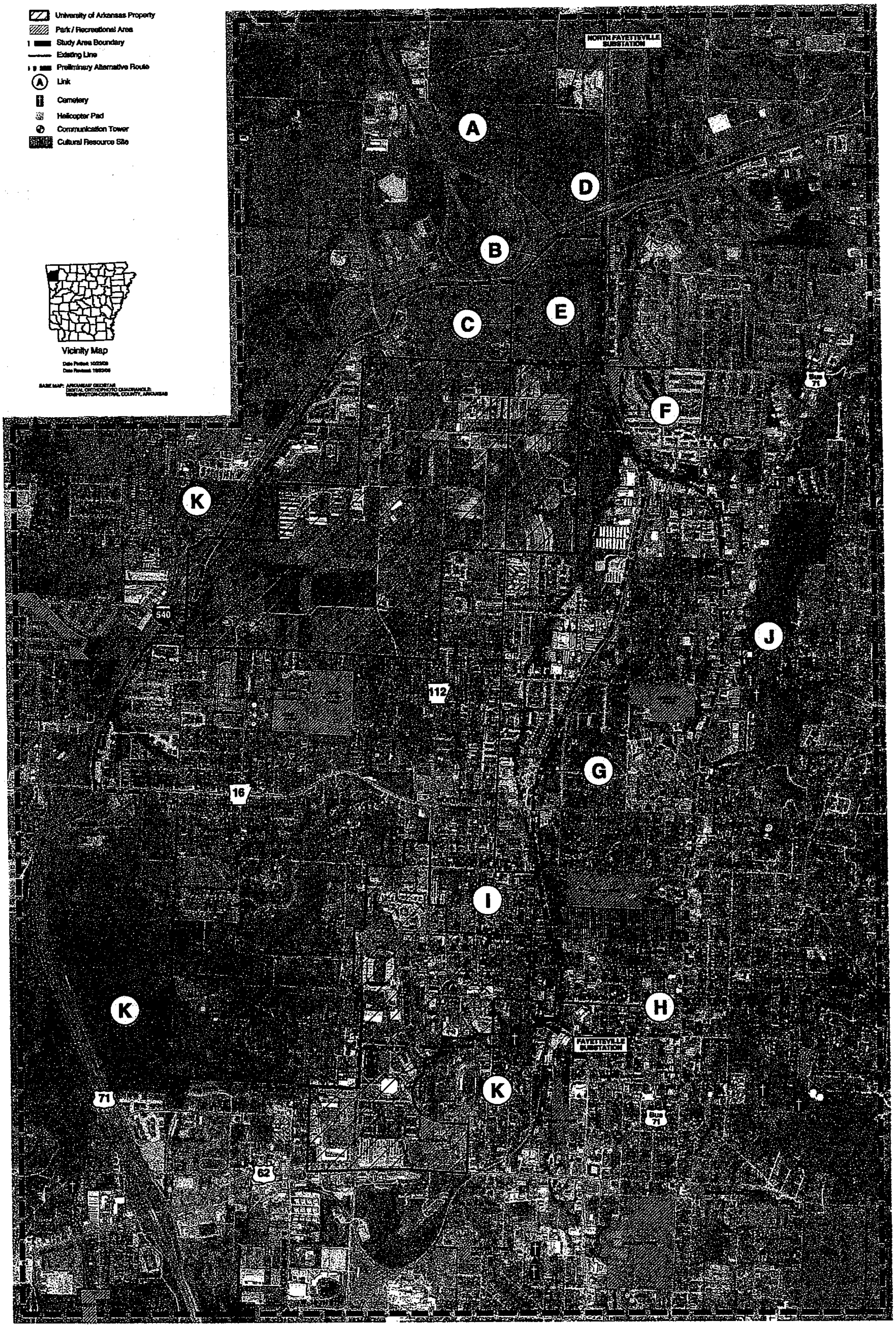
As mentioned above, if you wish to intervene as a party, you must do so prior to March 6, 2007 and the Commission has set the deadline of March 2, 2007 for intervenor pre-filed testimony. If you do not wish to intervene, but want to express an opinion in this matter, you may file public comments by writing to the Secretary of the Arkansas Public Service Commission. 1000 Center Street, Little Rock, AR 72203 or you may appear at the public hearing and make comments during the public comments section of the hearing. If you choose to appear at the public hearing as a public commenter rather than an intervenor, you will not be allowed to question other witnesses or otherwise participate in the proceeding.

The public hearing scheduled for April 5, 2007 is not a condemnation proceeding. There will be no discussion at this hearing concerning acquisition of rights-of-way or the proper compensation levels for said rights-of-way. Of course as mentioned above, if the preferred route recommended by SWEPCO is chosen, no new right-of-way acquisitions will be needed. However, if any of the alternative routes are selected, new rights-of-way acquisition will be required, and the Commission's decision will effectively permit SWEPCO to proceed to exercise its power of eminent domain and acquire by condemnation any new right-of-way that cannot be secured by negotiated settlement with affected landowners.

I will be pleased to attempt to answer any questions you may have.

Sincerely,

David R. Matthews
DRM:sah



* This figure is a reduction of Figure 3-1 located in the map pocket. Please refer to Figure 3-1 in the map pocket for a more detailed view.

PBSJ
• Engineering
• Environmental Consulting
• Surveying

FIGURE 3-1
CONSTRAINTS MAP
AEP / SWEPCO
FAYETTEVILLE TO NORTH FAYETTEVILLE
161 kV TRANSMISSION LINE
WASHINGTON COUNTY, ARKANSAS

520799.00 DECEMBER 2006

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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

City of Fayetteville Arkansas
City Council Meeting Minutes
February 6, 2007

A meeting of the Fayetteville City Council was held on February 6, 2007 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 Gray, Thiel, Cook, Allen, Rhoads, Ferrell, Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience

ABSENT: Mayor Coody and Alderman Lucas

Pledge of Allegiance

Airport Report to the City Council

Ray Boudreaux, Aviation & Economic Development Director introduced the Airport Board.

Bob Nickle, Airport Board Chairman: It has been almost ten years since the city's airport, Drake Field, was deemed by many as DOD (dead on departure) as a commercial airline. I am happy to state that the report of the airport's demise has been greatly exaggerated. Drake Field has successfully made the conversion from a commercial airport to a first class general aviation airport. In the past two years we have received recognition of this successful conversion by designation as the FAA Arkansas Airport of the Year in 2005 and the Arkansas Aeronautics Department and Airport Operations Association Airport of the Year in 2006. Most recently we received an award from the Fayetteville Chamber of Commerce, their Economic Impact Award for 2006. I think this last award in addition to recognition of the economic impact of your airport brings home what has been shown as a $34 million economic impact of Drake Field. This really reinforces the study that was done by the University of Arkansas a few years that concluded the direct economic impact of Drake Field to be in excess $17 million.

Mr. Nickle mentioned some of the airport projects that have been recently completed. He stated in the future they may need to relocate a portion of Highway 71. He stated the Airport Board considers this project to be of critical importance if we are to continue to grow the economic vitality of your airport. Mr. Nickle thanked the City Council for their support.

Richard Greene, Airport Board Member gave the Council a copy of a DVD about how vitally important an airport is to a city and a community.

Vice Mayor Lioneld Jordan: On behalf of the Mayor and the City Council I think you are doing a wonderful job. Keep up the good work.

Fayetteville Housing Authority Board of Commissioners Appointment:

Alderman Thiel: We received a letter from the Fayetteville Housing Authority Board stating they have elected a new commissioner, Olivia Horn. Her term will begin on January 19, 2007 and end on December 28, 2009. This did not go through the Nominating Committee.

Alderman Cook: Typically the Nominating Committee interviews the applicants for this board so we can get to know them. The Fayetteville Housing Authority Board is self appointing and the City Council ratifies their appointment.

Alderman Thiel moved to approve the appointment of Olivia Horn to the Fayetteville Housing Authority Board of Commissioners. Alderman Allen seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Alderman Allen asked about the terms of the Fayetteville Housing Authority.

Alderman Cook explained they are governed under state law. State law says they select their board members. He stated they are not term limited.

Alderman Ferrell stated he would like for them to come to agenda session and give an overview of their board.

CONSENT:

Approval of the January 16, 2007 City Council meeting minutes.

Approved

Elm Springs Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Elm Springs, Arkansas to provide animal sheltering services to the City of Elm Springs for 2007 -2009.

Resolution 07-07 as Recorded in the Office of the City Clerk.

Farmington Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Farmington, Arkansas to provide animal sheltering services to the City of Farmington for 2007.

Resolution 08-07 as Recorded in the Office of the City Clerk.

Goshen Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Goshen, Arkansas to provide animal sheltering services to the City of Goshen for 2007.

Resolution 09-07 as Recorded in the Office of the City Clerk.

Greenland Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Greenland, Arkansas to provide animal sheltering services to the City of Greenland for 2007.

Resolution 10-07 as Recorded in the Office of the City Clerk.

Washington County Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and Washington County, Arkansas to provide animal sheltering services to Washington County for 2007.

Resolution 11-07 as Recorded in the Office of the City Clerk.

Winslow Animal Sheltering Services: A resolution approving an Inter-Local Agreement between the City of Fayetteville, Arkansas and the City of Winslow, Arkansas to provide animal sheltering services to the City of Winslow for 2007.

Resolution 12-07 as Recorded in the Office of the City Clerk.

ESRI, Inc: A resolution approving a purchase request in the amount of $32,142.39 with ESRI, Inc. for Geographic Information System (GIS) software maintenance and upgrades.

Resolution 13-07 as Recorded in the Office of the City Clerk.

Hansen Technology, Inc: A resolution approving a purchase request to Hansen Technology, Inc. in the amount of $55,725.00 for software service and maintenance fees.

Resolution 14-07 as Recorded in the Office of the City Clerk.

Dynamic Information Solutions Company, Inc: A resolution approving an annual service and maintenance agreement in the amount of $36,291.00 with Dynamic Information Solutions Company, Inc.

Resolution 15-07 as Recorded in the Office of the City Clerk.

Van Scoyoc Associates Memorandum of Agreement: A resolution approving a memorandum of agreement with Van Scoyoc Associates in the amount of $84,000.00 to provide lobbying services to the City of Fayetteville.

Resolution 16-07 as Recorded in the Office of the City Clerk.

Thyssen Krupp Elevator Contract: A resolution to approve a contract with Thyssen Krupp Elevator Company in the amount of $53,000.00 with a project contingency of $5,300.00.

Resolution 17-07 as Recorded in the Office of the City Clerk.

Scull Creek Trail Lighting: A resolution awarding bid #07-01 and approving the purchase of light fixtures and poles from Illuminetrics, authorized agents for Dynamic Lighting and W.J. Whatley in the amount of $42,840.00 for Scull Creek Trail; and approving a budget adjustment in the amount of $215,034.00 to re-budget 2006 project budget.

Resolution 18-07 as Recorded in the Office of the City Clerk.

Wachter Electric: A resolution awarding Bid #07-02 and approving a contract with Wachter Electric in the amount of $52,568.00 for the installation of lighting at the Walker Park basketball and tennis courts; approving a 15% project contingency in the amount of $7,885.00; and approving a budget adjustment in the amount of $10,900.00.

Resolution 19-07 as Recorded in the Office of the City Clerk.

Outdoor Recreation Grant Acceptance: A resolution authorizing the Parks and Recreation Division to accept an Arkansas Parks and Tourism Outdoor Recreation 50/50 grant in the amount of $100,000.00 for improvements to Sweetbriar Park, Bryce Davis Park and Gulley Park; and approving a budget adjustment recognizing the grant revenue.

Resolution 20-07 as Recorded in the Office of the City Clerk.

Seven Hills Homeless Shelter, Inc: A resolution to authorize Mayor Coody to sign a Leasehold Mortgage and Security Agreement for Fayetteville as a landlord so that Seven Hills Homeless Shelter, Inc. can borrow $200,000.00 from Regions Bank.

Resolution 21-07 as Recorded in the Office of the City Clerk.

Southern Company NLR, Inc.: A resolution approving Change Order #1 to the contract with Southern Company NLR, Inc. in the amount of $17,002.00 to add insulation and a heater to the Biodiesel Fuel Tank Project; approving a project contingency in the amount of $11,600.00; and approving a budget adjustment in the amount of $28,602.00.

Resolution 22-07 as Recorded in the Office of the City Clerk.

Alderman Cook moved to approve the Consent Agenda as read. Alderman Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

UNFINISHED BUSINESS:

Farmington Annexation Public Hearing Date: A resolution setting a public hearing date regarding the City of Farmington's desire to annex certain territory currently in the city limits of Fayetteville.

Tim Conklin, Planning & Development Management Director: The City of Farmington on January 8, 2007 passed an ordinance recommending annexation of an area into their city and detaching it from Fayetteville. Under state law 14-40-2101 that ordinance requires us to set a public hearing date. This resolution sets that public hearing date for March 6, 2007. Once you have that public hearing at your next scheduled meeting you will vote whether or not you want to detach the proposed area from the City of Fayetteville to the City of Farmington. Tonight this resolution if passed will set the public hearing date.

City Attorney Kit Williams: This resolution has been slightly amended from the one that was previously presented to you so I would ask that you amend the resolution to match the one that was presented tonight.

Alderman Cook moved to amend the resolution as presented to the Council. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams: I would say this is probably not the time to debate the merits of this. This only sets the hearing date. The hearing on March 6, 2007 at 6:00 PM at the City Council meeting in Council chambers would be the time for any interested party to express their views.

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

Resolution 23-07 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning: It is my understanding through correspondence with the applicant and Alderman Thiel that this item should be left on the first reading tonight until four weeks from tonight.

Alderman Thiel: Based on the comments that we had at the Ward I meeting most of the neighborhood was concerned about the connectivity. I believe the developer is trying to work out a way to provide access to this project from Happy Hollow Road.

Mike McDonald representing the developer stated they think it will take at least four weeks.

Alderman Thiel moved to table the ordinance to the March 6, 2007 City Council meeting. Alderman Gray seconded the motion. Upon roll call the motion to table passed 7-0. Alderman Lucas was absent.

This ordinance was left on the First Reading and Tabled to the March 6, 2007 City Council meeting.

Pebble Creek Flats Appeal: An appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598): Submitted by N. Arthur Scott for property located at the Intersection of 18th Street and Custer Lane.

Jeremy Pate: This is an appeal from a Planning Commission decision. The Planning Commission unanimously approved a large scale development for property located at the southeast corner of Custer Lane and 18th Street. This property is split zoned. A portion of the property is C-1 and a portion is RMF-24. This is a development proposal that includes mixed use and residential structures. It proposes approximately 11,126 square feet of commercial area and 64 dwelling units which would make a total of 66, there is an existing duplex on the property that the applicants propose to retain.

Jeremy gave a brief description of the project. He stated staff recommended approval of this large scale development finding that it met all the ordinance criteria. He stated there is one waiver request. Planning Commission and staff recommended in favor of that waiver. Planning Commission and staff also recommended street improvements. A lot of the public comment that has been received on this project dealt with access to West Custer Lane.

Alderman Jordan: This is an appeal that I brought forward for the neighborhood.

Sue Madison, representing her family and some of the neighbors: We have seven rent houses in the Red Arrow addition. We are not absentee landlords we consider ourselves to be part of this neighborhood and some of these people have become very good friends of mine.

Ms. Madison presented the Council with pictures of the neighborhood.

The neighborhood has connectivity through 18th Street and Razorback Road. This is an affordable, attainable neighborhood that has withstood the test of time. She stated they realize the developer has the right to develop his property as it is zoned. They strongly disagree with the access onto West Custer. At the Planning Commission meeting the staff repeatedly told the Planning Commission that they had no choice, they had to approve this large scale development. I would like to point out that our Planning Commission has several times denied access to existing neighborhoods when there was no fair warning to those existing neighborhoods.

She went over some of the projects in the city that have one way in and one way out. She asked if we have different standards for well to do neighborhoods than for our affordable neighborhoods. She said the reason for this access is for a second point of ingress and egress for emergency vehicles.

She stated they are not asking the Council to stop this development. We are asking that you minimize the impact on our nice, affordable neighborhood and extend the same fair warning to the residents of Red Arrow that you extend to the more affluence neighborhoods in Fayetteville.

Anita Robbins, 1875 Custer stated the proposed street comes right in front of her house. She said she has lived in this neighborhood for over 25 years. She voiced her concern about excess traffic and crime that this development might cause.

Necia Parker-Gibson stated she does not feel the development should be done. She asked if the infrastructure of the neighborhood will be able to support a multi-family dwelling.

Allen Gibson voiced his concern about the impact on the birds in the neighborhood.

Art Scott representing the developers stated the lot in question that has been called a residential lot is not suitable for a residence because of all the easements on the property. This lot is the only access for the RMF property to any street. This is not really a street it is a driveway into the zoned property. As requested by the neighborhood the developer has agreed to make that a one way in.

Alderman Jordan asked if the developer would be able to meet with the neighborhood again to try to work something out if at all possible.

Art Scott: Sure.

Alderman Allen asked if they could deny a project because of a lack of compatibility.

City Attorney Kit Williams: This is not a zoning decision or a PZD; it is a large scale development. Our code tells you how you can deny a preliminary plat or large scale development. There are six ways that you can deny but compatibility is not one of the ways.

Mr. Williams reviewed the reasons for denial that are a part of the code.

Alderman Allen: I feel very strongly that we do unto one neighborhood as we do unto others.

Alderman Thiel: It seems to me the biggest issue is the entrance onto West Custer. Is this a staff requirement?

Jeremy Pate: It has been proposed with the development and meets all of our city ordinances. Staff is recommending that two points of ingress and egress occur. With 66 dwelling units and 11,000 square feet of commercial space, based on our policies of connectivity and access, I would have a hard time recommending approval of the project without two points of ingress and egress.

Alderman Ferrell: Mr. Scott my hope would be that something could be worked out but if it is not is there an alternate way that you can configure this staying within the parameters of the city to alter the access onto Custer?

Art Scott: We actually have the same opinion as Mr. Pate. An access is by right and Custer is a street that is larger than a typical residential street that is built in the city at this time. We feel it is not a safety issue at all. We feel the development is better with two accesses. We would not like to relinquish that.

Alderman Ferrell: I was at the area today and can see your point about the electric utility.

Alderman Allen: I looked at the area too. What will happen to the houses that are south of the duplexes on West Custer.

Art Scott: We are to leave the southern most duplex and will remove the other buildings to the north of that area.

David, co-owner with Sue Madison: On some of the lots there is a variance that is being asked for and that variance would provide you with the ability to turn down the entire development if you wanted to.

David showed the Council on the map where the lot is that the proposed access would be located.

City Attorney Kit Williams: The variance that is being requested is to allow the driveway for the commercial to exit onto 18th Street closer to Custer Lane than would normally be allowed which would mean all the traffic would have to be funneled onto Custer Lane to serve this entire development if you did not grant the variance. I think the Planning Department did not want to focus the traffic onto Custer Street. It is not in violation of the ordinance to ask for a variance but if they denied the variance and the developer would not go through then they could deny this.

A resident voiced his concerns regarding the traffic and the safety of vehicles turning onto Custer.

Jeremy Pate: In terms of the access which has been the primary source of discussion, there are often times plated lots purchased, even by the city, to realign streets. Access that has been discussed in some of the existing subdivisions some of them were vacation of right of way requests which the Council as a policy decision decided to vacate those rights of way. Some of these subdivisions may have occurred before the International Fire Code was adopted.

With regard to this plated subdivision if this property was developed currently, without the C-1 portion, Custer Lane would be the only access to this property. We feel there is a reasonable level of expectation to have the project approved if it meets all the ordinance requirements that the City Council has adopted. That is why a developer brings an application before us and we have a process to review that and criteria by which we review a project. We have done the same in this case and not given any special considerations in my opinion. Whether we like the project or not there is adopted criteria by which we review this. There is a certain level of discretion that we can't have in terms of a development project.

I would say that if the developer simply wanted to remove the access off of West Custer Street you as the City Council could approve the project with one point of ingress and egress. As a staff member and city planner I would not recommend that to you. I don't think that would be in the best interest of the city or the development of this property. The applicant has not offered that at this point. They have offered to change the point of ingress and egress and as of right now everything about that point of ingress and egress meets city code.

Alderman Jordan: But it could be done?

Jeremy Pate: If the developer wanted to offer that, that is correct. He is meeting all the city ordinances.

Alderman Jordan: The City Council could recommend one way in and one way out. You would not recommend it but it could be done?

Jeremy Pate: Sure. In terms of the street improvements and danger. The Planning Commission also asked us to look at traffic that is generated by this development. We had our Transportation Division put some counters out on January12 through January 15. Those reports are included on page 6 of 30. Those numbers are well below the design capacity. Compatibility is not a finding that we review in terms of this project.

Alderman Thiel: I wonder why this land was land locked.

Jeremy Pate: This property is comprised of two separate subdivisions. There are three lots that are in the Red Arrow subdivision and there are two or three lots that are within the Cornellus Subdivision. This is a floodplain and floodway so that is part of the reason that it has not been developed. There is also a major transmission line that runs through the property which also can not be developed within. Most of the land is not developable.

City Attorney Kit Williams: This is an example of little time bombs that we have all over town where you have RMF-24 land sandwiched among single family homes. I know the City Council has in the past allowed neighborhoods to come up and rezone their property voluntarily but at the same time you have not used your power as legislators to say this particular RMF-24 land is not appropriate here and should be down zoned. I believe the City Council has that power and can do that without risk of a successful takings claim against the city as long as you leave value in that property which RSF-4 land would. As long as this land is zoned RMF-24 then they can develop it according to this kind of density and they do not have to ask for a rezoning and therefore we do not have the kind of discretion that we would have if there was a rezoning.

Alderman Jordan: I have lived in that neighborhood for 30 years. I know how they feel. We started out with a really nice neighborhood and little by little apartments were built all around us. I found out that it was R-24 so I brought it to this Council and rezoned it as an R-4, everywhere but this piece of land. I think I can speak for the neighborhood when I say they feel somewhat invaded. The way that they have always lived and the way they have always existed together feels threatened. I know that it is frustrating for developers and it is frustrating for staff and this Council. It is also frustrating for the people that have lived there for 30 to 40 years. I hope we can get with the developers and see what can be worked out.

Alderman Allen moved to table the appeal to the February 20, 2007 City Council meeting. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This appeal was Tabled to the February 20, 2007 City Council meeting.

VAC 06-2204 Bungalows at Cato Springs: An ordinance approving VAC 06-2204 submitted by McClelland Consulting Engineers for property located north of Cato Springs Road, west of Cline Avenue to vacate an access easement (0.35 acres) and drainage channel access easement (0.03 acres) on the property.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation. He stated staff is recommending approval of this vacation.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: This looks like a really good project and I am anxious for it to move forward.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4977 as Recorded in the Office of the City Clerk.

VAC 06-2365 Popeye's Chicken & Biscuits: An ordinance approving VAC 06-2365 submitted by Mel Milholland for property located between Old Farmington Road and 6th Street, east of 2190 west 6th Street, vacating a 50' street easement on a portion of Sang Avenue, containing 0.167 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation.

Alderman Thiel asked if the adjoining property owner has been satisfied.

Jeremy Pate: I have not heard anything from him since the Panning Commission meeting so I believe everything is in order.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4978 as Recorded in the Office of the City Clerk.

VAC 06-2400 Bellafont II: An ordinance approving VAC 06-2400 submitted by H2 Engineering for property located at the southwest corner of the Bellafont Development, north of Joyce Boulevard and west of Vantage Drive to vacate a portion of a utility easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the vacation. Staff is recommending approval and the Planning Commission voted 9-0 for approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 4979 as Recorded in the Office of the City Clerk.

RZN 06-2399 West Side Annexation C-1: An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 3.93 acres, located at the southwest and southeast corners of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to C-1, Neighborhood Commercial.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the rezoning. He stated staff recommends this rezoning and the Planning Commission voted unanimously to approve.

Alderman Ferrell: Wasn't this area identified at one time as a potential commercial node.

Tim Conklin: When we talked about the annexation we looked at it as a potential commercial node.

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

City Attorney Kit Williams read the ordinance.

Alderman Allen asked about the fire response time to this area.

Fire Chief Johnson: I provided those response times to Alderman Jordan. They range from 7.5 minutes up to 9.8 minutes. Our goal for response is that we would like to respond to 90% of our calls within 6 minutes or less.

Calvin Bay a resident of Forest Hills Subdivision voiced his concern about the drainage in the area. He stated it does not make sense to having this as a commercial node. He objects to making this commercial. It should be compatible with what is adjoining the property which is RSF-4 and RSF-1.

Alderman Ferrell: When they talked about the commercial node, part of the idea was, if people that live in the area can do some of their business at that commercial node that takes a percentage of the traffic off the roads. I think that was part of the thinking in making this commercial.

Alderman Cook: Did you say that area is a leach field for a septic system?

Calvin Bay: Absolutely.

Tim Conklin: The gentleman is correct this is currently not served by city sewer. At this time this area is being served by a decentralized sewer system.

Alderman Cook: Where is the nearest Fayetteville sewer line to that area?

Tim Conklin: Double Springs Road and the Silverthorne Subdivision.

Alderman Cook: Is this area served by Fayetteville or Washington Water Authority?

Tim Conklin: Washington Water Authority.

Alderman Jordan: So we do not have water and sewer out there.

Tim Conklin: We do not have water or sewer in a lot of that area that is correct. We potentially could have sewer but with regard to the Washington Water Authority and their system it would be very difficult for Fayetteville to take that system over in that area.

City Attorney Kit Williams: They basically would have to willingly give us some territory that they currently have. Whether or not they would want to do that I do not know. One of the problems would be as long as they have the territory then we are going to have difficulty getting fire flows out there. They are only providing domestic water for household use rather than for fire flows that we generally have throughout the city.

Tim Conklin: We have talked about water flows. There is a valve there and that is something that we will continue to pursue.

Alderman Thiel: There are still citizens in the city limits of Fayetteville that do not have city water. Until the citizens that have lived in the city for years have city water I will never support extending water.

This ordinance was left on the Second Reading.

RZN 06-2399 West Side Annexation P-1: An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 39.62 acres, located at the northwest corner of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Tim Conklin: Based on the discussion at agenda session staff is not opposed to withdrawing this and leaving it R-A. It is owned by the University of Arkansas. We do not have any regulatory control over this piece of property.

City Attorney Kit Williams: I would suggest that you table this indefinitely.

Alderman Thiel moved to table the ordinance indefinitely. Alderman Allen seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This ordinance was Tabled Indefinitely.

RZN 06-2399 West Side Annexation RSF-1: An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 232.06 acres, located at Hwy. 16 and Rocky Ridge Road Lane, Forest Hills Drive and along Harmon Road south from R-A, Residential Agricultural, to RSF-1, Residential Single Family, 1 unit per acre.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the rezoning. This brings the current subdivisions into compliance. Staff recommended this and the Planning Commission voted in favor of this rezoning.

Calvin Bay: We have no problem with this RSF-1.

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 Lucas 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 Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4980 as Recorded in the Office of the City Clerk.

RZN 06-2399 West Side Annexation RSF-4: An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 17.63 acres, located at the southeast corner of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the rezoning. He stated this brings the current homes into compliance.

Alderman Thiel: I have no problem zoning the section that is built out as RSF-4.

Calvin Bay: We have no problem with RSF-4 for this area. He voiced his concern about the drainage on this property.

Alderman Ferrell 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 Lucas was absent.

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

ADM 06-2379; Amend Chapter 176 Outdoor Lighting: An ordinance amending Chapter 176: Outdoor Lighting, Unified Development Code of the Fayetteville Code of Ordinances.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the amendments to the ordinance.

Alderman Thiel: The Ordinance Review Committee reviewed this and forwarded it to the City Council for approval.

Alderman Ferrell: Have you received much feedback on this?

Tim Conklin: Yes, since we have been implementing the ordinance. I think it is somewhat of a learning curve out there. There are fixtures that have been installed that have been removed and will have to be removed because they do not comply with these changes. We tried to inform them of the lighting that is allowed. I think the designers and architects have worked together to try to find a compromise to allow some up lighting. It is still fairly restrictive.

Alderman Ferrell: Would you say the vast majority that are building, erecting and constructing are in compliance?

Tim Conklin: That is correct.

Alderman Cook: These changes have clarified a few areas.

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 Lucas 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 Gray seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4981 as Recorded in the Office of the City Clerk.

Ten Foot No Build Easement: A resolution to convey a ten foot no build easement around a proposed building by Ed Bradberry above the ten foot alley at the Town Center Site.

Jim Foster representing Ed Bradberry: This resolution would prevent developing a piece of ground immediately east of Town Center Plaza. The project will consist of a couple of floors of office buildings as well as a private residence on top. This is above a public alleyway. This allows fire separation distances so there can be windows on the south side of this project. It is important to this building to not have a plain blank wall.

Nancy Allen: Can this building be built by right?

City Attorney Kit Williams: No there are several variances that have been asked for and are necessary for this building including this one that is before you. Without this 10 foot no build easement they could not have windows on that side or they would have to move the building back to ensure that there is separation. It is a fairly tight lot.

I should note there was a typo in the description of the no build easement. We handed out a corrected resolution tonight. I would ask that you amend the resolution to the correct height.

Alderman Rhoads moved to amend the resolution to the correct height as stated. Alderman Ferrell seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Alderman Allen: What are the dimensions of the building and the purpose of the building?

Jim Foster: The lot is approximately 30 feet by 65 feet. On the ground level there will be a mechanical room and parking for the owner. The next two levels will be offices. Above the office level is the private residence.

Alderman Allen: Is it six stories tall?

Jim Foster: I say it is six stories, Jeremy Pate tells me it is seven. It is under the height limit of Main Street Center and it has been approved by the City Planning Commission.

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

Resolution 24-07 as Recorded in the Office of the City Clerk.

AT&T Proposed Agreement: A resolution to approve an agreement with AT&T Arkansas to allow it to offer internet protocol/cable TV type service in Fayetteville.

City Attorney Kit Williams: There have been some recent negotiations between AT&T Arkansas and me to place some additional amendments to the contract especially in relation to paragraph's three and four. The amendment in paragraph four required that the public access, government and educational channels would be on the lowest tier, the basic level of AT&T. This contract requires that and AT&T has agreed to that. There were several items in paragraph three which is the compensation paragraph where they have agreed to pay to the city a fee of 5% of gross revenues. There was some question about what does gross revenues cover. It has been agreed that the fees would be for all the subscription fees, the pay-per-view fees, equipment rental, installation and repair fees collected from each subscriber to AT&T Arkansas's IP enabled video service product delivered over the IP network in Fayetteville's right of ways. It is understood by the parties that the 5% fee paid to Fayetteville by AT&T Arkansas is applicable to the same gross revenue items as presently required of the current cable television provider for all subscriber paid services and no others until and unless the FCC or the court determines the fee should apply to more or fewer items. That would be the agreement that is actually before the City Council tonight. This agreement is slightly modified from what you received previously.

Cathy Foraker, AT&T: We have been serving Arkansas for over 125 years with our telephone service. We have had a great relationship with the City of Fayetteville. We have a current franchise agreement in place. This contract in no way changes that. I think that has been brought up as a concern. The city will always maintain control of the right of way. What we are suggesting with this agreement is that we enter into an agreement between AT&T and the City of Fayetteville where we are offering to pay the city a 5% fee on anything that we as a company gain from subscriber fees off of a new product. What makes this difficult is because our product has not been defined. Cable is clearly defined as a one way transmission of service so if you order 60 channels, it downloads 60 channels to your TV and with your remote you move up and down that channel selection to watch the program that you want to watch. Our program is very different. Internet protocol is based on an internet backbone which is a lot of the reason why our company bought AT&T. We wanted that world class internet backbone so that we would deliver the high speed internet access that our customers are demanding. It was not that long ago that we did not have high speed internet access and our network was primarily voice. Now you see more cell phones than you do land lines. 90% of our business today is data, it is no longer voice. We have to change our company to the demands of what our customers are wanting. This is just the next phase.

Cathy explained the service areas they have built out to. She stated they will continue to keep building out.

We just want to get the fiber closer to the house and through that same telephone line we can get enough band width to offer a stream of video. Through this broadband connection we will offer the high speed internet access that our customers want and with this agreement a choice for TV service. Cable downloads all your channels, with this product all the content is at our central office in Fayetteville.

Cathy explained how the new service will work.

Recently the FCC had an order, we are still waiting to see the wording of the order, which is trying to open up the market for competition for cable. They have seen cable rates continue to go up and there was never the intent of having just one exclusive provider of cable. They are looking at this to try to decide how to open this up for more people to enter the market. At the same time phone service is provided by cable companies. They are saying the old rules do not apply because it is internet protocol voice, voice over IP. Well ours is video over IP, the old cable rules do not apply to it either. This is new ground. I think as people's habits change the way we watch TV will change. We are saying let us enter into this market, let us give the consumers of Fayetteville a choice. You have to have the mindset that different technologies can't be treated exactly the same. We have worked very hard with Kit to try to come up with a contract that addresses as many issues as you would need to think about when you think about protecting your constituents. Regarding the right of way, we will offer the same PEG channels that are offered on Cox today. It will be an up front grant from our company to the City of

Fayetteville to pay for any charges that it would take to get the current programming of the PEG channels up to an IP platform. We left that without a dollar amount on it because we don't know what that amount will be when we get to that point. We have rolled this product out in 11 markets. They are working on delivering those PEG channels as we speak. This also offers the parental controls so you can block a channel. It offers a lot of rich features.

The products are different. We are not asking for you to look at them the same. They may look the same but a phone call is a phone call and it is delivered differently. This is not cable, it is internet protocol video.

Alderman Thiel and Alderman Ferrell asked if they have a conflict of interest due to owning shares of AT&T stock.

City Attorney Kit Williams read the conflict of interest section in the Rules of Order and Procedure.

Simply owning some shares of stock I do not think would disqualify you at all. I do not think you have a conflict of interest because you own some shares of stock. I think this disclosure is always called for any time there is any question.

Alderman Thiel: AT&T owns Dish Network is that correct?

Cathy Foraker: No. We have an agreement with Dish Network so if we have a customer who wants to have Dish Network but they want it billed on their AT&T bill it can be combined onto one bill but we do not own them.

Alderman Thiel: You don't regulate Dish Network at all?

Cathy Foraker: Not in any way.

Alderman Thiel: Cox is not required to ask permission to offer phone?

Cathy Foraker: That is correct.

Alderman Thiel: Why are they not required to do that and why are they not required to pay franchise fees similar to the fees AT&T has to for the phone?

Cathy Foraker: Broadband service has been excluded from any kind of taxes at the Federal level. They are looking at that because it is delivered through that internet protocol. Cathy explained the process. She stated there are no taxes because it is going through the internet. We will pay the city this year over $260,000. The technologies make them get treated differently.

Alderman Thiel: Why are you asking for permission to do this? Are you required to?

Cathy Foraker: No, we are not required to in any way. We think the state law that currently governs us gives us the right to do what we are doing now. To be proactive we are entering into good faith with the city and are willing to match the standards that cable has on service and we will match the 5% fee on the subscriber items that Kit listed. We are also very committed to carrying the PEG channels.

City Attorney Kit William: I appreciate the fact that AT&T is willing to have a level playing field with Cox and to pay the same 5% fee on the subscriber revenue. We could have ended up in court. They could have said we are going to do it and we could have said that we do not agree with their interpretation. That would be counter productive. I am happy that AT&T is willing to work with the city. The agreement is not as detailed as we have with Cox but we have an absolute right to negotiate with Cox and we don't with AT&T.

We hope the unregulated telephone service through the internet will change so that it will be a level playing field. Cox is still using our right of ways to provide not only cable service but telephone service to some extent.

I want to publicly thank AT&T for being willing to come forward and work with us and basically agree with a very similar contract that we have with Cox.

Alderman Allen: Can additional PEG channels and the broadband capacity be made available by AT&T now and added in the future?

Cathy Foraker: We have made similar agreements with other cities in Arkansas. We are trying to match the current cable agreement in the cities. We are building this from the ground up. I would hate to even guess at what we would be looking at because the technology is changing so fast. There is a lot of capacity it would depend on what the current environment was at the time that we were negotiating a new contract.

The city will still maintain control of the content of the PEG all we are doing is giving it another delivery option. One service that our service provides is that anyone with an internet connection can go to the internet and watch the government channels. This also gives the city a little more control because you have a way of storing what they watch.

Alderman Allen: What additional equipment will a homeowner need?

Cathy Foraker: It will come through your phone lines like it does today. We will have technicians that will do the installation. A home owner will not have to do anything. There will be a box that sits on your TV and that will connect to your TV.

Alderman Allen: What about lower income folks?

Cathy Foraker: We have a service through the phone side of our business called life line. If you have a constituent that is low income they are offered phone service at a reduced rate. Our main goal is to make sure everyone has access to 911. On the video side of this we have packages similar to what you would see in traditional cable. A lower income family would have that choice of fewer channels or different packages. Competition is healthy, when you have more than one cable provider, rates are lower.

Jim Bemis, resident of Ward 4 asked the Council to table this due to the change in the agreement so the Telecom Board may review the new agreement. He asked the Council to look at the Cox agreement and to look at this agreement. He also asked the Council to have a needs assessment within the community to see what they want. No one is arguing with AT&T's technology, it is brilliant but there is stuff coming down the pipe every day.

Steve Nichols: I see several problems with it this agreement proposed by AT& T. I think these problems can be solved but I think it will require more time to look at it. The notion that cable is a unidirectional thing whereas telecom is not I think is a distinction without a difference.

Mr. Nichols also stated a franchise agreement is a better way to handle these services. He said a standard franchise agreement is more of a level playing field.

I am concerned about privacy and what routers the internet traffic will go over. There are many different issues that need to be discussed and I think this is going to take some time.

Don Moore, citizen: I am speaking for myself and the underprivileged of the city. We need competition in the city and we need another choice. We are asking you to give us a choice.

Alderman Thiel: We do not have a contract with Cox Cable right now.

City Attorney Kit Williams: It was not accepted and after we did not accept it Cox withdrew it and has never offered anything close to that again. I have continued the real old contract with them. We do not have the kind of power we use to have even with the cable TV networks. We certainly do not have that kind of power with AT&T. I do not think it would be reasonable for us to assume that I could negotiate a 40 page contract with AT&T that would be identical with the Cox contract that we have right now because the law is very unsettled about whether we have to have a contract at all. That is why I said I was happy that AT&T had taken what I think is a very responsible position in approaching us with what I think is a pretty good contract. It is not as perfect as what we would want if we could dictate the terms. If we try to be too hard nosed it will be like the Cox contract where we don't have anything.

Alderman Thiel: We currently do not have a contract with Cox?

City Attorney Kit Williams: We do have a contract. The City Council use to renew that contract. It is the original contract.

Alderman Thiel: The contract that had the recommendations from the Telecom Board is not what we are currently operating with?

City Attorney Kit Williams: No, we have the old contract. It is not that bad of a contract but it is not as good as the one that we negotiated at one point but that now is not on the table.

Alderman Allen: What is the term of this contract?

City Attorney Kit Williams: It is a little less than five years. Hopefully a lot of the uncertainty about whether we have the right to regulate or not will be resolved. Hopefully by that time we will have the right to regulate telephone service over the internet which is really unfair right now to the normal telephone providers because they have to pay the franchise fees to use our right of ways and the internet telephone people do not have to. I would like to get a contract with them too.

Alderman Ferrell: The Telecom Board is the body that advises this Council and Community Access Television is a contractor. The situation as I see it is Community Access Television sees what they think is an opportunity to go for all they can. There are a lot of people that have spent a lot of time to make CAT what it is.

Alderman Ferrell read an email he received from a citizen in support of this resolution. The citizen stated he believes the citizens of Fayetteville deserve a choice.

Alderman Rhoads: I think we have all received emails and calls. I think the City Attorney has done a very good job in his negotiations. There is always a little bit of risk that you might get something better if you wait a little bit longer but I don't think it is much of a risk. I think the benefit of having two choices and competition far outweighs that risk.

Alderman Cook: I do not have any issues with this at this point. I am excited about the opportunity to have competition. I do not see what waiting two more weeks would hurt. I do not feel we are rushing into this. This is a big opportunity for the City of Fayetteville.

Alderman Thiel: I agree that I have not heard anything that makes me think there is a need to wait. Jim Bemis has been a strong advocate for the Telecom Board so if they can have a meeting regarding this and review the changes that have been made then I can see that as a reason to wait. I would like to see this come back in two weeks.

Susan Thomas, Public Information and Policy Advisor: Are you requesting a Telecom Board meeting to review the new changes or the information from the forum?

Alderman Thiel: I guess everything.

Alderman Jordan: I have not had many emails in opposition to this but I have had a lot that have said we need to take our time and not get in a hurry. I too think we need to wait.

Alderman Allen: I am optimistic that we have a good contract in front of us but I have no problem waiting two weeks and seeing if we can get further input.

Alderman Gray: I agree that two weeks would be a good waiting period. I feel very comfortable with the contract at this point.

Alderman Thiel: I have had some comments wanting us to wait but I have had an overwhelming amount of support for doing this. People want the competition.

Alderman Thiel moved to table the resolution to the February 20, 2007 City Council meeting. Alderman Gray seconded the motion. Upon roll call the motion passed 6-1. Alderman Rhoads voting no. Alderman Lucas was absent.

This resolution was Tabled to the February 20, 2007 City Council meeting.

Amend Chapter 159: Impact Fee Table of Charges: An ordinance to amend Table A, Impact Fees in §159.03(D)(1), §159.04(D)(1) and §159.05(D)(1) of the Unified Development Code to combine land use categories in Table A to match the Road Impact Fee Ordinance and the statutory definition of "development."

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams: I brought this forward to make our table uniform and easier to administer. It also means there would be a slight reduction in impact fees for single family homes, commercial and industrial development. Just like you did for road impact fees. The development that we can charge impact fees has been defined because of that I felt we needed to make these changes.

A discussion followed on the impact fee study.

Alderman Thiel moved to amend the ordinance to change the wording of mobile home to manufactured home. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

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 Lucas 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 Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

City Attorney Kit Williams read the ordinance.

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

Ordinance 4982 as Recorded in the Office of the City Clerk.

Meeting adjourned at 9:25 PM

Dan Coody

Dan Coody, Mayor

Sondra Smith

Sondra Smith, City Clerk/Treasurer

Attach to 2/6/07 Minutes

FAYETTEVILLE HOUSING AUTHORITY
#1 North School Ave.
Fayetteville, AR 72701-5928
PH: (479) 521-3850 FAX: (479) 442-6771
E-MAIL: fayettevilleha@moregti.net

RECEIVED
JAN 29 2007
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

January 26, 2007

Mayor Dan Coody &
Fayetteville City Council Members
113 West Mountain St.
Fayetteville, AR 72701

Dear Mayor Coody & Fayetteville City Council Members:

This letter is to confirm that the Fayetteville Housing Authority's Board has elected a new commissioner at its January 19, 2007 Special Board Meeting.

The new Commissioner for the Fayetteville Housing Authority Board is Olivia Horn. Her term will begin on January 19, 2007 and end on December 28, 2009.

The Fayetteville Housing Authority Board requests that this newly elected commissioner (Olivia Horn) be placed on the next City Council Meeting Agenda to be formally confirmed by the municipality's governing body in accordance with the Arkansas State Statue #14-169-208.

If you have any questions, please feel free to call or e-mail.

Sincerely,

Fredia Sawin

Fredia Sawin
Executive Director

fs

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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

City of Fayetteville Arkansas
Special City Council Meeting Minutes
February 13, 2007

A meeting of the Fayetteville City Council was held on February 13, 2007 at 4:30 PM in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Rhoads

Pledge of Allegiance

NEW BUSINESS:

Barbara J. Heyliger Revocable Trust Settlement Agreement: A resolution to approve the Settlement Agreement with the property owner in City of Fayetteville v. Barbara J. Heyliger Revocable Trust, Washington County Circuit Court Civil Case No. 06-990-4.

City Attorney Kit Williams: This is a settlement that is being recommended by me and Assistant City Attorney David Whitaker.

Assistant City Attorney David Whitaker: I sent you a memo briefly describing what the request was and our recommendation. This is as good of a deal as you are likely to get. I will repeat my concern that with this as well as many other things, once you go to trial in Arkansas the only remaining issue is price. The price would be set by a Washington County jury who after hearing testimony would then determine what they thought was the best price. To be very honest it is a bit like the wheel of fortune, where it stops nobody knows. The price is obviously higher than we started out at and considerably lower than what they countered. One of the chief benefits is that the amount is known and it is manageable on this project.

City Attorney Kit Williams: We believe this is a fair settlement. David Jurgens has reviewed this.

David Jurgens, Water & Wastewater Director: I have reviewed it and absolutely recommend approval.

Mayor Coody: The staff has done a really good job on this.

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

Resolution 25-07 as Recorded in the Office of the City Clerk.

Meeting adjourned at 4:35 PM

Dan Coody

Dan Coody, Mayor

Sondra Smith

Sondra Smith, City Clerk/Treasurer

Agenda Session 2/13/07

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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
February 20, 2007

A meeting of the Fayetteville City Council will be held on February 20, 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

Pete Heinzelmann, Fayetteville Natural Heritage Association – Presentation of GIS Study regarding natural areas in and around Fayetteville – **Agenda Session Only**

A. CONSENT:

1. **Approval of the February 6, 2007 City Council meeting minutes.**

2. **Historic District Commission Appointment:** A resolution confirming the Mayor's appointment of Mr. Vince Chadick to the Historic District Commission.

3. **New World Systems, Inc:** A resolution approving a three-year renewal of the Public Safety Software Maintenance Agreement with New World Systems, Inc. in the amount of $78,579.00.

4. **Cruise Uniform and Equipment:** A resolution to approve a bid purchase of 140 replacement Glock handguns with related holsters and magazine holders from Cruise Uniform and Equipment for a net cost of $69,724.20 (after trade-in of used handguns and magazines).

5. **Arkansas Western Gas Utility Easement:** A resolution granting a 10' x 138' Utility Easement to Arkansas Western Gas Company across a portion of Red Oak Park.

6. **Mediastar SG:** A resolution approving the purchase of a Digital Master Control System from Mediastar SG in the amount of $95,255.00 for cable-casting of the Fayetteville Government and Public Access Channels.

B. UNFINISHED BUSINESS:

1. **Pebble Creek Flats Appeal:** An appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598): Submitted by N. Arthur Scott for property located at the Intersection of 18th Street and Custer Lane. ***This appeal was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

2. **RZN 06-2399 (West Side Annexation C-1):** An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 3.93 acres, located at the southwest and southeast corners of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to C-1, Neighborhood Commercial. ***This ordinance was left on the Second Reading at the February 6, 2007 City Council meeting.***

3. **RZN 06-2399 (West Side Annexation RSF-4):** An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 17.63 acres, located at the southeast corner of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre. ***This ordinance was left on the Second Reading at the February 6, 2007 City Council meeting.***

4. **AT&T Proposed Agreement:** A resolution to approve an agreement with AT&T Arkansas to allow it to offer internet protocol/cable TV type service in Fayetteville. ***This resolution was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **Amend 2007 Budget:** A resolution approving a budget adjustment to re-appropriate $163,698,250.00 in order to retain current fiscal year project funding for identified, scheduled and on going Capital Improvements; and authorizing the Budget and Research Division to make any needed reductions.

2. **Mobile Data Terminals:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Mobile Data Terminals with the associated hardware and software in the amount of $268,600.00 for use by the Fayetteville Fire Department.

3. **RZN 07-2419 (Kelly):** An ordinance rezoning that property described in rezoning petition RZN 07-2419, for approximately 44.74 acres, located at 3184 South City Lake Road from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

4. **Wedington Circle Appeal:** An appeal of the Planning Commission's decision to approve the Wedington Circle Preliminary Plat (PPL 06-2302) located north of Wedington Drive, west of Garland Avenue.

5. **R-PZD 06-2299 (Ruskin Heights):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2299, Ruskin Heights, located west of highway 265/Crossover Road, on the south side of Mission Boulevard; containing approximately 28.93 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

6. **Amend § 161.21 and § 161.22 Height Regulations:** An ordinance to amend § 161.21 (G) Height Regulations of Main Street Center and § 161.22 (G) Height Regulations of downtown general of the Unified Development Code by limiting the height of new development to three stories or 45 feet, whichever is less.

D. INFORMATIONAL:

City Council Tour: ~~**None**~~ February 22, 2007 - 4:30 PM.

President's Day – February 19, 2007 – City offices will be closed.

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

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5. **Arkansas Western Gas Utility Easement:** A resolution granting a 10' x 138' Utility Easement to Arkansas Western Gas Company across a portion of Red Oak Park.

NB-1
Get resolution from Kit

6. **Amend 2007 Budget:** A resolution amending the Adopted 2007 Budget to re-authorize up to $???,???,??? from 2006, in order to retain project funding for identified, scheduled, and on-going Capital Improvements.

B. UNFINISHED BUSINESS:

1. **Pebble Creek Flats Appeal:** An appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598): Submitted by N. Arthur Scott for property located at the Intersection of 18th Street and Custer Lane. ***This appeal was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

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4. **Wedington Circle Appeal:** An appeal of the Planning Commission's decision to approve the Wedington Circle Preliminary Plat (PPL 06-2302) located north of Wedington Drive, west of Garland Avenue.

NB #2

~~5.~~ **Fire Department Bid Waiver Purchase:** Tony Johnson item.

Consent 6. **Media Star SG:** Susan Thomas item.

~~7. **Fayetteville – Farmington Wastewater Contract: Kyle/David item.**~~

D. INFORMATIONAL:

City Council Tour: None

President's Day – February 19, 2007 – City offices will be closed.

From: Lana Broyles
To: Branson, Lisa; Wood, Amber
Date: 2/9/2007 9:53 AM
Subject: Proclamation for Justin Minkel

The Mayor would like to read a proclamation in honor of Justin Minkel at the beginning of the City Council meeting on February 20. The proclamation will be for "Justin Minkel Day" and is honoring Justin for his achievement in being named among the four finalists for the National Teacher of the Year Award. No one from Fayetteville has ever achieved this honor before.
Thanks for your help with this.
Lana

Lana Broyles
Mayor's Office Administrator
479-575-8330
479-575-8257 (fax)

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

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Final Agenda
City of Fayetteville Arkansas
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Roll Call
Pledge of Allegiance

"Justin Minkel Day" Proclamation: A Proclamation in Honor of Justin Minkel for being named among four finalists for the National Teacher of the Year Award.

A. CONSENT:

1. **Approval of the February 6, 2007 City Council meeting minutes and the February 13, 2007 Special City Council meeting minutes.**

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FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

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

FROM: **Kit Williams**, City Attorney

DATE: **February 14, 2007**

RE: **Signed proposed Agreement with AT&T Arkansas**

The Fayetteville Telecom Board had a second hearing on the proposed Agreement with AT&T Arkansas yesterday. Members of the public, CAT, AT&T representatives and I all addressed issues surrounding this agreement.

The Telecom Board then unanimously passed a motion recommending the City Council adopt this Agreement. After the meeting AT&T Arkansas' representative presented the Agreement signed by its President, Edward Drilling (attached). Also attached is my memo of February 7, 2007 about the minor changes to the contract which were presented to the Telecom Board as well as reasons other changes proposed by CAT and others are not included nor recommended at this time.

AGREEMENT

THIS AGREEMENT ("Agreement") dated this 20th day of February, 2007 ("Effective Date") is made by and between Southwestern Bell Telephone, L.P., a Texas limited partnership doing business as AT&T Arkansas ("AT&T Arkansas") and the City of Fayetteville, Arkansas, a municipal corporation ("Fayetteville"). AT&T Arkansas and Fayetteville shall sometimes be referred to separately as a "Party," and collectively as the "Parties."

RECITALS

A. As a telecommunications provider, AT&T Arkansas has statewide authority under Ark. Code Ann. §23-17-101 to construct, operate and maintain its telecommunications facilities in the public rights of way ("ROW") throughout the state of Arkansas.

B. Under Ark. Code Ann. §14-200-101, Fayetteville is permitted to impose reasonable terms and conditions on AT&T Arkansas' use and occupation of the Fayetteville's ROW and to collect a reasonable franchise fee for such use and occupation of its ROW.

C. AT&T Arkansas is in the process of upgrading its existing telecommunications network to provide an integrated Internet Protocol ("IP") enabled broadband platform of voice, data and video services ("IP Network"), the video component of which is a switched, two-way, point-to-point and interactive service ("IP-enabled Video Service"). The IP Network upgrade will involve the use of Fayetteville's ROW.

D. AT&T Arkansas believes that Ark. Code Ann. §23-17-101 covers the construction, operation and maintenance of the IP Network, and that AT&T Arkansas is not required to obtain a separate franchise or other authorization from Fayetteville to offer IP-enabled services including IP-enabled Video Services within Fayetteville over the IP Network.

E. AT&T Arkansas further believes that Fayetteville's right to regulate the construction of the IP Network in Fayetteville's ROW is limited to the right to impose reasonable conditions regarding the time, place, and manner of AT&T Arkansas' use and occupation of Fayetteville's ROW.

F. Fayetteville believes that the provision of IP-enabled Video Services by AT&T Arkansas is beyond the scope of Ark. Code Ann. §23-17-101 and is subject to Fayetteville's cable television franchising authority.

G. Both AT&T Arkansas and the City of Fayetteville agree that the deployment of the IP Network and the provision of IP-enabled Video Services should not be delayed by litigation to establish the scope of Ark. Code Ann. §23-17-101 or the application of Fayetteville's franchise ordinance to IP-enabled Video Services.

H. Fayetteville and AT&T Arkansas further agree that litigation to resolve this issue would be complex and protracted, and that it is in the best interests of both Parties and the residents of Fayetteville to reach a compromise of each other's positions and claims.

NOW, THEREFORE, in consideration of and reliance upon the respective representations, promises, concessions, terms and conditions contained herein, Fayetteville and AT&T Arkansas agree as follows:

1. Term. The term of this Agreement shall commence on the Effective Date of this Agreement and continue through the end of 2011. The term may be extended upon mutual agreement of the Parties.

2. Change of Law. AT&T Arkansas and the City of Fayetteville agree to consult in the event that after the Effective Date, any court, agency, commission, legislative body, or other authority of competent jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable and binding upon either Fayetteville or AT&T, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the finding unless either party, within thirty (30) days of receipt of the ruling, provides written notice to the other party of election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the parties mutually may agree. Where the effect of a finding is a modification, the parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either party to terminate the Agreement on the provision of thirty (30) days' written notice.

3. Compensation to Fayetteville. During the term of this Agreement, AT&T Arkansas shall pay to Fayetteville a fee of 5% of the gross revenues from subscription fees, pay-per-view fees and equipment rental, installation and repair fees collected from each subscriber to AT&T Arkansas' IP-enabled Video Services product delivered over the IP Network in Fayetteville's rights of way. It is understood by the parties that the 5% fee paid to Fayetteville by AT&T Arkansas is applicable to the same gross revenue items as presently required of the current cable television provider for all subscriber paid services and no others until and unless the FCC or a Court determines the fee should apply to more or fewer items. The fee does not apply to non-video revenues or the non-video revenues of a bundled product containing video and non-video offerings. The fee will be forwarded to Fayetteville quarterly by the twenty-first day of the first month of the subsequent quarter. Upon request, AT&T Arkansas shall make their records available to Fayetteville to demonstrate compliance with this paragraph for a period of three (3) years preceding the request.

4. Public, Educational and Governmental Programming.

(a) AT&T Arkansas shall provide some form of access for Fayetteville's noncommercial, public, education and governmental ("PEG") programming through AT&T Arkansas' IP-enabled Video Services.

(b) AT&T Arkansas shall not be responsible for content of PEG programming.

(c) As soon as practicable, AT&T shall provide written notice that it has the technical capability to provide IP based access for Fayetteville's PEG channel (in use on the Execution Date of this Agreement) over the platform AT&T wishes to use with this agreement. If technological feasibility requires a change in the current Fayetteville technology, Fayetteville may be required to support a change in or addition to current Fayetteville technology now in use for PEG programming to make it compatible with AT&T Arkansas' IP enabled video technology.

(d) AT&T Arkansas will provide Fayetteville capacity on its platform to carry the same number of PEG channels that Fayetteville currently has activated as of the effective date of this Agreement. PEG content will be made available by Fayetteville placing its content on the public Internet. AT&T Arkansas will carry this PEG content on its video platform in its basic (lowest tier package) using its standard Internet-sourced PEG solution. AT&T will provide Fayetteville a one-time up front capital grant to cover the initial set up costs incurred by Fayetteville to make this content available on the Internet. Should AT&T seek to improve its transmission method in a fashion that will substantially affect the integrity of the Internet sourced PEG solution (compatibility), AT&T accepts the responsibility for necessary costs of capital improvements that might be needed by Fayetteville.

(e) PEG programming will be available via Internet for AT&T Arkansas' IP Video subscribers to view both on the TV and computer. PEG programming will be available via the Internet from the end user's computer for AT&T HomeZone subscribers who also have High Speed Internet Access.

5. Emergency Message. AT&T Arkansas shall carry all Federal, State and Local alerts provided over the Federal Emergency Alert System through AT&T's IP-enabled Video Services in the event of a public safety emergency, which at a minimum will include the concurrent rebroadcast of local broadcast channels.

6. Customer Service. AT&T Arkansas will offer IP-enabled Video Services and provide customer service consistent with the requirements of 47 C.F.R. Section 76.309(c). AT&T Arkansas will respond to complaints and outages in a diligent fashion.

(a) AT&T Arkansas shall give subscribers in Fayetteville thirty (30) days notice of any rate increases, channel lineup changes, or other substantive service changes.

(b) AT&T Arkansas shall restore any pavements, sidewalks, driveways that are disturbed during the installation, improvement or extension of IP-enabled Video services to a standard that is both commercially reasonable and in compliance with the ordinances of Fayetteville.

(c) AT&T Arkansas shall not refuse to render IP-enabled Video Services based solely upon the income or minority status of any resident or group of residents.

7. Service area. This Agreement shall apply to AT&T's service area within the municipal boundaries of Fayetteville as they exist upon the date of execution of this agreement and may hereafter be extended. AT&T shall make video programming available, subject to technology or other economic feasibility, to all residential units within the service area, by use of IP-based video technology or other alternative video programming technology.

(a) On December 31, 2007 and the same date in every year thereafter, AT&T Arkansas shall tender an annual report indicating the status of its video programming service. The report shall: (i) indicate the number of subscribers; and (ii) the technology being used to provide such video programming.

(b) AT&T Arkansas shall be considered to have breached this agreement if AT&T Arkansas fails to diligently offer video programming throughout Fayetteville, unless: (i) delay is attributable to Force Majeure; (ii) delay is attributable to Fayetteville; (iii) delay is attributable to AT&T Arkansas' inability to obtain needed private easements: (iv) delay is attributable to special technical requirements; or (v) delay is justified by reasonable commercial standards of construction.

8. Obligations of Fayetteville. During the term of this Agreement Fayetteville will not attempt to nor subject the provision of AT&T Arkansas' IP-enabled Video Services over the IP Network to regulation under any cable television franchise ordinance or similar ordinance. In addition:

(a) Fayetteville agrees to subject the construction and installation of the IP Network to the same process and review as it subjects the installation and construction of AT&T Arkansas' existing telecommunications infrastructure.

(b) Fayetteville agrees not to unreasonably block, restrict, or limit the construction and installation of the IP Network.

(c) Fayetteville agrees to process any and all applicable permits for the installation, construction, maintenance, repair, removal, and other activities associated with the IP Network in a timely and prompt manner.

9. Jurisdiction and Venue. This contract shall be construed pursuant to the laws of Arkansas. Jurisdiction and venue shall be in Washington County, Arkansas.

10. Breach of Agreement. Should either party claim that a breach of any part of this Agreement has occurred, that party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other party shall cure such breach within 60 days.

11. Mediation Recommended. Both AT&T Arkansas and the City of Fayetteville shall make diligent good faith efforts to resolve all issues and disputes that might arise in the administration of this Agreement through discussions between designated representatives of the Parties. If such discussions have failed, the use of a mediator is recommended.

12. Insurance. AT&T Arkansas shall maintain, throughout the term of this Agreement, insurance in the minimum amounts as follows:

Workers Compensation	Statutory Limits
Commercial General Liability	$1,000,000 per occurrence, Combined Single Liability (CSL) $2,000,000 General Aggregate
Auto Liability	(including all owned, non-owned, and hired vehicles) $1,000,000 per occurrence (CSL)
Umbrella Liability	$1,000,000 per occurrence (CSL)

13. Notices. Any notice to be given under this Agreement shall be in writing and may be delivered to either personally, by facsimile or by certified or registered mail with postage prepaid and return receipt requested, addressed as follows:

If to The City of Fayetteville:

City Attorney's Office
City of Fayetteville
113 W. Mountain Street, Ste. 302
Fayetteville, AR 72701
FAX: (479) 575-8315

If to AT&T Arkansas:

Mr. Edward Drilling,
President, AT&T Arkansas
AT&T Arkansas
1111 W. Capitol Avenue
Little Rock, AR 72201-3005

14. Modification. This Agreement may be amended or modified only by a written instrument executed by both Parties.

15. Assignment. AT&T Arkansas may not assign or transfer this Agreement or any interest therein without the prior consent of Fayetteville except to any affiliate of AT&T Arkansas.

16. Entire Agreement. This Agreement embodies the entire agreement and understanding of Fayetteville and AT&T Arkansas with respect to AT&T Arkansas' use of Fayetteville ROW in connection with the offering and provision of IP-enabled services including IP-enabled Video Services within Fayetteville using facilities constructed and placed within Fayetteville's ROW. As such it merges and supersedes all prior verbal agreements, understandings and representations by either party on the matters set forth herein.

17. Waiver. Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

18. Miscellaneous.

(a) AT&T Arkansas and Fayetteville each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

(b) The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

(c) AT&T Arkansas and Fayetteville shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

(d) Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a party to this Agreement, unless otherwise expressly set forth herein.

(e) Nothing contained in this Agreement is intended or shall be construed as amending, modifying or otherwise affecting any other agreements, authorizations or memoranda which Fayetteville and AT&T Arkansas have now. Further, nothing contained in this Agreement is meant to change, limit, modify, restrict or limit any current rights or jurisdiction that either Fayetteville or other governmental entities currently have nor is this Agreement intended to change, limit, modify, restrict or limit any rights AT&T Arkansas currently has under existing federal and state law and under existing Fayetteville ordinances and existing construction permits issued by Fayetteville.

19. Binding Effect. This Agreement shall be binding upon and for the benefit of AT&T Arkansas and the City of Fayetteville.

20. Counterpart Execution. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

21. Authority of City Council. This agreement is not intended to limit the authority of the Fayetteville City Council regarding the use of streets, easements, and public rights of way ("ROW") by public utilities, specifically including those that communicate information. The City Council expressly reserves the right to increase the fee imposed in paragraph 3 of this Agreement to that which is imposed on other video service providers in order to generally maintain competitive neutrality, so long as such fee does not exceed the maximum rate authorized under Section 622 of the Federal Communications Act (47 U.S.C. Section 542).

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of the 6th day of February, 2007.

AT&T ARKANSAS

By: ______________________________
Name: Edward Drilling
Title: President – AT&T Arkansas

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________________
Name: **DAN COODY**
Title: Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **City Council**

CC: **Telecom Board**

FROM: **Kit Williams,** City Attorney

DATE: **February 7, 2007**

RE: **Proposed AT&T Arkansas contract**

Attached is the final proposed Agreement accepted by AT&T Arkansas. This contract differs from the one submitted to the Telecom Board in a few sections:

(1) Paragraph 3. Compensation to Fayetteville.

In order to make this more comparable to the City's agreement with Cox Communications, I enlarged the definition of "gross revenues" to include "pay-per-view fees, equipment rental, installation and repair fees ..." I also included the language that "the 5% fee paid to Fayetteville by AT&T Arkansas is applicable to the same gross revenue items as presently required of the current cable television provider for all subscriber paid services ...." This 5% fee is payable to Fayetteville "quarterly by the twenty-first day of the first month of the subsequent quarter." I believe these additional terms create a more level playing field for Cox and AT&T Arkansas.

(2) Paragraph 4. Public Education and Government Programming.

In response to concerns of the Telecom Board and others, I added: "AT&T Arkansas will carry this PEG content on its video platform in its basic (lowest tier package) ...."

I cannot recommend, nor will I include within the proposal unless so instructed by the City Council, a provision to charge AT&T Arkansas more (1% of gross revenues for the PEG channels) than is charged to Cox. The City Council long ago determined that the franchise fees generated by Cox should not be designated for nor paid directly to the PEG channel operation, but should be paid into the City's General Fund to be appropriated by the City Council for all City needs. These funds are not generated by the PEG channels, but are derived from the use of the City's streets and rights of way by Cox (or now by AT&T Arkansas). Therefore, I will follow the City Council's established policy and not designate any part of the fee on gross revenue for PEG.

Requests for free INET services or other extra benefits are premature for this contract. In four years, I hope Fayetteville has at least two viable, healthy competitors in this market. At that point, we will be in a much better position to offer incentives (such as a longer contract) for providers in exchange for additional services for the City.

That will also be the time to look at and address coverage and availability issues (if any). This contract will give AT&T Arkansas enough time to expand its system and demonstrate to the City that it will **voluntarily** provide the wide and equitable accessibility for our citizens that our City Council desires. If we find problems with fair accessibility after this initial four year expansion, the City will be in a better and more informed position to require improvements.

CONCLUSION

I recommend we agree to the terms presented by AT&T Arkansas in the attached contract. Competition is surely healthy and will likely lower costs and improve services and choices for our citizens. Our more detailed and lengthy contract with Cox was negotiated when the City had clear franchising rights with which a TV cable company had to comply. It was also negotiated not when the cable company was first entering Fayetteville's market, but after it had been here for years and had an established system and customer base.

The voluntary agreement offered by AT&T Arkansas satisfies the basic needs of Fayetteville, ensures a fairly level playing field for both Cox and AT&T Arkansas, and fosters healthy competition for our citizens' cable options. I recommend its approval.

C. 1. New Business
Amend 2007
Budget

Handed Out at
Agenda Session
2/13/07

City of Fayetteville, Arkansas

- History of Rebudgeting (2003-2007)

Fund	Funding Source	2003	2004	2005	2006	2007
OPERATIONAL & NON-MAJOR PROJECTS:						
1010	General Fund	$ 754,472	$ 474,577	$ 229,718	$ 2,807,412	$ 1,390,736
2100	Street Fund	21,679	47,967	-	1,765	-
2130	Off-Street Parking Fund	362,237	307,866	233,614	288,732	26,310
2180	Community Development Fund	523,389	59,670	759,975	845,038	550,715
2250	Parks Development Fund	983,966	1,450,134	1,267,565	1,254,957	2,525,340
2300	Impact Fee Fund	-	-	215,047	946,922	2,438,094
2930	Drug Law Enforcement Fund	-	-	-	3,990	3,990
4270	Replacement Fund	450	-	-	251,729	286,310
4490	TIF Improvements Fund	-	-	-	90,425	207,909
5400	Water & Sewer Fund	10,438,516	11,474,454	12,315,702	16,457,245	10,992,950
5500	Solid Waste Fund	1,172,189	299,461	277,537	118,920	64,612
5550	Airport Fund	2,086,618	4,440,595	1,177,942	1,351,228	119,167
5600	Town Center Fund	1,200	-	-	-	-
6820	Fire Pension Fund	640	-	-	-	-
9700	Shop Fund	3,157,859	2,168,989	2,286,465	2,177,596	2,299,200
		19,503,215	20,723,713	18,763,565	26,595,959	20,905,333
MAJOR CAPITAL PROJECTS:						
4150	Library Construction Fund	17,610,907	8,457,902	1,492,559	12,000	-
4470	Sales Tax Capital Improvements Fund	16,553,423	14,540,547	10,390,368	13,419,430	18,622,574
4520	2006A Construction Fund	-	-	-	-	50,869,691
4480	WSIP Project Fund	13,200,000	45,034,980	113,009,503	105,350,682	73,300,652
		47,364,330	68,033,429	124,892,430	118,782,112	142,792,917
	TOTAL	$ 66,867,545	$ 88,757,142	$ 143,655,995	$ 145,378,071	$ 163,698,250

Handed out at agenda session 2/13/07. C.4. Wedington Circle Appeal

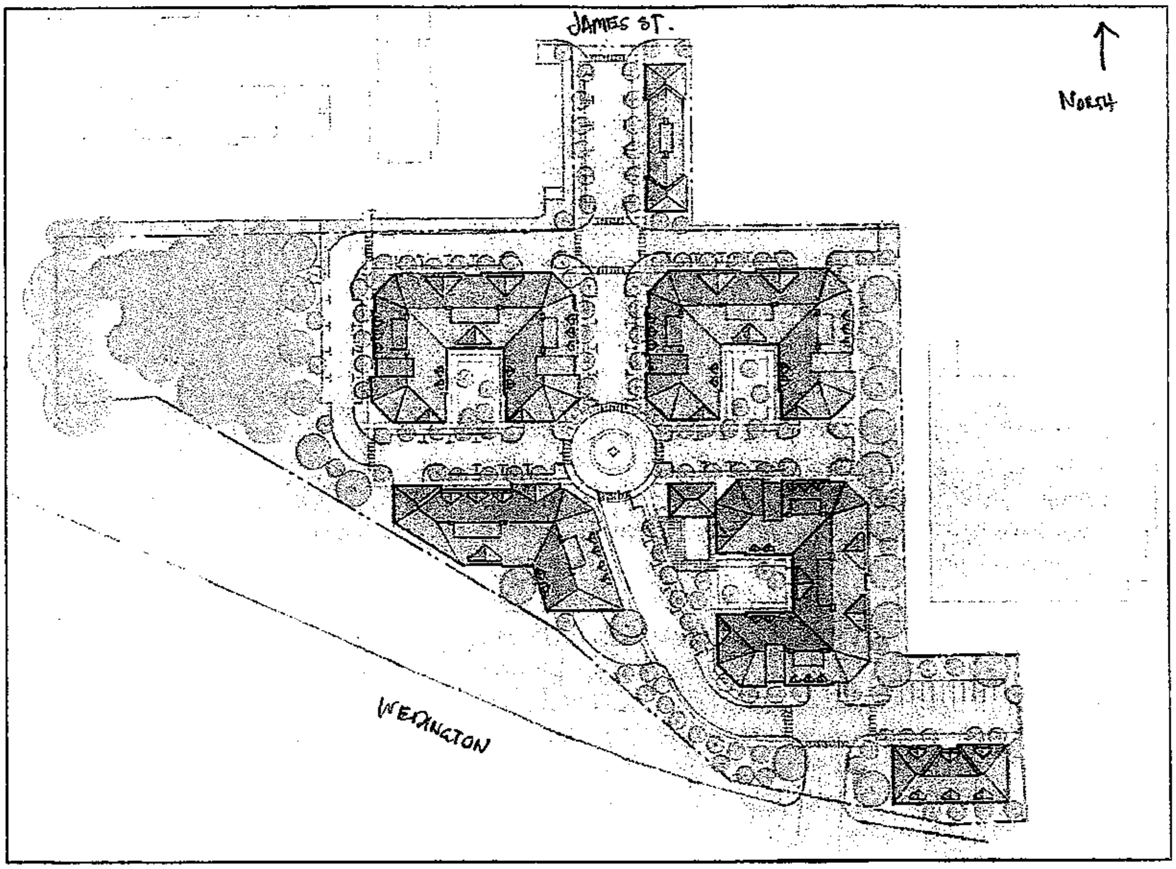
WEDINGTON CIRCLE

A Mansfield House, L.L.C Development

Owners and Developers-There are no sales pending on this property.

Greg House
217 N. East Ave.
Fayetteville, AR 72701

Steve Mansfield
932 N. Garland Ave.
Fayetteville, AR 72701



Master Development Plan Submission
December 16, 2005

REGISTERED
ROBERT SHARP ARCHITECT, INC.
525 SOUTH SCHOOL AVE | STE 220
FAYETTEVILLE | AR | 72701
PHONE: 479-442-0229
FAX: 479-442-8721
R S A

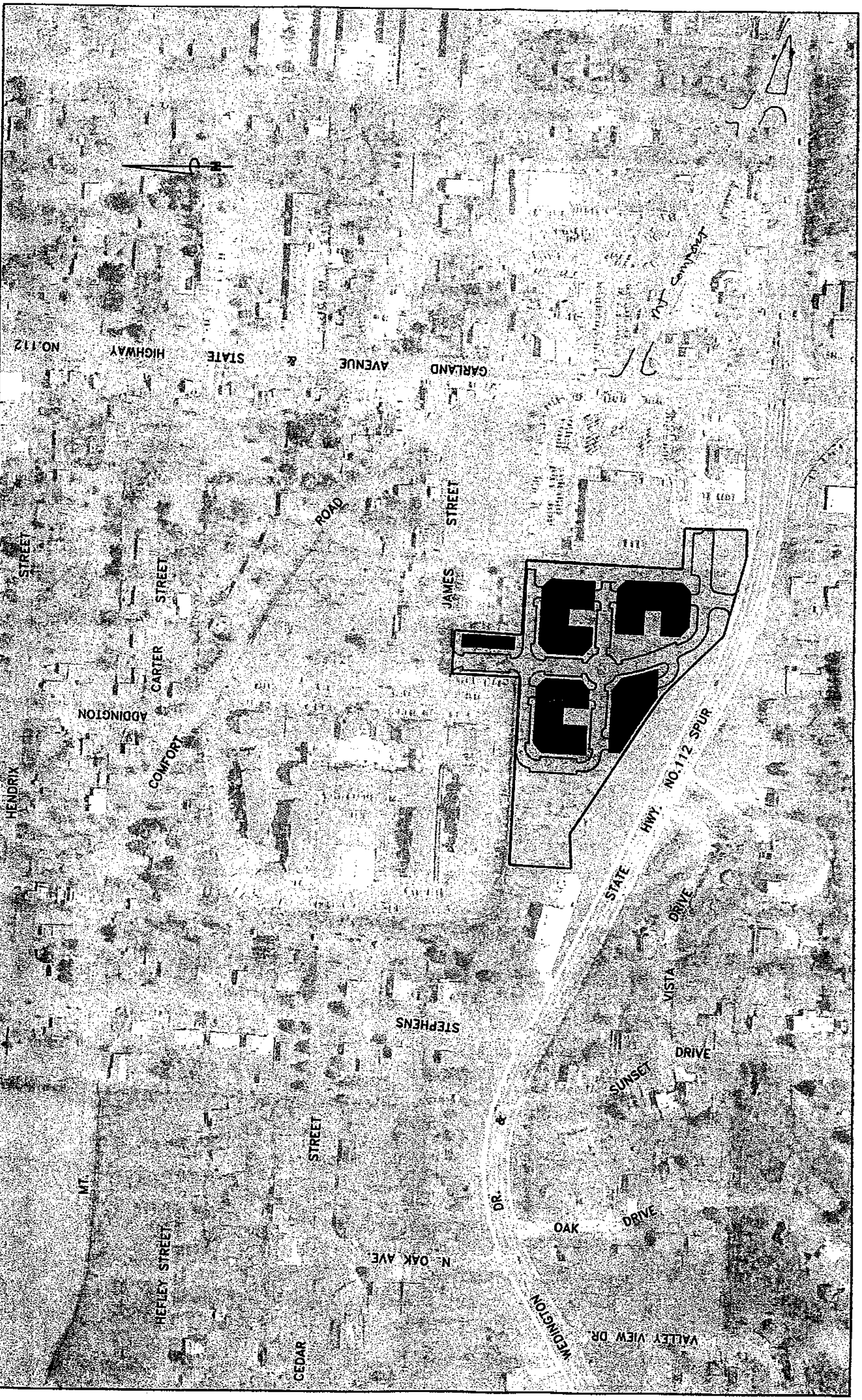
CITY COUNCIL APPROVED
DATE: FEB 07, 2006

Project Representative

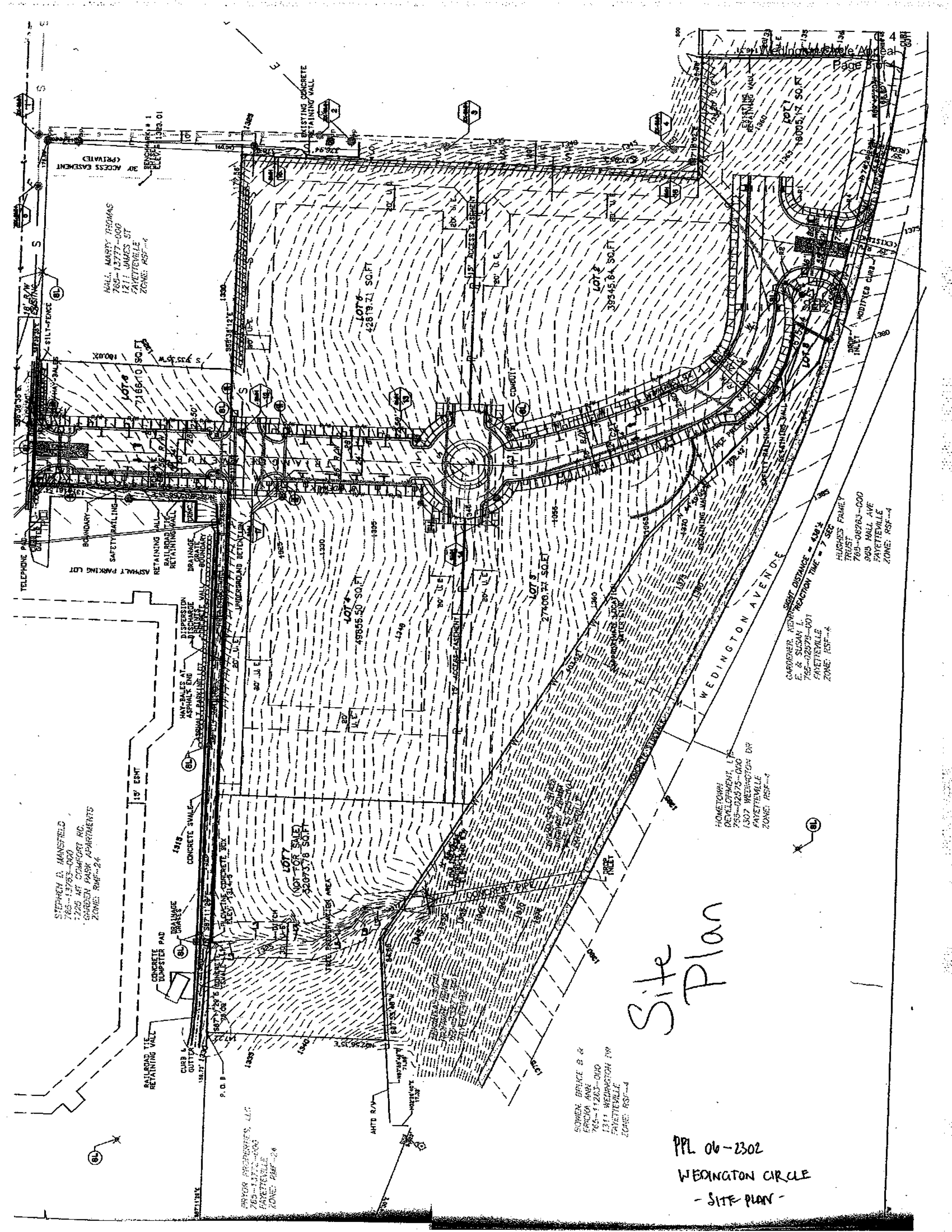
Millholland Company
Engineering & Surveying

Hall Planning and Engineering
Traffic Engineers

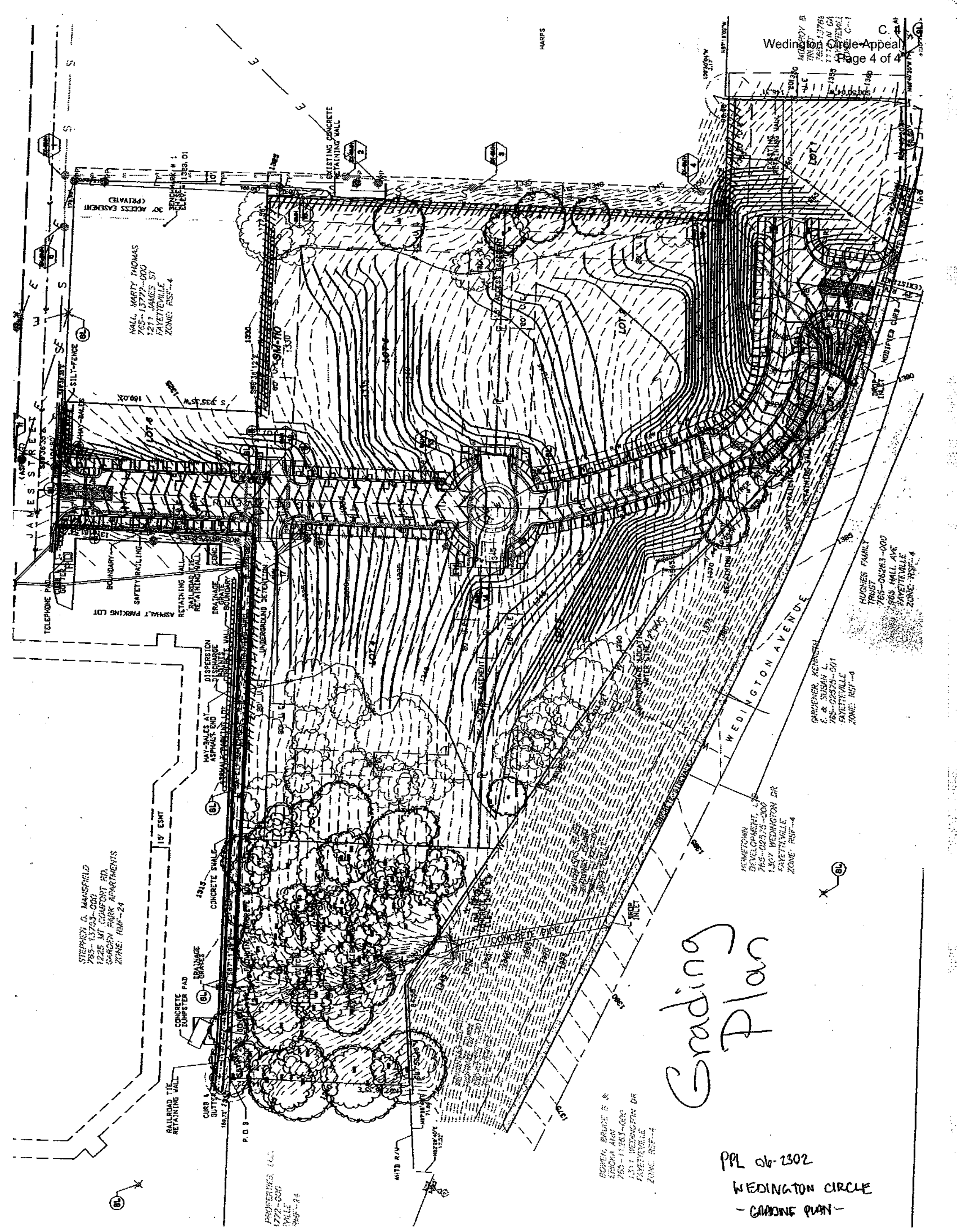
CC Approved 02-07-06


STATE HIGHWAY NO.112
GARLAND AVENUE
JAMES STREET
ROAD
COMFORT
CARTER STREET
ADDINGTON
HENDRIX STREET
STATE HWY. NO.112 SPUR
VISTA DRIVE
SUNSET DRIVE
STEPHENS STREET
OAK DRIVE
N. OAK AVE.
WEDINGTON DR.
VALLEY VIEW DR.
HEFLEY STREET
CEDAR
MT.

← NORTH



PPL 06-2302
WEDINGTON CIRCLE
- SITE PLAN -


JAMES STREET
WEDINGTON AVENUE
Grading Plan
PPL 06-2302
WEDINGTON CIRCLE
- GRADING PLAN -

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF FEBRUARY 20, 2007

FROM: ALDERMAN NANCY ALLEN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §161.21 (G) Height Regulations Of Main Street Center And §161.22 (G) Height Regulations Of Downtown General Of The Unified Development Code By Limiting The Height Of New Development To Three Stories Or 45 Feet, Whichever Is Less, And To Repeal §156.02 (B)(6)

APPROVED FOR AGENDA:

Nancy Allen

Nancy Allen
Alderman

2-14-07
Date

Kit Williams

Kit Williams
City Attorney (as to form)

2-14-07
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

FROM: **Kit Williams**, City Attorney

DATE: **February 14, 2007**

RE: **Alderman Allen's height limitation ordinance**

Alderman Allen asked that I draft her an ordinance limiting height of new buildings in the Downtown General and Main Street Center to 45 feet with a right to seek a variance from the Planning Commission for taller proposed buildings. Since §156.02 **Zoning Regulations**, subsection (B)(5) *Building height variance in all zoning districts* already provided such variance procedures, I only changed the height limits from 84 and 56 to 45 feet.

In order to clarify that the Planning Commission can grant a height variance and to grandfather in existing buildings above 45 feet as conforming structures, Alderman Allen asked that I include the height regulation language referring to the Planning Commission variance found in RSF-.5, RSF-1, RSF-2, RSF-4, and RSF-7. Please find the new proposed ordinance attached to this memo. Alderman Allen will need to move to amend her proposed ordinance to his new version at the City Council meeting.

Almost all C-3 zoning parcels were within the Downtown Master Plan area and have now been rezoned. Therefore subsection (B)(6) which deals with height variance only in C-3 is no longer needed and should be repealed. Alderman Allen has agreed to my request to repeal this unneeded subsection as a portion of her proposed ordinance.

ORDINANCE NO. _______

AN ORDINANCE TO AMEND §161.21 (G) HEIGHT REGULATIONS OF MAIN STREET CENTER AND §161.22 (G) HEIGHT REGULATIONS OF DOWNTOWN GENERAL OF THE UNIFIED DEVELOPMENT CODE BY LIMITING THE HEIGHT OF NEW DEVELOPMENT TO THREE STORIES OR 45 FEET, WHICHEVER IS LESS, AND TO REPEAL §156.02 (B)(6)

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 §161.21 (G) and §161.22 (G) of the Unified Development Code and enacts replacement §161.21 (G) and §161.22 (G) as shown below:

"***§161.21 (G)*** *Height regulations*. Maximum height is three (3) stories or 45 feet whichever is less. The height or number of stories may only be increased by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed three stories or 45 feet in height shall be grandfathered in and not considered nonconforming structures.

"***§161.22 (G)*** *Height regulations*. Maximum height is three (3) stories or 45 feet whichever is less. The height or number of stories may only be increased by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed three stories or 45 feet in height shall be grandfathered in and not considered nonconforming structures."

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §156.02(B)(6) *Building height variance in the C-3 District* in its entirety.

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED:	ATTEST:
By: ____________________	By: ____________________
DAN COODY, Mayor	**SONDRA SMITH,** City Clerk/Treasurer

Handed out at Agenda Session
2/13/07 C.C. New Business

Fayetteville
ARKANSAS
THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning JP
Date: February 12, 2007
Subject: Zoning District Height Regulations

Following is information regarding the current height regulations in all zoning districts within the City of Fayetteville. The zoning amendment submitted for consideration involves zoning districts **#19) Main Street Center** and **#20) Downtown General**.

1) R-A, Residential Agricultural: No maximum height limits, provided, however that any building which exceeds the height of 15 feet shall be set back from any boundary line a distance of 1 foot for each foot of height in excess of 15 feet.

2) RSF-0.5, Residential Single Family, One Half Unit per Acre:
3) RSF-1, Residential Single Family, One Unit per Acre:
4) RSF-2, Residential Single Family, Two Units per Acre:
5) RSF-4, Residential Single Family, Four Units per Acre:
6) RSF-7, Residential Single Family, Seven Units per Acre:
7) RSF-8, Residential Single Family, Eight Units per Acre:

Structures within the above zones limited to a building height of 45 feet.

8) RT-12, Residential Two/Three Family: 30 Feet

9) RMF-6, Residential Multi-Family, Six Units per Acre: Any building which exceeds the height of 20 feet shall be set back from any side boundary line a distance of 1 foot for each foot of height in excess of 20 feet.

10) RMF-12, Residential Multi-Family, Twelve Units per Acre: Any building which exceeds the height of 20 feet shall be set back from any side boundary line a distance of 1 foot for each foot of height in excess of 20 feet.

11) RMF-18, Residential Multi-Family, Eighteen Units per Acre: Any building which exceeds the height of 20 feet shall be set back from any side boundary line a distance of 1 foot for each foot of height in excess of 20 feet.

12) RMF-24, Residential Multi-Family, Twenty-Four Units per Acre: Any building which exceeds the height of 20 feet shall be set back from any side boundary line a distance of 1 foot for each foot of height in excess of 20 feet.

13) RMF-40, Residential Multi-Family, Forty Units per Acre: Any building which exceeds the height of 20 feet shall be set back from any side boundary line a distance of 1 foot for each foot of height in excess of 20 feet.

14) R-O, Residential Office: No maximum height limits, provided, however that any building which exceeds the height of 20 feet shall be set back from any boundary line of any RSF or RMF district an additional distance of 1 foot for each foot of height in excess of 20 feet.

15) C-1, Neighborhood Commercial: No maximum height limits, provided, however that any building which exceeds the height of 10 feet shall be set back from any boundary line of any residential district a distance of 1 foot for each foot of height in excess of 10 feet.

16) C-2, Thoroughfare Commercial: Any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of 1 foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

17) C-3, Central Commercial: Maximum height is six stories or 84 feet whichever is less. Above four stories, there shall be a stepback of the building's principal façade of at least fifteen feet. The height shall be measured from the mean elevation of the finished grade or sidewalk at the frontage line, whichever is higher, to the eave of the roof or cornice for a building with a parapet.

18) Downtown Core: Maximum height is 12 stories or 168 feet whichever is less.

19) Main Street/Center: Maximum height is 6 stories or 84 feet whichever is less. Above four stories there shall be a stepback of the building's principal façade of no less than 15 ft.

20) Downtown General: Maximum height is 4 stories or 56 feet whichever is less.

21) Neighborhood Conservation: Maximum height is 3 stories or 45 feet whichever is less.

22) I-1, Heavy Commercial and Light Industrial: There shall be no maximum height limits in I-1 District, provided, however, that any building which exceeds the height of 25 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet

23) I-2, General Industrial: There shall be no maximum height limits in I-2 Districts, provided, however, that any building which exceeds the height of 25 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 25 feet.

24) P-1, Institutional: There shall be no maximum height limits in P-1 Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet.

25) E-1, Extraction: None

26) Design Overlay District: Does not address height, underlying zoning prevails.

27) Planned Zoning District: 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.

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
February 20, 2007

A meeting of the Fayetteville City Council will be held on February 20, 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

Pete Heinzelmann, Fayetteville Natural Heritage Association – Presentation of GIS Study regarding natural areas in and around Fayetteville – **Agenda Session Only**

A. CONSENT:

1. **Approval of the February 6, 2007 City Council meeting minutes.**

2. **Historic District Commission Appointment:** A resolution confirming the Mayor's appointment of Mr. Vince Chadick to the Historic District Commission.

3. **New World Systems, Inc:** A resolution approving a three-year renewal of the Public Safety Software Maintenance Agreement with New World Systems, Inc. in the amount of $78,579.00.

4. **Cruise Uniform and Equipment:** A resolution to approve a bid purchase of 140 replacement Glock handguns with related holsters and magazine holders from Cruise Uniform and Equipment for a net cost of $69,724.20 (after trade-in of used handguns and magazines).

5. **Arkansas Western Gas Utility Easement:** A resolution granting a 10' x 138' Utility Easement to Arkansas Western Gas Company across a portion of Red Oak Park.

6. **Mediastar SG:** A resolution approving the purchase of a Digital Master Control System from Mediastar SG in the amount of $95,255.00 for cable-casting of the Fayetteville Government and Public Access Channels.

B. UNFINISHED BUSINESS:

1. **Pebble Creek Flats Appeal:** An appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598): Submitted by N. Arthur Scott for property located at the Intersection of 18th Street and Custer Lane. ***This appeal was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

2. **RZN 06-2399 (West Side Annexation C-1):** An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 3.93 acres, located at the southwest and southeast corners of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to C-1, Neighborhood Commercial. ***This ordinance was left on the Second Reading at the February 6, 2007 City Council meeting.***

3. **RZN 06-2399 (West Side Annexation RSF-4):** An ordinance rezoning that property described in rezoning petition RZN 06-2399, for approximately 17.63 acres, located at the southeast corner of Hwy. 16 and Harmon Road from R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre. ***This ordinance was left on the Second Reading at the February 6, 2007 City Council meeting.***

4. **AT&T Proposed Agreement:** A resolution to approve an agreement with AT&T Arkansas to allow it to offer internet protocol/cable TV type service in Fayetteville. ***This resolution was tabled at the February 6, 2007 City Council meeting to the February 20, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **Amend 2007 Budget:** A resolution approving a budget adjustment to re-appropriate $163,698,250.00 in order to retain current fiscal year project funding for identified, scheduled and on going Capital Improvements; and authorizing the Budget and Research Division to make any needed reductions.

2. **Mobile Data Terminals:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of Mobile Data Terminals with the associated hardware and software in the amount of $268,600.00 for use by the Fayetteville Fire Department.

3. **RZN 07-2419 (Kelly):** An ordinance rezoning that property described in rezoning petition RZN 07-2419, for approximately 44.74 acres, located at 3184 South City Lake Road from R-A, Residential Agricultural, to RSF-4, Residential Single-Family, 4 units per acre.

4. **Wedington Circle Appeal:** An appeal of the Planning Commission's decision to approve the Wedington Circle Preliminary Plat (PPL 06-2302) located north of Wedington Drive, west of Garland Avenue.

5. **R-PZD 06-2299 (Ruskin Heights):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 06-2299, Ruskin Heights, located west of highway 265/Crossover Road, on the south side of Mission Boulevard; containing approximately 28.93 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

6. **Amend §161.21 and §161.22 Height Regulations:** An ordinance to amend §161.21 (G) Height Regulations of Main Street Center and §161.22 (G) Height Regulations of downtown general of the Unified Development Code by limiting the height of new development to three stories or 45 feet, whichever is less.

D. INFORMATIONAL:

City Council Tour: None

President's Day – February 19, 2007 – City offices will be closed.

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

20-Feb-07

City Council Meeting Date

Dan Coody	Administration	Administration
Submitted By	Division	Department

Action Required:

Submitted by Dan Coody for an appointment to the Historic District Commission. The request is for the City Council to approve Mr. Vince Chadick as an appointee to fulfill the remainder of Mr. Tony Wappel's term on the Historic District Commission.

Action Required:	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
	$ -	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

Department Director ____ Date ____

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney ____ 2/2/2007

Received in City Clerk's Office ENTERED 2/2/07

Finance and Internal Service Director ____ Date 2-5-07

Received in Mayor's Office ENTERED 2/5/07

Mayor ____ Date 2/2/07

Comments:

City Council Meeting of February 20, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

From: Dan Coody, Mayor Dan Coody

Date: February 1, 2007

Subject: Historic District Commission Appointment

RECOMMENDATION

The Administration recommends that the City Council approve Mr. Vince Chadick as an appointee to fulfill the remainder of Mr. Tony Wappel's term on the Historic District Commission.

BACKGROUND

The City Council reinstated the Historic District Commission on May 2, 2007 with the appointment of seven members by Resolution No. 78-06. One of the members, Tony Wappel, submitted his resignation from the Commission on January 10, 2007. His term would have ended in 2009.

Article X, Section 33.227 in the Fayetteville Code of Ordinances states that the Historic District commissioners shall be appointed by the Mayor, subject to confirmation by the City Council.

DISCUSSION

Mr. Chadick is a lawyer in Fayetteville and serving his first term as president of the Washington County Historical Society. His background will diversify and complement the skills and expertise of the current commissioners.

BUDGET IMPACT

None.

RESOLUTION NO. ______

A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF MR. VINCE CHADICK TO THE HISTORIC DISTRICT COMMISSION.

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 confirms the Mayor's appointment of Mr. Vince Chadick to the Historic District Commission.

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: __________________________ By: __________________________

DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

RECEIVED
JAN 12 2007
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

January 10, 2006

Honorable Dan Coody, Mayor
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Dear Mayor Coody:

I regret to inform you that I am no longer willing to serve on the city's Historic District Commission. As a non-self-employed working professional, there are too many conflicts with my work which enable me to attend the numerous state and national historic district workshops the city has encouraged its commissioners to attend. Without being able to take time off from my work to attend these meetings (or even mid-afternoon commission meetings as was the case in December), I am not gaining the valuable insights needed to be an effective commissioner on the historic district commission and believe an individual with more free time should take my place.

I have also told Karen Minkel in a previous email that my main interest in serving was to help establish the local ordinance district boundaries for the downtown historic district. As the commission has nearly completed the work in that area and as I am pleased with the direction they have taken, I believe now is the time to step aside and make room for someone with a greater interest in historic preservation methods and law to take my place. Furthermore, I told Karen that my Dickson Street history (after nearly 15 years dormancy) is in the process of being published this year and that more of my time is being required to help oversee final revisions, etc.

I have enjoyed serving the City of Fayetteville and will gladly do so again when I am more capable of doing so more fully.

Sincerely,

Anthony J. Wappel

Anthony J. Wappel

11 East South Street
Fayetteville, AR 72701

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

February 20, 2007
City Council Meeting Date

Submitted By	Division	Department
Judy Cohea	Records	Police

Action Required:

Approval of a three year renewal software maintenance agreement with New World Systems, Inc in the amount of $78,579.00 for 2007.

$ 78,579.00	$ 113,254.00	Maintenance
Cost of this request	Category / Project Budget	Program Category / Project Name
1010.2900.5416.00	$ 21,379.00	
Account Number	Funds Used to Date	Program / Project Category Name
	$ 91,875.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item [X]   Budget Adjustment Attached [ ]

Will K Brown — 2-2-07
Department Director — Date

D. P. Whit — 2/2/2007
City Attorney — Date

Paul A. Becker — 2-5-07
Finance and Internal Service Director — Date

Dan Coody — 2/6/07
Mayor — Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
Ses 2/2/07

Received in Mayor's Office
ENTERED 2/5/07

Comments:

Fayetteville
ARKANSAS

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

Departmental Correspondence

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police

DATE: February 2, 2007

SUBJECT: Award Contract to New World Systems for Annual Maintenance

Recommendation:

City Council approves resolution authorizing Mayor Coody to sign a contract with New World Systems for Public Safety software maintenance. The contract for 2007 is $78,579 with an option to renew for three additional years.

Background:

City Administration has maintained a software maintenance agreement with New World Systems since 1992. Public Safety began using New World in 1996. Since that time we have added several enhancements such as mobile computing and electronic ticketing.

New World Systems is a very stable company with the resources to supply support for the needs of the Police Department

Discussion:

Service and maintenance fees are necessary to keep software current. These fees allow the City to receive updates and enhancements to the software as they become available. In addition, service and maintenance fees provide for technical phone support, problem troubleshooting and resolution. The software products that we have purchased from New World Systems are essential to all aspects of the Police Department's day-to-day operations and it is important that we keep these assets current.

RESOLUTION NO. ______

A RESOLUTION APPROVING A THREE-YEAR RENEWAL OF THE PUBLIC SAFETY SOFTWARE MAINTENANCE AGREEMENT WITH NEW WORLD SYSTEMS, INC. IN THE AMOUNT OF $78,579.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a three-year renewal of the Public Safety Software Maintenance Agreement with New World Systems, Inc. in the amount of $78,579.00.

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: ______________________ By: ______________________
DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

New World Systems™
The Public Sector Software Company

Invoice

888 W. Big Beaver
Suite 600
Troy, MI 48084
(248)269-1000

Page: 1

Number: 0000042695
Date: 12/5/2006

Customer: FAY0743

Sold To

Ms. Judy Cohea
Financial Analyst
Fayetteville Police Department
113 West Mountain
Fayetteville, AR 72701 USA

Customer P. O.	Terms
	Net Due 30 Days

Description	Billing Type	Qty Shipped	Price	Amount
Software Maint. (SSMA):1/1/07 - 12/31/07	Total	1.0	74,060.00	74,060.00

SSMA: 1/1/07 - 12/31/07

Subtotal	74,060.00
Sales Tax	4,519.00
Balance	78,579.00

ARZTC001.rpt

NEW WORLD SYSTEMS CORPORATION
STANDARD SOFTWARE MAINTENANCE AGREEMENT

This Standard Software Maintenance Agreement (SSMA) between New World Systems Corporation (**New World**) and Fayetteville, AR Police Department (**Customer**) sets forth the standard software maintenance support services provided by **New World**.

1. Service Period

This SSMA shall remain in effect for a period of four (4) years from (start date) 1/1/07 to (end date) 12/31/10.

2. Services Include

The following services or features are available under this SSMA:

(a) Upgrades, including new releases, to the Licensed Standard Software (prior releases of Licensed Standard Software application packages are supported no longer than nine (9) months after a new release is announced by **New World**);
(b) Temporary fixes to Licensed Standard Software (see paragraph 6 below);
(c) Revisions to Licensed Documentation;
(d) Reasonable telephone support for Licensed Standard Software on Monday through Friday from 8:00 a.m. to 8:00 p.m. (Eastern Time Zone); and
(e) Invitation to and participation in user group meetings.

Items a, b, and c above will be distributed to **Customer** on magnetic media or other means, as appropriate. After installation, **Customer** shall return any magnetic media to **New World**.

Additional support services are available as requested by **Customer** using the then-current hourly rates or applicable fees. Exhibit B of your original License Agreement has a description of support services available.

3. Maintenance for Modified Licensed Standard Software and Custom Software

Customer is advised that if it requests or makes changes or modifications to the Licensed Standard Software, these changes or modifications (no matter who makes them) make the modified Licensed Standard Software more difficult to maintain. If **New World** agrees to provide maintenance support for Custom Software or Licensed Standard Software modified at **Customer**'s request, then the additional **New World** maintenance or support services provided shall be billed at the then-current Exhibit B hourly fees plus reasonable expenses.

4. Billing

Maintenance costs will be billed annually as detailed on the following page. (Any Exhibit B support or service hours and travel costs incurred are billed weekly for the previous calendar week.) If taxes are imposed, they are the responsibility of the **Customer** and will be remitted to **New World** upon being invoiced.

5. Additions of Software to Maintenance Agreement

Additional Licensed Standard Software licensed from **New World** will be added to the SSMA as they are installed at **Customer**'s location. Maintenance costs for the additional software will be billed to **Customer** on a pro rata basis for the remainder of the current maintenance year and on a full year basis thereafter.

6. **Requests for Software Correction on Licensed Standard Software**

At any time during the SSMA period, if **Customer** believes that the Licensed Standard Software does not conform to the current specifications set forth in the user manuals, **Customer** must notify **New World** in writing that there is a claimed defect and specify which feature and/or report **Customer** believes to be defective. Before any notice is sent to **New World**, it must be reviewed and approved by the **Customer** Liaison. Documented examples of the claimed defect must accompany each notice. **New World** will review the documented notice and when a feature or report does not conform to the published specifications, **New World** will provide software correction service at no charge. A non-warranty request is handled as a billable Request for Service (RFS) using Exhibit B Support Services.

The no charge software correction service does not apply to any of the following:

(a) situations where the Licensed Standard Software has been changed by anyone other than New World personnel;
(b) situations where **Customer**'s use or operations error causes incorrect information or reports to be generated; and;
(c) requests that go beyond the scope of the specifications set forth in the current User Manuals.

7. **Maintenance Costs for Licensed Standard Software Packages Covered for IBM AS/400-2043**

New World agrees to provide software maintenance at the costs listed below for the following **New World** Licensed Standard Software packages installed at **Customer**'s location:

Application Package		Number of Modules
1. ***Aegis®***	Computer Aided Dispatch (CAD)	16
2. ***Aegis®***	Law Enforcement Records Software	25
3. ***Aegis®***	Fire Records Software	2
4. ***Aegis®***	Public Safety Interface Software	2
5. ***Aegis®***	Business Office Software	1
6. ***Aegis®***	Photo Imaging Software	2
7. ***Aegis®***	Data Management and Retrieval Tools	2
8. ***Aegis®***	Mobile Management Server Software	2
9. ***Aegis®***	Mobile Software on the RS6000	3
10. ***Aegis®***	Mobile Client Laptop Software	5
11. ***Aegis®***	Mobile Software on the iSeries 400 or MSP Server	3

ANNUAL
MAINTENANCE COST: See Below

Period Covered	Annual Amount	Billing Date
1/1/2007 to 12/31/2007	$78,028	12/5/2006
1/1/2008 to 12/31/2008	$88,608	12/5/2007
1/1/2009 to 12/31/2009	$94,150	12/5/2008
1/1/2010 to 12/31/2010	$99,680	12/5/2009

Note: Unless extended by **New World**, the above costs are available for 90 days after submission of the costs to **Customer**. After 90 days, **New World** may change the costs.

ALL INVOICES ARE DUE THIRTY (30) DAYS FROM BILLING DATE.

8. **Terms and Conditions**

This Agreement is covered by the Terms and Conditions from our Licensing Agreement signed by Fayetteville, AR Police Department (**Customer**) on June 18, 1997.

ACCEPTED BY:	ACCEPTED BY:
Customer: Fayetteville, AR	**New World Systems Corporation**
Name: ______	Name: Larry D. Leinweber
Title: ______	Title: President
Date: ______	Date: 02-02-07

By signing above, each of us agrees to the terms and conditions of this Agreement and as incorporated herein. Each individual signing represents that (s)he has the requisite authority to execute this Agreement on behalf of the organization for which (s)he represents and that all the necessary formalities have been met. If the individual is not so authorized then (s)he assumes personal liability for compliance under this Agreement.

Fayetteville, AR Police Department

Licensed Application Software
January, 2007

1. **Aegis® Computer Aided Dispatch (CAD)**
   - Combined LE/Fire/EMS CAD Multi-Jurisdiction
     - Call Scheduling Module
     - Call Stacking Module
     - Geo-File Verification Module
     - Hazard and Location Alerts Module
     - Hydrant Inventory Module
     - Interface to Aegis® Law Enforcement Records Module
     - Interface to Aegis® Fire/EMS Records Module
     - Note Pads Module
     - Rip-N-Run Module
     - Run Cards Module
     - Tone Alerts Module
     - Unit Control Panel Module
     - Unit Recommendations Module
   - Service Vehicle Rotation
   - CAD Redundancy
   - CAD Mapping (ESRI)
2. **Aegis® Law Enforcement Records Software**
   - LE Records Single Jurisdiction Base
     - Accidents Module
     - Arrest Module
     - Business Registry Module
     - Case Processing Module
     - Computer Aided Investigations Module
     - Federal Reports (UCR/IBR) Module
     - Geo-File Verification Module
     - Impounded Vehicles Module
     - Incident Tracking Module
     - Jacket Processing Module
     - Personnel / Education Module
     - Property Module
     - Traffic Tickets and Citations Module
     - Wants and Warrants Module
   - LE Records Federal & State Compliance
   - Field Investigations
   - Case Management
   - GEO File Verification
   - Pawn Shops
   - Bookings
   - Activity Reporting and Scheduling
   - Property Room Bar Coding
   - Hazardous Materials
   - Paperless Automated Case Entry (PACE)
   - APS Ticket Writer Interface

Fayetteville, AR Police Department

Licensed Application Software
January, 2007

3. **Aegis® Fire Records Software**
   - Fire Records Base Package
   - Fire Records Compliance
4. **Aegis® Public Safety Interface Software**
   - AS/400 State/NCIC Interface
   - On-Line CAD Interface to State/NCIC
5. **Aegis® Business Office Software**
   - Cash Register Interface
6. **Aegis® Photo Imaging Software**
   - Capture/View Stations
   - Public Safety Line Ups/Mug Shots
     - Digital Imaging
7. **Aegis® Data Management and Retrieval Tools**
   - Microsoft Word Interface
   - Data Analysis and Mapping
8. **Aegis® Mobile Management Server Software**
   - AVL Mapping Server
   - Base CAD/NCIC/Messaging
9. **Aegis® Mobile Software on the RS6000**
   - Base Message Switch to NCIC
   - **New World** CAD Interface for Aegis/400
   - AVL Interface
10. **Aegis® Mobile Client Laptop Software**
    - LE State/NCIC via Switch 27 User(s)
    - LE Field Reporting 27 User(s)
    - LE CAD Via Switch 29 User(s)
    - LE Field Reporting Compliance 50 User(s)
    - APS Ticket Writer Interface 1 User(s)
11. **Aegis® Mobile Software on the iSeries 400 or MSP Server**
    - MDT/MCT Base LE CAD Interface
    - AVL CAD Interface
    - MDT/MCT Base CAD/RMS Interface

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:

Date: 1/23/2007

P.O Number:

Expected Delivery Date:

Vendor #: 236

Vendor Name: New World Systems, Inc

Mail Yes: X No:

Address: 888 W Big Beaver, Ste 600

Fob Point:

Taxable Yes: No:

Quotes Attached Yes: No:

City: Troy

State: MI

Zip Code: 48084

Ship to code:

Divison Head Approval:

Requester: Willie Newman

Requester's Employee #: 2888

Extension: 587

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Software Maintenance	1	annual	74,060.00	$74,060.00	1010.2900.5416.00			
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: $74,060.00

Tax: $4,519.00

Total: $78,579.00

Approvals:

Mayor: ____________

Department Director: ____________

Purchasing Manager: ____________

Finance & Internal Services Director: ____________

Budget Manager: ____________

IT Manager: ____________

Dispatch Manager: ____________

Utilities Manager: ____________

Other: ____________

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

2/20/2007
City Council Meeting Date

Greg Tabor	Police	Police
Submitted By	Division	Department

Action Required:

Council approve a resolution for the purchase of 140 replacement Glock handguns with all related holsters and magazine holders.

$69,729.20	$70,000	Police Handgun Replacement
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5210.00	$0.00	Police Safety Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02111.1	$270.80	Sales Tax Capitol Improvement
Project Number	Remaining Balance	Fund Name

Budgeted Item XXX

Budget Adjustment Attached

Department Director — Date 1-31-07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney — Date 2-2-07

Received in City Clerk's Office ENTERED

Paul A. Becker
Finance and Internal Service Director — Date 2-2-07

Received in Mayor's Office ENTERED 2/2/07

Mayor — Date 2/6/07

Comments:

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police

DATE: January 29, 2007

RE: Police Handgun Replacement

Recommendation:

It is recommended the City Council adopt a resolution approving the purchase of 140 replacement Glock handguns with all related holsters, tactical lights and magazine pouches from Cruise Uniform and Equipment. (See attached Bid 07-05)

Background:

This is a scheduled replacement for handguns currently used by the police department. The current handguns will be used for trade-in to help offset the cost of the replacements.

Discussion:

This purchase includes 100 Glock model 35 pistols for patrol officers and 40 Glock model 23-C pistols for non-uniformed personnel. Also included in this purchase are all holsters, tactical lights and magazine pouches needed for the weapons.

Budget Impact:

The funding for this project was approved in the 2007 capital improvement program.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE A BID PURCHASE OF 140 REPLACEMENT GLOCK HANDGUNS WITH RELATED HOLSTERS AND MAGAZINE HOLDERS FROM CRUISE UNIFORM AND EQUIPMENT FOR A NET COST OF $69,724.20 (AFTER TRADE-IN OF USED HANDGUNS AND MAGAZINES)

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 bid purchase of 140 replacement Glock handguns with related holsters and magazine holders from Cruise Uniform and Equipment for a net cost of $69,724.20 (after trade-in of used handguns and magazines).

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: ______________________________
DAN COODY, Mayor

By: ______________________________
SONDRA SMITH, City Clerk/Treasurer

City of Fayetteville

Bid 07-05, Police Department Handguns with Trade-Ins

Bid 07-05, Addendum 1 - Bid Form

Use this form in replacement of the previous one included with the bid documents. Failure to use this form will result in your bid being disqualified.

All quantities are estimates. The City of Fayetteville reserves the right to deviate from estimated quantities.

Bid #	Date Issued:	Date and Time Of Bid Opening:
07-05	1/4/2007	January 18, 2007 before 2:00 PM, Central Standard Time

Date Required: Delivery as released from Blanket Purchase Order

F.O.B	Buyer Contact Information:
100 W. Rock St, Fayetteville, AR	Andrea Foren: (479)575-8220, aforen@ci.fayetteville.ar.us

Section A - Purchase per Specifications

Item	DESCRIPTION	*Quantity		Price Each		PRICE EXTENDED
1	*Glock Model 35* pistol: including Glock Night Sight, 5.5 lb. trigger pull and three (3) high capacity magazines	100	x	484.00	=	$48,400.00
2	Safariland Model 6280-6832-81 in **basket weave style duty holsters** for the *Glock Model 35* equipped for holding a TLR-1 Tactical Weapon Light	100	x	88.41	=	$8,841.00
3	Safariland Model 6280-6832-131 **STX-TAC finish duty holsters** for the *Glock Model 35* equipped for holding a TLR-1 Tactical Weapon Light	100	x	52.41	=	$5,241.00
4	Safariland Model 6004-6832-121 Tactical SLS Holsters for the *Glock Model 35* equipped for holding a TLR-1 Tactical Weapon Light	15	x	85.76	=	$ 1,286.40
5	*Glock Model 23-C* pistol: including Glock Night Sight, 5.5 lb. trigger pull and three (3) high capacity magazines	40	x	431.00	=	$ 17,240.00
6	Safariland Model 6285-2832-81 in **basket weave style duty holsters** for the *Glock Model 23-C* equipped for holding a TLR-1 Tactical Weapon Light	40	x	88.41	=	$ 3,536.40
7	Safariland Model 6285-2832-131 **STX-TAC finish holsters** for the *Glock Model 23-C* equipped for holding a TLR-1 Tactical Weapon Light	40	x	52.41	=	$2096.40
8	Safariland Model 6377 ALS concealment belt holsters in **STX finish** for the *Glock Model 23-C*	40	x	22.00	=	$880.00
9	TLR-1 Tactical Weapon Light - (Streamlight Tactical LED Gun Light)	140	x	85.00	=	$11,900.00
10	Safariland Model 77-83-4HS magazine holder in basket weave style finish	140	x	23.10	=	$3,234.00
11	Safariland Model 77-83-13PBL magazine holder in **STX-TAC finish**	140	x	19.40	=	$2,716.00
	***Total Purchases** (total Section A Items)*					$105,371.20

Section B - Trade-In Allowances

Item	DESCRIPTION	*Quantity		Price Each		ALLOWANCE EXTENDED
1	Smith and Wesson 4006 TSW .40 caliber **pistols** with night sights	142	x	251.00	=	$ 35,642.00
2	**Magazine** for Smith & Wesson 4006 TSW	426	x	0.80	=	$
	***Total Allowance** (total Section B Items)*					$35,642.00

Total Bid Price (Section A - Section B) = $69,729.20

EXECUTION OF BID

UPON SIGNING THIS BID, THE BIDDER CERTIFIES THAT THEY HAVE READ AND AGREE TO THE REQUIREMENTS SET FORTH IN THIS BID PROPOSAL, INCLUDING SPECIFICATIONS, TERMS AND STANDARD CONDITIONS, AND PERTINENT INFORMATION REGARDING THE ARTICLES BEING BID ON, AND AGREES TO FURNISH THESE ARTICLES AT THE PRICES STATED. ALL UNSIGNED BIDS WILL BE REJECTED.

NAME OF FIRM	PHONE #	FEDERAL ID NUMBER	
Cruse Uniforms & Equip	501-223-2778	58-2531375	
BUSINESS ADDRESS	**CITY**	**STATE**	**ZIP CODE**
601 Barrow Rd	Little Rock	AR	72205
AUTHORIZED SIGNATURE	**PRINTED NAME**	**TITLE**	**DATE**
[signature]	Steve Cruse	Pres	1-17-07

Bid 07-05, Addendum 1

Fayetteville ARKANSAS

Date: Tuesday, January 16, 2007

To: All Prospective Vendors

From: Andrea Foren

RE: Bid 07-05, Police Department Handguns with Trade-Ins

- **Bid 07-05, has the following modifications and clarifications:**

1.) Please use the **attached revised bid form** for your bid and omit the bid form provided with the original bid documents.

2.) This bid deadline has been extended until **Friday, January 19, 2007 at 2:00 PM,** Central Standard Time.

3.) The City of Fayetteville anticipates on awarding to a single vendor; however, we reserve the right to award by line item.

4.) All items bid should be the most recent production of products available.

5.) Please refer to the descriptions in the revised bid form for Items 2, 3, 4, 6, 7, 8, 10, and 11 and omit the product specifications for each.

Please respond via e-mail if you have any questions.

Thank you,

Andrea Foren
City of Fayetteville, Buyer
E-Mail: aforen@ci.fayetteville.ar.us
Telephone: (479)575-8220

Please acknowledge receipt of this addendum (Bid 07-05, Addendum 1) by signing below and submitting this document as part of your proposal:

By: STEVE CRUSE
Printed Name

Signature: Steve Cruse

Name of Firm: CRUSE UNIFORMS & EQUIPMENT

Date: 1 / 17 / 07

City of Fayetteville
Bid 07-05, Police Department Handguns with Trade-Ins
Statement of Disclosure (please submit with Bid)

ATTENTION: This form must be completed and returned in order for your bid to be eligible for consideration.

DISCLOSURE STATEMENT:

Bidder must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

✓ 1.) NO KNOWN RELATIONSHIP EXISTS

______ 2.) RELATIONSHIP EXISTS (Please explain)

____
____
____

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID:

1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and

2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

STEVE CRUSE
Printed Name

Steve Cruse
Signature

1-12-07
Date

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

2/20/2007
City Council Meeting Date

Connie Edmonston	Parks and Recreation	Operations
Submitted By	Division	Department

Action Required:

Parks Staff recommends approval of a resolution granting Arkansas Western Gas Company a 10' x 138' easement in Red Oak Park.

n/a	$ -	N/A
Cost of this request	Category / Project Budget	Program Category / Project Name
N/A	$ -	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	$ -	N/A
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [ ]

Department Director	2-1-07 Date	Previous Ordinance or Resolution #
City Attorney	2/2/07 Date	Original Contract Date:
Paul A. Becker Finance and Internal Service Director	2-5-07 Date	Original Contract Number:
Mayor	2/6/07 Date	

Received in City Clerk's Office ENTERED 2/2/07 E.D.

Received in Mayor's Office ENTERED 2/5/07

Comments:

City Council Meeting of February 20, 2007

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director C.E.
Jeff Coles, Parks Maintenance Superintendent
Date: February 1, 2007
Subject: **AR Western Gas Company Natural Gas Line Easement in Red Oak Park**

RECOMMENDATION

Parks Staff recommends approval of a resolution granting Arkansas Western Gas Company a 10' x 138' easement in Red Oak Park.

BACKGROUND

In early December 2006, Arkansas Western Gas Company (AWGC) experienced an operational pressure problem with their distribution system. To alleviate this problem, or interuption in service, AWGC installed a " temporary " line to connect two separate distribution lines. This line runs across a portion of **Red Oak Park** between lots 83 & 84 in Bridgeport Phase 2, to lot 132 within the Bridgeport Phase 4 addition.

DISCUSSION

There is currently a utility easement south of this proposed easement site that is heavily wooded. To install this connecting line in the existing easement, trenching would be required and consequently removal of a significant amount of trees. Parks Staff recomends utlitizing the proposed easement instead of the existing easement in order to minimize impact on the existing trees. On the proposed easement site, a directional boring machine would be utilized having minimal impact on Red Oak Park. AWGC states this gas line is required in order to sustain service to approximately 200 homes. This matter should be resolved quickly to eliminate the potential hazzard associated with the above ground temporary line across the public park.

BUDGET IMPACT

None

Attachments:

Red Oak Park Map
Proposed Easement
Arkansas Western Gas Company Letter

RESOLUTION NO. ______

A RESOLUTION GRANTING A 10′ x 138′ UTILITY EASEMENT TO ARKANSAS WESTERN GAS COMPANY ACROSS A PORTION OF RED OAK PARK.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby grants a 10′ x 138′ Utility Easement to Arkansas Western Gas Company across a portion of Red Oak Park. A copy of the Natural Gas Line Easement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the Mayor and City Clerk to execute the documents necessary to effectuate this conveyance.

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: ______________________ By: ______________________

DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

Arkansas Western Gas Company
A subsidiary of Southwestern Energy Company

1001 Sain Street
P.O. Box 13288
Fayetteville, Arkansas 72703-1002
(479) 521-5400 FAX: (479) 582-4747
www.awgonline.com

January 29, 2007

To Whom It May Concern:

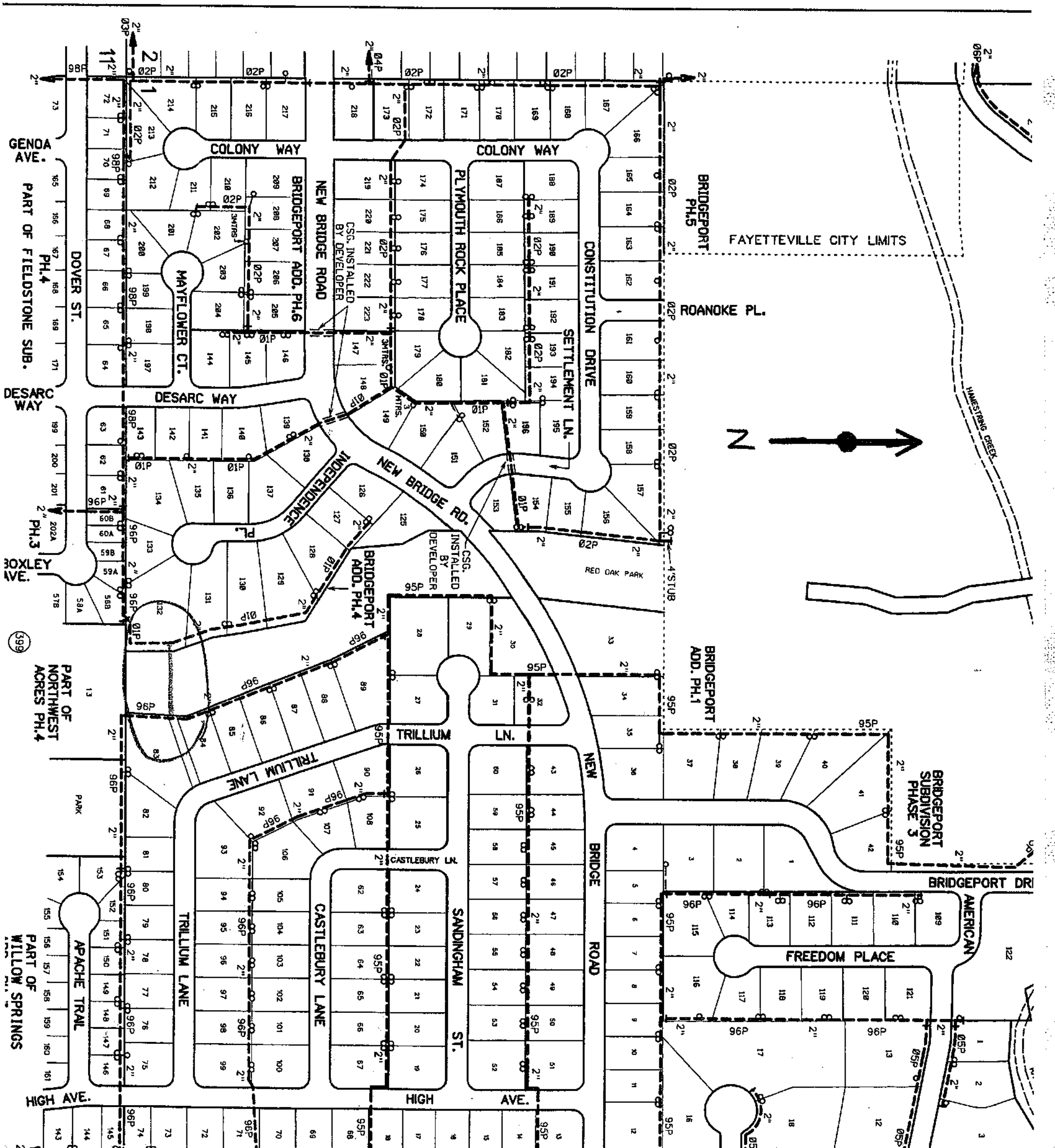
In early December 2006, Arkansas Western Gas "AWG" experienced an operational pressure problem with its distribution system North of Hwy 16 West (Wedington Road) between Rupple Rd and N. 51st Ave. in Fayetteville. In order to alleviate this problem AWG installed a "temporary line" that tied two separate distribution systems together between Bridgeport Addition Phase 2 and Bridgeport Addition Phase 4. This "temporary line" runs between lots 83 & 84 in Bridgeport Phase 2 to lot 132 within the Bridgeport Phase 4 additions (See attached map). The area between Phase 2 and Phase 4 has been designated as the "Red Oak Park" thereby requiring us to seek a permanent utility easement in order to make the "temporary line" a permanent part of our distribution system.

AWG has not experienced any operational problems in this area since this "temporary line" has been in service. Therefore, we are requesting the issuance of a permanent utility easement across the designated park area between Phase 2 and Phase 4. This area lies outside the normally maintained area of the Red Oak Park and would not adversely affect the park in any form. All work will be performed with minimal impact to the existing area with approved BMP restoration practices suited for quick recovery.

Thank you for your consideration of this matter. If you have any question please contact me at (479) 582-8641.

Donny Osbourn

Donny Osbourn
Manager, Construction and Maintenance
Arkansas Western Gas Company


COLONY WAY
COLONY WAY
GENOA AVE.
DOVER ST.
PART OF FIELDSTONE SUB. PH.4
MAYFLOWER CT.
BRIDGEPORT ADD. PH.6
NEW BRIDGE ROAD
CSG. INSTALLED BY DEVELOPER
PLYMOUTH ROCK PLACE
CONSTITUTION DRIVE
SETTLEMENT LN.
BRIDGEPORT PH.5
FAYETTEVILLE CITY LIMITS
ROANOKE PL.
DESARC WAY
DESARC WAY
INDEPENDENCE PL.
NEW BRIDGE RD.
CSG. INSTALLED BY DEVELOPER
RED OAK PARK
4"STUB
BRIDGEPORT ADD. PH.4
BOXLEY AVE.
PH.3
PART OF NORTHWEST ACRES PH.4
BRIDGEPORT ADD. PH.1
TRILLIUM LN.
TRILLIUM LANE
PARK
CASTLEBURY LN.
NEW BRIDGE ROAD
BRIDGEPORT SUBDIVISION PHASE 3
BRIDGEPORT DR
AMERICAN
FREEDOM PLACE
TRILLIUM LANE
CASTLEBURY LANE
SANDINGHAM ST.
APACHE TRAIL
PART OF WILLOW SPRINGS
HIGH AVE.
HIGH AVE.
HAMESTRING CREEK
N

ROANOKE PL
CONSTITUTION DR
BRIDGEPORT DR
FREEDOM
NEW BRIDGE RD
SETTLEMENT LN
SANDINGHAM ST
CASTLEBURY LN
TRILLIUM LN
MAYFLOWER CT
DOVER ST
APACHE TRL
CHEYENNE DR
CARLSBAD TRCE
LONESOME DOVE DR
PATRICK ST

Red Oak Park
Parcel No. 765-16113-104

NATURAL GAS LINE EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **Arkansas Western Gas Company, a corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a natural gas pipe line or lines, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: (Deed Ref. 2001-023003, Parcel "A")

A certain parcel of land, located within the corporate limits of the City of Fayetteville, being situated in the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 1, Township 16 North, Range 31 West of the 5th Principal Meridian, Washington County, Arkansas, being more particularly described as follows, to-wit:

Beginning at a point S 87° 04' 33" E 1303.78 feet and S 87° 31' 01" E 75.03 feet from a state monument, marking the Southwest Corner of said Section 1, thence N 02° 28' 59" E 135.78 feet to the Southwest Corner of Red Oak Park; thence along the Southerly line of Red Oak Park N 60° 06' 05" E 149.23 feet to a point along the Westerly line of Bridgeport – Phase 2; thence along the Westerly line of Bridgeport – Phase 2, S 19° 38' 10" E 55.64 feet to a point; thence continuing along the Westerly line of Bridgeport – Phase 2, S 05° 36' 50" W 24.18 feet to the Southwest Corner of Lot 84 of Bridgeport – Phase 2; thence along the Southerly line of said Lot 84, N 73° 38' 56" E 176.06 feet to a point along the Westerly right-of-way line of Trillium Lane; thence along Trillium Lane, 10.07 feet along a non-tangential curve to the left, having a radius of 100.00 feet, interior angle of 5° 46' 07", and a chord bearing and distance of S 22° 48' 27" E 10.06 feet to a point; thence away from Trillium Lane, non-tangent to the previous curve, S 73° 38' 56" W 72.00 feet to a point; thence S 16° 21' 04" E 10.00 feet to a point along the Northerly line of Lot 83 of Bridgeport – Phase 2; thence S 73° 38' 56" W 113.26 feet to the Northwest Corner of said Lot 83; thence along the Westerly line of said Lot 83, S 05° 36' 50" W 118.66 feet to a point; thence N 87° 31' 01" W 138.00 feet to the Point of Beginning, containing 0.65 acres (28,288 sq. ft.), more or less, subject to all rights-of-way, servitudes and/or easements, of record or fact. (Also shown as Parcel "A" on the Final Plat of Bridgeport – Phase IV, to the City of Fayetteville, Washington County, Arkansas, as recorded in Plat Book 17 at Page 25, and being a part of Red Oak Park.)

PERMANENT EASEMENT DESCRIPTION:

A ten (10) foot wide permanent easement of equal and uniform width, being more particularly described as follows: Beginning at a point 128 feet North of the Southeast corner of the above described property (Parcel "A", also known as Red Oak Park); thence West 138 feet; thence North 10 feet; thence East 138 feet; thence South 10 feet, to the point of beginning and containing 1,380 square feet (0.032 acre), more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _______ day of ________________, 2007.

City of Fayetteville, Arkansas,
A municipal corporation

By: ________________________________
Dan Coody, Mayor

ATTEST:

____
Sondra Smith, City Clerk

[SEAL]

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they are the **Mayor** and **City Clerk** of the **City of Fayetteville, Arkansas, a municipal corporation**, and are duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipal corporation, and further stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _______ day of ________________, 2007.

____
Notary Public

MY COMMISSION EXPIRES:

____

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

2/20/2007
City Council Meeting Date

Susan Thomas	Public Information	General Government
Submitted By	Division	Department

Action Required:

A resolution approving the purchase of a Digital Server Automated Master Control System from MediaStar SG for $95,255 for cable casting of the Fayetteville Government Channel and Fayetteville Public Access Channel

$ 95,255.00	$ 115,000.00	
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5801-00	$ -	
Account Number	Funds Used to Date	Program / Project Category Name
	$ 115,000.00	
Project Number	Remaining Balance	Fund Name

Budgeted Item [x]   Budget Adjustment Attached [ ]

Department Director — Date: 2/2/2007

City Attorney — Date: 2/5/07

Paul A. Becker
Finance and Internal Service Director — Date: 2-6-07

Dan Coody
Mayor — Date: 2/7/07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 2/7/07

Received in Mayor's Office
ENTERED 2/6/07 BCP

Comments:

Fayetteville ARKANSAS

City Council Memo

TO:	Mayor Coody and City Council
FROM:	Susan B. Thomas, Ph.D., Public Information & Policy Advisor SBT
DATE:	February 2, 2007
SUBJECT:	Digital Server Automated Master Control System

Recommendation
A resolution approving the purchase of a Digital Server Automated Master Control System from MediaStar SG for $95,255 for cable casting of the Fayetteville Government Channel and Fayetteville Public Access Channel.

Background
A PEG Equipment Committee was formed in 2005, and the group meets several times throughout the year to discuss equipment upgrade needs at the PEG Center. The committee members include Government Channel staff and management, CAT staff and management, and PEG user groups. All identified equipment needs were prioritized in 2005, and a new Master Control System was the top priority. PEG did not receive a CIP allocation in 2006 which delayed the purchase of this equipment. PEG did receive a CIP allocation for 2007 which allows for this purchase.

The purchase is needed for a number of reasons.

- The Amiga computers running the two bulletin boards are 14 years old and have limited memory and hard drive space and parts are getting difficult to find.
- The system in use now allows human error to accidentally mix commands to the two PEG channels which causes disruptions in the on-screen programming. Similar errors also occur if the operator does not leave the software in the correct mode.
- The present system does not "partition" and separate the control of the two PEG channels. This limits the effectiveness of the system.
- The present system requires many manual calculations and manual data entry which not only is labor intensive but introduces human errors and causes additional disruptions in the on-screen programming.
- Some of the monitors in this system are 14 years old and need replacing in order to more accurately reflect and adjust the actual picture color and quality being sent to the home television sets.
- The present is not expandable in two areas. It cannot be upgraded to use Video on Demand capability which would enable customers to select video that they want to see on their home

televisions sets. It is also limited to eight playback devices per PEG Channel which increases the labor of attendance and monitoring time and effort.

Roughly speaking, a system needs to be upgraded or at least expanded at a minimum every ten years just to keep up with technological advances. In some ways this particular "upgrade" could better be described as an "expansion and parts replacement." The heart of the current system is the Leightronix switcher which is 14 years old but the new system will retain this switcher in order to control some of the play back devices.

Current Status

The City's Selection Committee chose MediaStar SG to provide equipment and training associated with this upgrade. MediaStar SG has been in the business of PEG Center and Professional Broadcast Automation systems since 1986. They have extensive experience with Automation systems in the PEG Market. This system will serve the PEG Center for many years. It is an expandable system with many options currently available and being developed. MediaStar is currently configuring the system for 2 channels, however as future channels become available this can be expanded to a total of 99. This system supports many devices that are Professional Broadcast Quality and Consumer Grade. The system is capable of creating audit logs that meet FCC Standards. The system can display lower corner graphics (called "bugs") for station identification and branding purposes. The MediaStar SG system will assist the Cable Administration Department considerably. The system will collect all playback information and assemble it into a log which will save hours of labor. Error Logs will assist the Master Control Operator in diagnosing and preventing problems, a feature that has not been available before. Messages entered into the message board will be much easier as this system will allow for cut and paste creation, as opposed to the manual duplicative process used now.

MediaStar SG, with its consultants will assist the PEG Center in adapting to a new system, and a fundamental change in workflow. They will also help the Center create a professional image for the 2 channels that will hold up against the Local Affiliates (ABC, PBS, NBC, CBS) on the lineup below us, and the National Networks above us (TBN, TBS, SPIKE, A&E, Discovery). The system provides for a High Definition future.

A summary of how this purchase will improve PEG operations is attached.

Budget Impact

The price of the system is $95,255 which includes system price, shipping, installation, training, and a one-year service agreement. This purchase is a budgeted item and was included in the PEG Capital Improvements Plan.

RESOLUTION NO. ______

A RESOLUTION APPROVING THE PURCHASE OF A DIGITAL MASTER CONTROL SYSTEM FROM MEDIASTAR SG IN THE AMOUNT OF $95,255.00 FOR CABLE-CASTING OF THE FAYETTEVILLE GOVERNMENT AND PUBLIC ACCESS CHANNELS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of a Digital Master Control System from Mediastar SG in the amount of $95,255.00 for cable-casting of the Fayetteville Government and Public Access Channels.

PASSED and APPROVED this 20th day of February, 2007.

APPROVED: ATTEST:

By:______________________ By:______________________
DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

ADVANTAGES OF UPGRADING THE PEG CENTER CABLE CASTING SYSTEM (Itemized)

Fayetteville's present PEG Center cable casting system was purchased in 1992. The proposed cable casting upgrade will improve the PEG Center operation in the following ways:

1. UNATTENDED AUTOMATION INCREASED
The present system is able to control 16 playback devices, such as VCRs or 8 per channel, which limits unattended automation for each channel to the number of programs that can be loaded into 8 playback decks. The new system will use DVD carousels, video servers and VCRs to allow 365/24/7 cable casting with much less operator monitoring.

2. SAVES TIME AND WORK ON SCHEDULING OPERATION
Presently the data that is entered into the computer that controls the switching mechanism is prepared by manually listing the programs and calculating the timing. The new system will utilize "drag and drop" software which will allow program schedules to be calculated and arranged automatically, saving time and increasing flexibility.

3. ACCURACY INCREASED BY REDUCING HUMAN ERRORS
The system in use now allows human error to accidentally mix commands to the two PEG channels which causes disruptions in the on-screen programming. Similar errors also occur if the operator doe not leave the software in the "correct mode." The new system will eliminate these sources of human error and create more accurate and reliable on-screen programming.

4. SHORT PROGRAM REPETITION IMPROVED
Presently it is difficult and time consuming and requires additional operator monitoring and on site attendance to play short programs to be repeated, such as station and program introductions. The new system will allow short programs to be easily melded into the schedule which will add greater variety and liveliness to the on-screen programming.

5. ADDS REMOTE OPERATION CAPABILITY
The present system requires all operations to be done on site. With the new system scheduling changes, corrections and messages can be made remotely from any site using the internet.

6. MESSAGE BOARD IMPROVED
The present message board system has limited capacity for including still photos, videos, and announcements at the bottom of the screen. The upgrade will greatly improve the capacity of the message board to include these items.

City of Fayetteville
RFP 06-21, Digital Control System
Contract

This contract executed this 6th day of February, 2007, between the City of Fayetteville, Arkansas, and Mediastar-SG. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Mediastar-SG at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per RFP 06-21 as stated in Mediastar-SG bid proposal, and in accordance with specifications attached hereto and made a part hereof under RFP #06-21, all included herein as if spelled out word for word.

2. The City of Fayetteville shall pay Mediastar-SG based on their bid proposal in an amount not to exceed $95,255.00. Payments will be made according to the terms of the RFP #06-21 response (11 C.) as follows: **11 C. Mediastar-SG** offers 50/50 terms. A deposit equal to 50% of the total bid value (including expenses and shipping) is required at time of order, with the subsequent 50% payment being due upon completion of the installation as certified by the **Mediastar-SG** technician. **Mediastar-SG** does provide an early payment discount of 2% for the 2nd 50% payment (in other words the site may pay the balance of the contract prior to installation completion).

3. The Contract documents which comprise the contract between the City of Fayetteville and Mediastar-SG consist of this Contract and the following documents attached hereto, and made a part hereof:

   A. Bid form identified as Request for Proposal 06-21 with the specifications and conditions typed thereon.

   B. Mediastar-SG bid proposal. With updated "COST SUMMARY" attached

   C. The Notice to Prospective Bidders and the Bid Tabulation, if applicable.

4. These Contract documents constitute the entire agreement between the City of Fayetteville and Mediastar-SG and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Mediastar-SG.

5. Mediastar-SG shall not assign its duties under the terms of this agreement.

6. Mediastar-SG agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Mediastar-SG performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.

7. Prior to start of work, Mediastar-SG shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Mediastar-SG shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

Workmen's Compensation	Statutory Amount
Comprehensive General & Automobile Insurance	
Bodily Injury Liability	$500,000 for each person injured. $1,000,000 for each accident.
Property Damage Liability	$1,000,000 aggregate.

The premiums for all insurance and the bond required herein shall be paid by Mediastar-SG.

8. Mediastar-SG to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Mediastar-SG with 30 days written notice.

10. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo coping costs pursuant to the FOIA may be assessed for this compliance.

11. Changes in Scope or Price: 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.

WITNESS OUR HANDS THIS 6th **DAY OF** Feruary **, 2007.**

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

____
DAN COODY, Mayor

Attest:

____
Sondra Smith, City Clerk

L Clavey
____
CONTRACTOR

BY Leslie Clavey PEG
NAME AND TITLE

ATTEST: COMPANY SECRETARY

Dave Perras
Name
702 Mangrove Ave #221 Chico CA 95926
Address

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COST SUMMARY
FOR FAYETTEVILLE, AR, PEG CENTER
BY LESLIE CLAVEY

November 22nd, 2006

Mediastar-SG inclusive configuration – Total Cost Of System:

Mediastar-SG sets the standard for ease-of-use, automated functionality and graphics excellence. It includes:

Production System: **Mediastar-SG** integrated software package, includes these four modules:

- Production – create templated or scripted frames for maximum efficiency
- Bookkeeping/content management – easy to use content library
- Editing - storyboard "thumb-nails" for quick editing, pre-air proofing
- Scheduling - unlimited advanced user-friendly scheduling, automatic drop-offs

- **Mediastar-SG** integrated hardware package, typically:
- Intel Pentium 4 with 240G hard drive
- 32-bit (RS170M) broadcast-quality Image Capture board
- 19" color menu LCD and AGP video card
- Multi-channel RGB/S-Video/Composite NTSC display monitor, with under-scan
- Professional Audio (studio quality) production system, including mic and mixer
- High-security communications software, including diagnostic modem

Playback System: **Mediastar-SG** integrated Master Control software package:

- Integrated 10X1 A/V switcher (**ProMx**)
- Dependable industrial rack design
- Auto-recovery after power failure
- Device control for up to 8 bi-directional A/V devices (see website for list)

- **Mediastar-SG** integrated Master Control appliance:
- Intel Pentium industrial class CPU with 9G hard drive
- 32-bit (RS170M) broadcast-quality Image Display board
- Professional Audio (studio quality) playback D/A converter
- Schedulable/controllable 2 channel on-air mixer for background audio ramping
- High-speed ultra-secure communications software
- Includes built-in to Rackmount case – 7" LCD monitor

MPEG2 encoding system: **Netstar-SG** MPEG2 encoding and editing workstation, typically;

- MPEG2 hardware encoder and MPEG2 editing software
- Intel Pentium 4 with 300G hard drive, 2G RAM
- 21" color CRT LCD for AGP video card

MPEG2 Server/Player: **Vstar-SG compatible MPEG2 player** - Broadcast-grade MPEG2 video server.

- 55 hours (@ 8Mbps) of *on-line* MPEG2 video playback for on-air insertion
- Rackmount industrial unit, with auto-recovery after power failure

Fully-Integrated Master control system with MPEG2 player and still-frame playback for one television channel
Includes the Bulletin Boards, Preview Ad, Cleaning Utility, Scheduling & Reporting software.................................. $ 29,500

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www.Mediastar-SG.com

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MADE IN THE USA It matters!

COST SUMMARY
FOR FAYETTEVILLE, AR, PEG CENTER
BY LESLIE CLAVEY

November 22nd, 2006 **2 of 4**

Bundled system cost (from previous page)	$ 29,500
Additional **Vstar** compatible - broadcast-grade MPEG2 video Server/Player (14)	$ 6,550
2 DVD industrial-grade serial controllable 50 disk player (DVF-07) (58)	$ 2,200
Additional **Mediastar Playback Master Control** (12) for 2nd channel	$ 7,500
Watchdog for both channels to accommodate legacy I/R controlled equipment (a $1,500 value) (3)	$ N/C
Additional **Netstar** - MPEG2 encoding and editing workstation (2) (20)	$ 3,100
Additional **Netstar** – 21" CRT for motion video work (for motion work CRTs are usually preferred) (2) (20)	$ 450
Two Additional Netstar Hardware Upgrades	$ 2,000
2 Rackmount LCD Off-Air Return Monitors (Marshall V-R151P, not RoHS compliant) (5) (see below for ext. tuner)	$ 4,400
2 Rack mount LCD Confidence Monitors (Marshall V-R151DP-AFSD, not RoHS compliant) (6)	$ 3,600
1 Middle Atlantic Rack 77 "H, w/o sides incl. 12 socket power strip, 4 shelves, mountings etc. (addendum 3, 6)	$ 1,270
2 Rackmount keyboard drawer (keyboard & trackball). (addendum 3, 6) ($200 each X2) add	$ 400
2 Optional KVMs when using **Messagestar** and Playback Master Control units ($100 each X2) add	$ 200
2 **Messagestar** – Downstream luminence keyed, schedulable crawls and non-animated bug (40) (41)	$ 10,900
Remotestar-SG - Manage all your **Mediastar-SG** equipment remotely (35) cost per site	$ 3,250
Datastar-SG - Import non-Mediastar-SG compatible text for on-air broadcast (28)	$ 4,750
1 Dual Channel Datavideo TBC3000 (Addendum 3, item 5.) (see below for optional upgrade)	$ 620
1 Firewall/router and 10/100BT network infrastructure (Addendum 3, item 4.) (see below for optional upgrade)	$ 350
Total Cost Of System	**$ 81,040**

Expenses (not included in Total Cost Of System):

Shipping and Handling	$ 2,190
Installation 5 days (2 technicians)	$ 4,400
(note: **Mediastar-SG** is not proposing charging for labor, this cost reflects projected expenses only)	
Training for 3 days (2 trainers) for up to 10 staff	$ 2,400

Full Service Support Contract:
Includes continuation of site license, one year free telephone/email support, guaranteed spares, loaner equipment, software upgrades and operational consulting. FSSC is mandatory for new installations

Full Service Support Contract 2007-2008	$ 6,950
Total Cost Of Expenses	**$ 15,940**
Total system cost before discount	**$ 96,980**
Reference site discount	**$ -1,751**
Final agreed system price, per contract and RFI	**$ 95,229**

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www.Mediastar-SG.com

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Software maintenance that is defined as, but not limited to, annual upgrades that include improved software functionality and technical support is part of the Full Service Support Contract (FSSC). This contract provides regular software updates, loaners, and guaranteed-parts availability for the **Mediastar** system. These benefits are always free with the annual support package (FSSC). System maintenance is outlined in detail during **Mediastar** training and in the **Mediastar** Operational Manual.

11. Grant and Trade-In Opportunities:

A. The *Community Service* Grant Program was re-committed by **Mediastar-SG** in January 2006 for local communities of all sizes and tax-bases to assist in the acquisition of high-quality broadcast-grade infrastructure for channels that are used exclusively for the benefit of the community. This program also includes all federally recognized 501{c}(3) non-profit charitable organizations or government and public agencies.

The *Community Service* Grants are applied for, one year prior to their intended use and must be used in the allocated quarter. This time frame is intended to ensure that the grant application and allocation process is taken seriously and prospective applicants have able time to apply.

The proposed system for the City of Fayetteville does not qualify for *Community Service* Grant Program for fiscal year 2007 as this funding had not been applied for in the year prior to this RFP. All funding for fiscal year 2007 has been allocated.

11 B. Mediastar-SG does provide trade-in opportunities that can be applied toward the purchase of a **Mediastar** system. Here no trade-in is being offer as per the terms of the RFP.

11 C. Mediastar-SG offers 50/50 terms. A deposit equal to 50% of the total bid value (including expenses and shipping) is required at time of order, with the subsequent 50% payment being due upon completion of the installation as certified by the **Mediastar-SG** technician. **Mediastar-SG** does provide an early payment discount of 2% for the 2nd 50% payment (in other words the site may pay the balance of the contract prior to installation completion).

12. Channel Consulting:

a) Our company has developed and implemented channel branding plans for both PEG and commercial broadcast channels. Whereas the success for commercial branding projects can be measured in increased revenue, our success with PEG channels is best measured by an increase in viewer recognition and overall viewership. In addition viewer satisfaction is a tangible benchmark of effective channel operations.

When we work with a PEG channel to improve the overall look and feel of the channel, we work closely with all stake-holders, using their input to help create a cohesive plan for how the channel should be presented to the audience. We further assist in developing daily content schedules which weave all available content sources onto a professional-looking channel.

Added at Agenda Session
1/30/07

RECEIVED
JAN 29 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Fayetteville
ARKANSAS

January 29, 2007

City of Fayetteville
Sondra Smith, City Clerk
113 West Mountain Street
Fayetteville, AR 72701

RE: Appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598)

Dear Sondra,

I would like to appeal the Planning Commission's decision on January 22, 2007 regarding LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598). I am appealing their decision due to concerned residents of the Red Arrow Neighborhood. I have received calls from neighbors that reside within the proposed large scale development and feel an appeal is warranted. Please present this appeal to the City Council at the February 6, 2007 City Council meeting.

Sincerely,

Alderman Lioneld Jordan

Alderman Lioneld Jordan
Ward 4

City of Fayetteville, Arkansas
City Council
113 West Mountain
Fayetteville, AR 72701

Tabled to Feb 20, 2007 2/6/07

ALDERMAN APPEAL REQUEST FORM

COUNCIL MEETING OF: February 6, 2007

FROM: Alderman Lioneld Jordan

APPEAL TITLE AND SUBJECT: An appeal of LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598): Submitted by N. Arthur Scott for property located at the Intersection of 18th Street and Custer Lane.

Lioneld Jordan
Alderman

1/29/07
Date

Alderman

Date

Alderman

Date

Alderman

Date

Fayetteville
ARKANSAS

TENTATIVE AGENDA

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

AGENDA FOR A MEETING OF THE PLANNING COMMISSION
Monday, January 22, 2007, 5:30 p.m.
Room 219, City Administration Building

The following items will be considered:

Consent:

1. Approval of the October 09, 2006 Planning Commission meeting minutes.

2. LSP 06-2404: Lot Split (SCHWARTZ, 454): Submitted by BATES & ASSOCIATES for property located at 700 FOX HUNTER RD. The property is in the Planning Area and contains approximately 5.21 acres. The request is to divide the subject property into 3 tracts of 1.17, 3.04 and 1.00 acres. Planner: Suzanne Morgan

Old Business:

3. ADM 06-2380: (URBAN RESIDENTIAL DESIGN STANDARDS): Submitted by Planning Staff amending the Unified Development to add design standards as criteria for approval, applicable to town homes, single-family attached, two-family, three-family and multi-family dwelling units. The request is to forward the urban residential design standards to the City Council. Planner: Karen Minkel

New Business:

4. ADM 07-2442: (BELLAFONT 1 LSD MODIFICATION): Submitted by H2 Engineering for property located north of Joyce Blvd, west of Vantage Drive. The applicant requests a modification to the approved condition of approval No. 4 for LSD 06-1885, removing the median extension. Planner: Andrew Garner

5. VAR 07-2441: VARIANCE (FIVE WEST MOUNTAIN): Submitted by James Foster for property located at 5 West Mountain, east of the Town Center Plaza. The property is zoned MSC, MAIN STREET CENTER. The request is for a variance from the building height requirements and for a variance from the step-back requirement above four stories in the Main Street Center Zoning District.

Planner: Jesse Fulcher

6. CUP 07-2420: (LOVING CHOICES, 522): Submitted by KATIE ALLEN for property located at 275 S. DUNCAN AVENUE, NE CORNER OF DUNCAN AND STONE STREET. The property is zoned RMF-40, MULTI FAMILY - 40 UNITS/ACRE and contains approximately 0.20 acres. The request is for the establishment of a professional office (Use Unit 25), specifically for a welfare agency. Planner: Suzanne Morgan

7. **RZN 07-2419: (KELLY, 681/720):** Submitted by DAVE JORGENSEN for property located at 3184 S. CITY LAKE ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 44.74 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE. Planner: Jesse Fulcher

8. **LSD 06-2300: Large Scale Development (CENTRAL UNITED METHODIST, 484):** Submitted by JORGENSEN & ASSOCIATES for property located BETWEEN DICKSON & LAFAYETTE ALONG HIGHLAND AND ST. CHARLES. The property is zoned MSC, Main Street Center and contains approximately 6.02 acres. The request is for a 32,254 s.f., 2-story Ministry building and a 5-story parking deck with 275 spaces.
Planner: Suzanne Morgan

9. **LSD 07-2414: Large Scale Development (PEBBLE CREEK FLATS, 598):** Submitted by N. ARTHUR SCOTT for property located at INTERSECTION OF 18TH ST.AND CUSTER LANE. The property is zoned C-1, Neighborhood Commercial and RMF-24, Residential Multi-family – 24 units per acre, and contains approximately 4.21 acres. The request is for a 2-story mixed use building with 18 dwelling units and 11,126 s.f. of commercial/office space within the C-1 zoning and 2 apartment buildings with 46 dwelling units within the RMF-24 zoning.
Planner: Suzanne Morgan

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

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

City Council Meeting of February 06, 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: January 26, 2007

Subject: Appeal of Pebble Creek Flats (LSD 07-2414)

REQUEST

Alderman Lioneld Jordan has appealed the decision by the Planning Commission to approve Pebble Creek Flats Large Scale Development.

BACKGROUND

On January 22, 2007, the Planning Commission unanimously approved a Large Scale Development for property located at the southeast corner of Custer Lane and 18th Street. The development proposal includes the development of mixed-use and residential structures (11,126 square feet commercial area and 66 residential units) and meets the criteria of the property's C-1 and RMF-24 zoning, as well as all applicable development codes, with one waiver request. Staff recommended approval of the project.

In the past year, the owner of the property has submitted several applications to rezone the property. On May 8, 2006, the Planning Commission unanimously denied a request to rezone the portion of C-1 property (approximately 1.5 acres) to RMF-24. There were concerns raised from the neighbors regarding the use of the property and the infill development. Many of the Commissioners voiced their opinion that the development of this property would have to be done carefully, being considerate of the existing single family lots, and recommended that development be proposed as a PZD.

It was during the rezoning process that owners within the adjacent residential neighborhood were made aware that their properties were zoned RMF-24. Following the denial of the rezoning request, the majority of the single family lot owners within the Red Arrow Subdivision applied for and received approval by the City Council to rezone their properties from RMF-24 to RSF-4.

On November 2, 2006, the Subdivision Committee reviewed and tabled a Residential Planned Zoning District proposal for the subject property for a maximum 83 multi-family units and accessory commercial use at the intersection of Custer Lane and 18th Street. The applicant withdrew the R-PZD based on the comments received at this meeting. Again, several property owners in the surrounding subdivision attended the meeting and expressed concerns that the development would not be compatible with the surrounding neighborhood, the density and traffic would be too high, and creating an entrance onto Custer Lane was not desirable. This rezoning and development proposal was withdrawn.

On January 22, 2007, the Planning Commission unanimously approved a Large Scale Development proposal for the subject 4.21-acres of property which complies with the existing zoning and development regulations. Owners within the adjacent subdivision again attended the meeting with concerns regarding the drainage and the proposal for a curb cut from the development onto Custer Lane.

DISCUSSION

The adjacent neighbors have consistently and repeatedly expressed concerns with the compatibility, drainage, and traffic. Staff has addressed each of these concerns. Upon review of two separate zoning requests, the applicants decided that rezoning the property was not going to be favorably received. The subject large scale development application submitted meets the requirements of the current zoning districts, and therefore cannot be reviewed or denied based on the proposed use. Water flows north from the developed subdivision through this site and to the Towncreek Branch, so the development of this property will not increase water flow on any property within the adjacent subdivision. Additionally, the Engineering Division has reviewed the project and finds it meets all applicable criteria based on the Unified Development Code.

Access to the development is proposed from Custer Lane and 18th Street. Per Chapter 172.06 (A) of the Unified Development Code, "*Parking lots shall be located within the same zoning district as the use they serve. Required parking lots for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.*" Creating access to the parking lot from Custer Lane that serves a use by right which meets all design criteria is permitted by right by the Unified Development Code, and therefore can not be used as a basis for denial of the Large Scale Development. The Planning Commission granted a waiver for the distance between the intersection of Custer Lane and 18th Street and the curb cut on 18th Street, finding that it is imperative to have two points of ingress and egress for a development with 66 residential units and 11,126 square feet of commercial space.

Based on MicroTrans Trip Generation counts, the proposed development will result in an average 559 24-hour, 2-way vehicle trips in an average weekday. Existing traffic counts were taken on Custer Lane and 18th Street over a four day period and found to be well below the capacity for a Local Street and Collector Street, therefore the development will not create nor compound a dangerous traffic condition. The results of the traffic counts are as follows:

24-hour period for traffic traveling in both directions

Location	Fri (1/12)	Sat (1/13)	Sun (1/14)	Mon (1/15)
*Custer Lane (S of 18th Street)	401	313	227	318
**18th Street (W of Custer Lane)	4,571	2,731	1,603	2,842

***Custer Lane is designated a Local Street, which has a Design Service Volume of less than 4,000 vehicle trips per day.**
****18th Street is designated a Collector Street, which has a Design Service Volume of 4,000 to 6,000 vehicle trips per day.**

Fayetteville
ARKANSAS

PC Meeting January 22, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: January 17, 2007 ***Updated January 23, 2007***

LSD 07-2414: Large Scale Development (PEBBLE CREEK FLATS, 598): Submitted by N. ARTHUR SCOTT for property located at INTERSECTION OF 18TH ST.AND CUSTER LANE. The property is zoned C-1, Neighborhood Commercial and RMF-24, Residential Multi-family – 24 units per acre, and contains approximately 4.21 acres. The request is for a 2-story mixed use building with 18 dwelling units and 11,126 s.f. of commercial/office space within the C-1 zoning and 2 apartment buildings with 46 dwelling units within the RMF-24 zoning. Planner: Suzanne Morgan

Findings:

Background: On January 11, 2007, the Subdivision Committee forwarded this item to the Planning Commission. Topics of discussion included drainage and the effects of development on traffic. Water flows north from the developed subdivision through this site and to the Towncreek Branch, so the development of this property will not increase water flow on any property within the adjacent subdivision.

According to Trip Generation software, the proposed development will result in an average 559 24 hour, 2-way vehicle trips in an average weekday. Existing traffic counts were taken on Custer Lane and 18th Street over a four day period and found to be well below the capacity for a Local Street and Collector Street. The results of the traffic counts are as follows:

24-hour period for traffic traveling in both directions

Location	Friday (1/12)	Saturday (1/13)	Sunday (1/14)	Monday (1/15)
*Custer Lane (South of 18th Street)	401	313	227	318
**18th Street (West of Custer Lane)	4,571	2,731	1,603	2,842

***Custer Lane is designated a Local Street, which has a Design Service Volume of less than 4,000 vehicle trips per day.**
****18th Street is designated a Collector Street, which has a Design Service Volume of 4,000 to 6,000 vehicle trips per day.**

History: On **May 8, 2006**, the Planning Commission unanimously denied a request to rezone the portion of C-1 property (approximately 1.5 acres) to RMF-24. There were concerns raised from the neighbors regarding the use of the property and the infill development. Many of the Commissioners voiced their opinion that the development of this property would have to be done carefully, being considerate of the existing single family lots, and recommended that development be proposed as a PZD.

On **November 2, 2006**, the Subdivision Committee reviewed and tabled a Residential Planned Zoning District proposal for the subject property. The large scale development proposal included a maximum 83 multi-family units, for an overall density of 19.71 units per acre, and some commercial use at the intersection of Custer Lane and 18th Street. The applicant has withdrawn the R-PZD based on the comments received at this meeting and requests approval of a large scale development that meets the requirements of the existing zoning districts. Several members of the public were present at the Subdivision Committee meeting and expressed concerns that the development would not be compatible with the surrounding neighborhood, the density and traffic would be too high, and creating an entrance onto Custer Lane.

The applicant held a neighborhood meeting on **January 07, 2007** at which several of the neighbors were present. Main topics of discussion were drainage, traffic and affect of the development on crime.

Property Description: The overall property owned by Tetra Investments consists of Lots 3 and 4 in Red Arrow Subdivision and part of Lots 11 and 12 in Cornelius Subdivision. The property is zoned C-1, Neighborhood Commercial, to the north and RMF-24, Residential Multi-Family – 24 units per acre, to the south. It is located within the Design Overlay District. There is approximately 58.19% existing tree canopy on the property, a floodway/floodplain and a large electric easement crossing the property. Three structures sit on the northwest corner of the property at the intersection of Custer Lane and 18th Street. These structures consist of two triplexes and one duplex.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Single family residential & vacant property proposed to be developed	C-1 & C-2
South	Single family residential	RSF-4
East	Vacant	RSF-4 & C-1
West	Single family residential, duplex and triplex lots and a small commercial shop, the18th Street Train Station	C-2 & RSF-4

Proposal: The applicant requests large scale development approval for the development of commercial and residential property. The proposed development within the C-1 zoning district and RMF-24 zoning district consist of the following:

C-1
2.05 acres
20 units (including the duplex; plans will be revised to reflect 18 units in Bldg A)
9.76 units per acre
11,126 SF Commercial Area (1,325 SF is on 2nd Floor)
10,660 SF Residential Area

RMF-24
2.16 acres
46 units
21.3 units per acre
1.96 acres required for the land area per dwelling unit requirement

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: 18th Street (Collector Street)
Custer Lane (Local Street)

Connectivity: Staff recommends that the applicant provide a vehicular connection to RSF-4 property to the east by stubbing out the proposed private drive which currently is shown within 15' from the property line.

Street Improvements: Staff recommends the following street improvements:

a. *Street improvements along the project frontage on 18th Street to the intersection of Custer Lane, to include a total 22' of pavement (16' pavement from centerline for one-half a turn-lane and a driving lane and a 6' wide paved bike lane) plus curb and gutter (an additional 2'), storm sewer and a 6' sidewalk located at the Master Street Plan right-of-way. Improvements shall continue east, within the existing right-of-way, to the eastern most boundary of the property (approximately 270 feet). Any excess asphalt beyond the required 22' shall be removed. All striping (turn lane, bicycle lane, etc.) shall be installed prior to Certificate of Occupancy for any building on the property.*
b. *Construction of a 6' sidewalk along Custer Lane from the intersection of 18th Street south to the project boundary, at the right-of-way line.*
c. *Removal of the two parking spaces on 18th Street and parking on Custer Lane to create a parking situation which would comply with the requirements of Chapter 172 of the Unified Development Code.*

Access and Parking: The proposal shows two points of access to the development, one from Custer Lane and one from 18th Street. Fire lanes and a turn-around have been designated on the plans in order to comply with the requirements of the Fire Code. A total 116 parking spaces are provided, which is less than required but with the allowance granted by the Parking Ordinance. The applicant shall remove the existing parking spaces that back directly onto 18th Street and parking on Custer Lane to create a parking situation which would comply with the requirements of Chapter 172 of the Unified Development Code. These improvements will create a safer traffic condition on both 18th Street and Custer Lane than currently exists.

Parks: Parks and Recreation Advisory Board reviewed this project on August 7, 2006 and recommended accepting money in lieu to satisfy the Park Land Dedication Ordinance requirement due to its proximity to Town Branch Trail Corridor and park land. Fees are assessed in the amount of **$43,520** for 64 multi-family units. Fees are due prior to issuance of building permits.

Trail Comments:
Background: The Fayetteville Alternative Transportation and Trails Master Plan identifies an on-street linkage along 18th street connecting to Town Branch Creek Trail, currently under construction.

Request: We request a 6' wide bike lane along the south side of 18th street from the east to west property line of this project.

Tree Preservation:	Existing Canopy:	58.66%
	Preserved Canopy:	21.37%
	Required Canopy:	20%
	Mitigation:	None Required

Design Overlay District:

Greenspace: The site plan submitted for review as submitted to the Subdivision Committee complies with the 25'greenspace requirement along all rights-of-way within the Design Overlay District.

Signage: Two signs have been indicated on the plans. All signs shall be permitted by a separate sign permit application, prior to installation.

Curb Cuts: The applicant **has not** complied with the curb cut requirements for a minimum of 250' from an intersection on 18th Street. A waiver of this condition is needed in order to access 18th Street. The applicant has complied with the curb cut requirements for a minimum of 200' between curb cuts.

Lighting: All outdoor lighting shall be reviewed prior to issuance of building permit to ensure compliance with the Outdoor Lighting Ordinance.

Exterior Appearance: Elevations have been submitted for all four sides of the commercial building. Planning Commission determination of architectural treatment of fronts, along with Commercial Design Standards, is required.

Building Material: A materials sample board has been submitted for review. Proposed building materials include stained vertical wood siding, brick veneer, aluminum window and doors, standing seem metal roof.

Site Coverage: The plat indicates site coverage in compliance with this requirement.

Fencing: N/A

Outdoor Storage: N/A

Access: Pedestrian access from the street to the entrance of the structure by way of a designated walk is provided. Bicycle racks are to be provided for multi-modal access. An additional rack shall be added to the plat.

Recommendation: Finding the development proposal meets the zoning and development requirements of the Unified Development Code with the conditions listed, staff recommends approval of **LSD 07-2414** with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following improvements:*

   a. *Street improvements along the project frontage on 18th Street to the intersection of Custer Lane, to include a total 22' of pavement (16' pavement from centerline for one-half a turn-lane and a driving lane and a 6' wide paved bike lane) plus curb and gutter (an additional 2'), storm sewer and a 6' sidewalk located at the Master Street Plan right-of-way. Improvements shall continue east, within the existing right-of-way, to the eastern most boundary of the property (approximately 270 feet). Any excess asphalt beyond the required 22' shall be removed. All striping (turn lane, bicycle lane, etc.) shall be installed prior to Certificate of Occupancy for any building on the property.*

   b. *Construction of a 6' sidewalk along Custer Lane from the intersection of 18th Street south to the project boundary, at the right-of-way line.*

   c. *Removal of the two parking spaces on 18th Street and parking on Custer Lane to create a parking situation which would comply with the requirements of Chapter 172 of the Unified Development Code.*

   The Subdivision Committee recommended in favor of street improvements listed above. PC approved.

2. Planning Commission determination of connectivity. *Staff recommends that the application provide a vehicular connection to RSF-4 property to the east by stubbing out the proposed private drive to the property line and dedicating an easement atop of the driveway from the property line to the public right-of-way.*

   The Subdivision Committee recommended in favor of connectivity to the adjacent streets and the stub-out to the east property line.
   PC approved.

3. Planning Commission determination of compliance with Commercial Design Standards for commercial structures subject to the Design Overlay District requirements. *Staff finds that the commercial structure is designed to have front facades facing the adjacent streets and that the building materials, being wood and brick, are compliant with the requirements in Chapter 161 of the Unified Development Code. Furthermore, staff finds that the structure meets Commercial Design Standards.*

The Subdivision Committee recommended in favor of compliance with Commercial Design Standards.
PC modified to require administrative approval of the 1st level, requiring additional articulation. Should the applicant request to add doors to the building, it shall be reviewed by the Planning Commission.

4. Planning Commission determination of a waiver of Chapter 161.28 (D.3), which requires a 250' separation between a curb cut and an intersection. *The applicant proposes one curb cut from the property onto 18th Street approximately 120 feet from the intersection of Custer Lane and 18th Street. Staff recommends approval of this requested waiver, finding that the location of the curb cut is as far away from the intersection as possible and it is imperative to have two points of ingress and egress for a development with 66 residential units and ~~2,016~~ 11,126 square feet of commercial space. The curb cut onto Custer Lane meets all Unified Development Code requirements.*

The Subdivision Committee recommended in favor of granting the requested waiver from Chapter 161.28 (D.3).
PC approved.

5. A minimum 25' right-of-way from centerline of Custer Lane shall be dedicated prior to issuance of a building permit.

6. At the time of construction drawings the landscape plan must be stamped by a licensed Landscape Architect.

7. All required street trees must be bonded for a 3 year period to ensure their health. A bond, letter of credit, or check shall be deposited with the City before Final Certificate of Occupancy.

8. Mitigation is not required on the site unless the preserved canopy number falls below 20%. There are some trees, specifically #313 and #314, that will be highly affected. If these trees do not make it through the development process, mitigation might be necessary.

9. Where not currently existing, street lights shall be installed at the corner of Custer Lane and 18th Street and along the right-of-way at 1 light per 300'.

10. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. All structures shall meet the building setback requirements based on height.

11. The applicant shall pay Parks fees in the amount of **$43,520** for 64 multi-family units prior to the issuance of a building permit.

12. 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.

13. Signs shall be installed on the site in accordance with the Unified Development Code, and only after a sign permit has been issued.

14. The parking proposed on the site is adequate for the professional office and residential use. Certificate of Zoning Compliances shall be reviewed for each leased tenant space in order to verify that there is adequate parking for the businesses and residential uses.

15. Bicycle racks shall be installed in accordance with ordinance requirements. Four bicycle racks are required based on the number of parking spaces proposed. The site plan shall be updated to show the addition of one bicycle rack.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives – AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

17. 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. The large scale development shall expire one year after Planning Commission approval. The applicant may request that the Planning Commission extend the approval an additional one year as allowed by Chapter 166 of the Unified Development Code.

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 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.

22. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

#23: Additional Condition: ***The applicant shall install a 6' wood board fence (finished side facing south) along the southern property line.***

Planning Commission Action: ✓ Approval ☐ Tabled ☐ Denied

Motion: Anthes
Second: Harris
Vote: 7-0-0

Meeting Date: **January 22, 2007**

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 ____________________

Pebble Creek Flats
Summary of Multi-Use Trip Generation
Average Weekday Driveway Volumes
January 18, 2007

Land Use	Size	24 Hour Two-Way Volume	AM Pk Hour Enter	AM Pk Hour Exit	PM Pk Hour Enter	PM Pk Hour Exit
Apartments	66 Dwelling Units	438	5	28	28	13
General Office Building	11 Th.Gr.Sq.Ft.	121	15	2	3	14
Total		559	20	30	31	27

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

Pebble Creek Flats
Summary of Multi-Use Trip Generation
Saturday and Sunday Driveway Volumes
January 18, 2007

		Saturday			Sunday		
Land Use	Size	24 Hr 2-Way Vol.	Peak Hour Enter	Peak Hour Exit	24 Hr 2-Way Vol.	Peak Hour Enter	Peak Hour Exit
Apartments	66 Dwelling Units	422	0	0	387	0	0
General Office Building	11 Th.Gr.Sq.Ft.	26	2	2	11	1	1
Total		448	2	2	398	1	1

Note: A zero indicates no data available.
Source: Institute of Transportation Engineers
Trip Generation, 6th Edition, 1997.

TRIP GENERATION BY MICROTRANS

Fayetteville
ARKANSAS

PC Meeting of January 22, 2007

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: January 17, 2007

ITEM #: LSD 07-2414: Large Scale Development (Pebble Creek Flats)

Applicable Requirements:

Y	Site Development & Parking Lot Standards
Y	I-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*
N		**Plans stamped by a licensed Landscape Architect**
Y		**Planting details according to Fayetteville's Landscape Manual**
		Site Development & Parking Lot Standards
Y		**Wheel stops/ curbs**
Y		**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	
Y		**Perimeter landscaping** *Side and rear property lines (5' landscaped)* *Shade trees as described in street tree planting standards,* *Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)*
		Overlay District Requirements
Y		**Greenspace adjacent to street R.O.W. (25' wide)**
Y		**Large street trees planted every 30' L.F. along R.O.W.**
Y		**25% of total site area left in greenspace (80% landscape)**
Y		**Parking lots and outdoor storage screened with landscaping**
		Street Tree Planting Standards *[illegible]*
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*
Y		**Timing of planting indicated on plans (subdivisions only)**
Y		**Written description of the method for tracking plantings**
		StormWater Facilities *[illegible]*
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. **At the time of construction drawings the landscape plan must be stamped by a licensed Landscape Architect.**
2. **All required street trees must be bonded for a 3 year period to ensure their health. A bond, letter of credit, or check shall be deposited with the City before Final Certificate of Occupancy.**

Fayetteville
ARKANSAS

PC Meeting of January 22, 2007

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: January 17, 2007

ITEM #: LSD 07-2414: Large Scale Development (Pebble Creek Flats)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	4.21
square feet	183,387
Existing Tree Canopy	
acres	2.47
square feet	107,850
percent of site area	58.66%
Existing Tree Canopy Preserved	
acres	0.90
square feet	39,040
percent of total site area	21.37
Percent Minimum Canopy Required	20%

FINDINGS:

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

- **Canopy covers more than half of this site. An arborist report was included with this submittal. The majority of the species are**

volunteer such as elm, locust, cedar, willow. There are several smaller oak trees found on the site that would be a great asset for preservation. There is a small creek that bisects this property keeping it very wet and thick with canopy.

Whether the design incorporates the required tree preservation priorities

- **This design tries to incorporate the tree preservation priorities. There are not many significant trees on this site but the applicant has proposed to save a large portion of canopy along the creek.**

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 minimal. There is a large buffer preserved to protect the creek.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Adjacent properties will be affected by the canopy removed on the site due to the requirements of the utility companies to have an easement around the entire property. This will require tree removal directly adjacent to the neighbors.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The shape of the lot is a bit restrictive to the overall design of the project. There is also existing floodway that hinders flexibility.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of the trees was a wide range from dead to good.**

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

- **The majority of canopy removed is for infrastructure and utilities.**

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

- **A large amount of canopy will need to be removed for the installation of public utilities and infrastructure.**

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

- **This is a tight site with many obstacles of design such as shape and existing floodway. Removal of canopy is inevitable.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **No mitigation is required for the site unless the minimum preserved drops below the required 20%. There are many trees planned for the site to meet landscape regulations. These will greatly improve the species diversity and overall urban forest.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **NA**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions of approval.**

Conditions of Approval:

1. **Mitigation is not required on the site unless the preserved canopy number falls below 20%. There are some trees, specifically #313 and #314 that will be highly affected. If these trees do not make it through the development process, mitigation might be necessary.**

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

TO: Suzanne Morgan, Planner

FROM: Alison Jumper, Park Planner

DATE: January 9, 2007

SUBJECT: Parks & Recreation Subdivision Committee Review Comments

****

<u>Meeting Date:</u> January 11, 2007
<u>Item:</u> LSD 07-2414 Pebble Creek Flats
<u>Park District:</u> SW
<u>Zoned:</u> C-1, RMF-24
<u>Billing Name & Address:</u> Tetra Investments, L.L.C. 130 N. Main Cave Springs, AR 72718

	Current Land Dedication Requirement	*Money in Lieu*
Single Family	____@ .024 acre per unit = ____ acres	____@ $960 per unit = $____
Multi Family	____@ .017 acre per unit = ____ acres	~~67~~ 64 @ $680 per unit = $ 45,560

<u>COMMENTS</u>:

- Parks and Recreation Advisory Board reviewed this project on August 7, 2006 and recommended accepting money in lieu to satisfy the Park Land Dedication Ordinance requirement due to its proximity to Town Branch Trail Corridor and park land.
- Fees are assessed in the amount of ~~$45,560~~ for ~~67~~ 64 multi-family units.
- Fees are due prior to issuance of building permits.

*Per applicant, the total number of new units will be 64.

Fayetteville
ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

ENGINEERING DIVISION CORRESPONDENCE

To: Arthur Scott

From: Matt Mihalevich, Trails Coordinator

Date: January 9, 2007

Subject: Subdivision Committee Comments

ITEM #: LSD 07-2414: Large Scale Development (Pebble Creek Flats, 598)

<u>TRAIL COMMENTS</u>

<u>Background:</u>

1. The Fayetteville Alternative Transportation and Trails Master Plan identifies an on-street linkage along 18th street connecting to Town Branch Creek Trail, currently under construction.

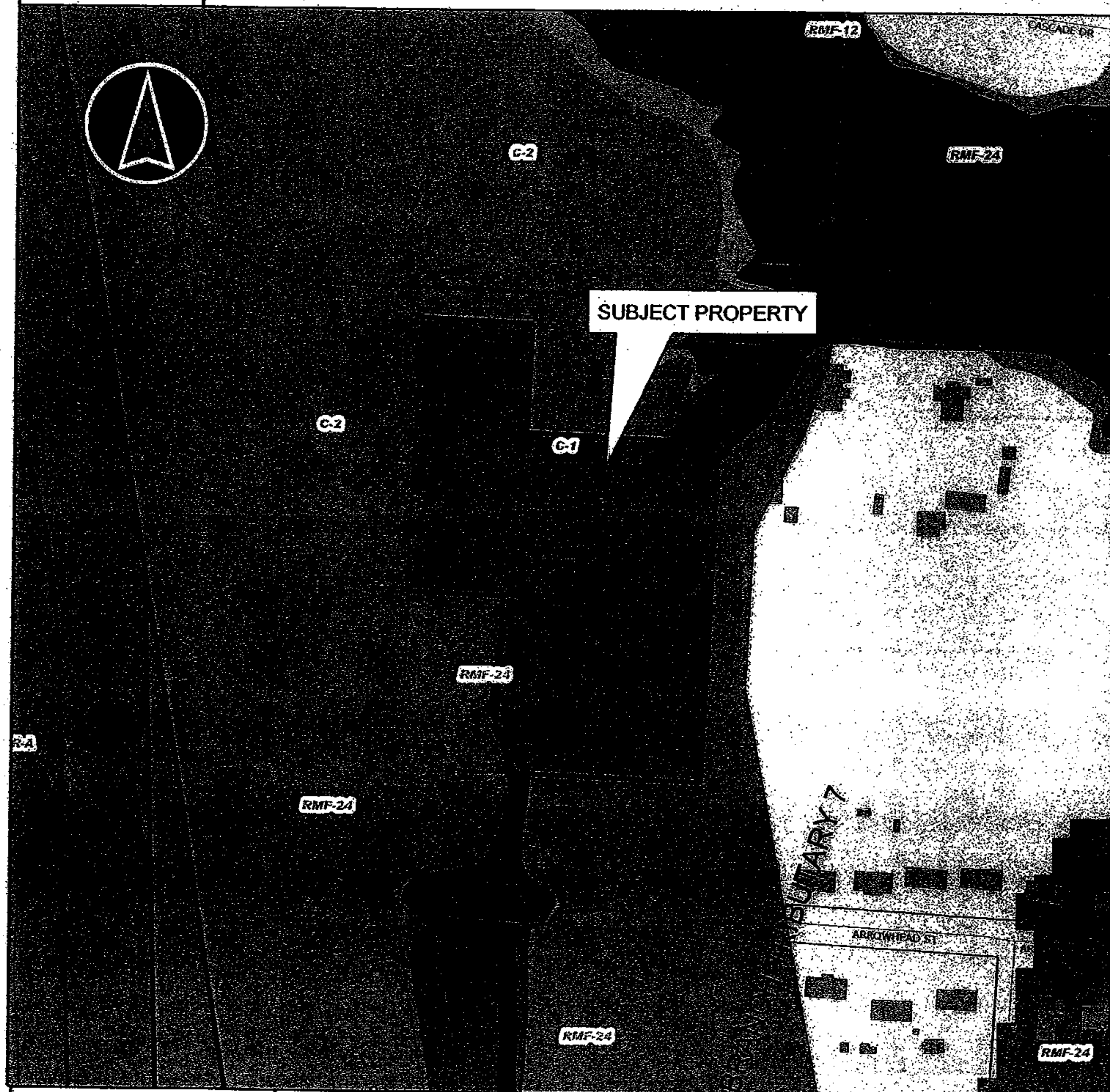
<u>Request:</u>

1. We request a 6' wide bike land along the south side of 18th street from the east to west property line of this project. The bike lane shall be 6' from the existing white edge stripe south to the proposed gutter line, excluding the 18" gutter.

LSD07-2414

Close Up View

PEBBLE CREEK FLATS



Overview

Legend

Overlay District
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City
LSD07-2414
vector.GDB.Footprint_2004
Hillside-Hilltop Overlay District

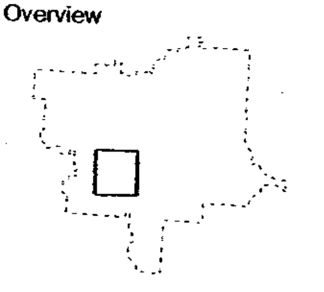
0 75 150 300 450 600 Feet

LSD07-2414

One Mile View

PEBBLE CREEK FLATS

Overview



Legend

Subject Property

LSD07-2414

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

Project Design Consultants

December 14, 2006

City of Fayetteville
Planning Department
113 W. Mountain Ave.
Fayetteville, AR 72701

Attn: Jeremy Pate, Dir.

RE: Letter of Intent
Pebble Creek Flats
S.E. Corner of 18th and Custer

Mr. Pate:

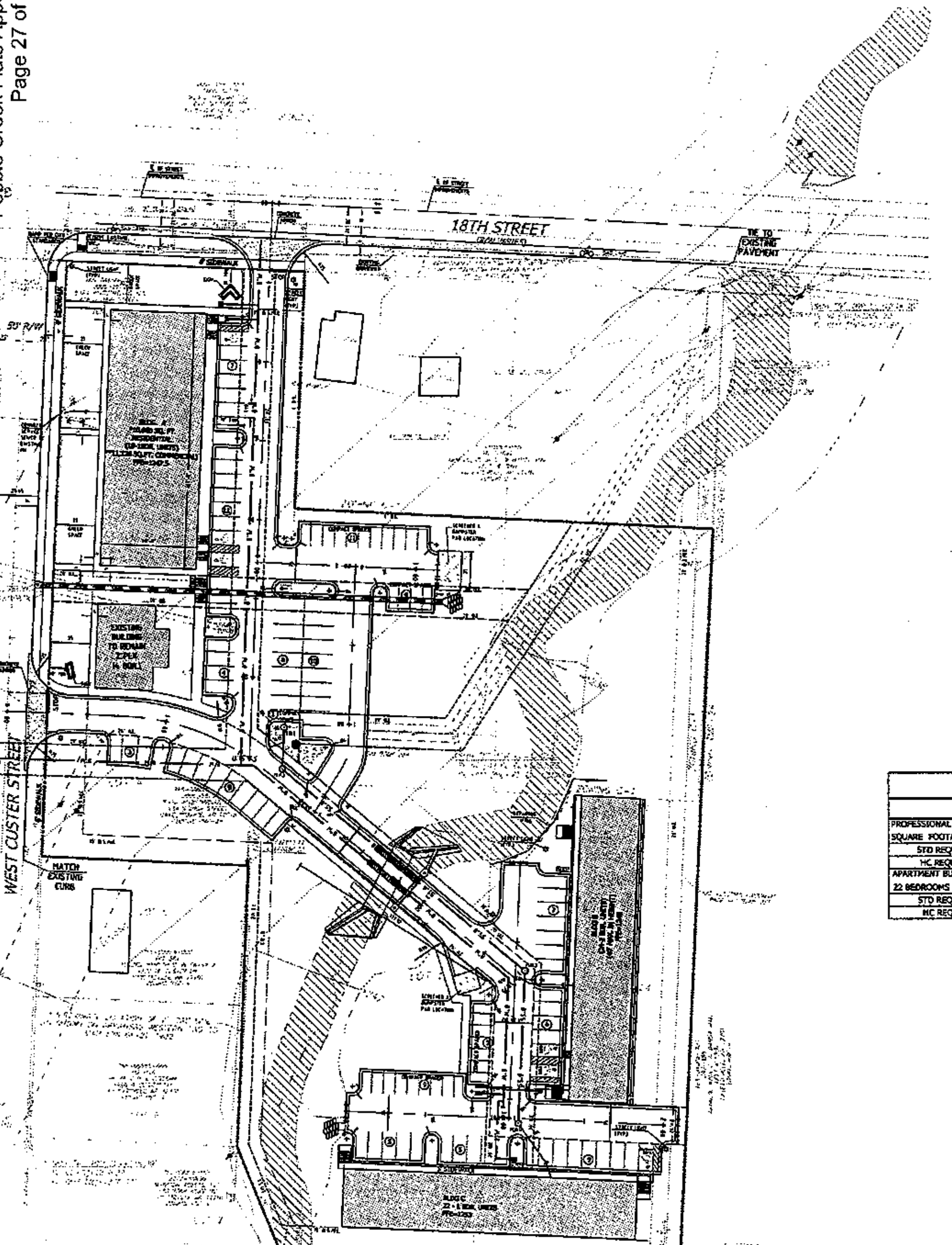
The developers have agreed to change the access drive to one way in off Custer St. The width will be determined through discussions with City staff and Fire Marshall.

Sincerely,

N. Arthur Scott, P.E.
President

130 North Main Street
Cave Springs, Arkansas 72718

Creek Flats
- Agenda Session



GRAPHIC SCALE

(IN FEET)
1 INCH = 40 FEET

C-1 LAND AREA PER DWELLING UNIT		
DWELLING TYPE	NUMBER OF UNITS PER DWELLING TYPE	REQUIRED SQUARE FOOTAGE
1 BEDROOM	18 UNITS	1,700 S.F./ 18 UNIT=30,600 S.F.
2 BEDROOM	2 UNITS	2,000 S.F./ 2 UNITS=4,000 S.F.
TOTAL REQUIRED SQUARE FOOTAGE:		34,600 S.F.
TOTAL PROVIDED SQUARE FOOTAGE (LESS R.O.W.):		89,298 S.F.

* 10,660 SQ.FT. RESIDENTIAL INCLUDES 100 SQ.FT. LOFT AREA
** 11,128 SQ.FT. COMMERCIAL INCLUDES 1,325 SQ.FT. LOFT ON SECOND FLOOR

RMF-24 LAND AREA PER DWELLING UNIT		
DWELLING TYPE	NUMBER OF UNITS PER DWELLING TYPE	REQUIRED SQUARE FOOTAGE
1 BEDROOM	22 UNITS	1,700 S.F./22 UNIT=37,400 S.F.
2 BEDROOM	24 UNITS	2,000 S.F./24 UNITS=48,000 S.F.
TOTAL REQUIRED SQUARE FOOTAGE:		85,400 S.F.
TOTAL PROVIDED SQUARE FOOTAGE (LESS R.O.W.):		94,089 S.F.

SITE INFORMATION TABLE:

SITE ACREAGE:			
ZONING RMF-24	2.16 ac.	TOTAL SITE ACREAGE:	4.21 ac.
ZONING C-1	2.05 ac.		
ZONING & SETBACKS:			
PROPERTY ZONING:	RMF-24		
FRONT SETBACK:	15'		
REAR SETBACK:	15'	SIDE SETBACKS:	8'
RMF-24 DENSITY:			
ALLOWED:	4 to 24	PROVIDED:	46 / 2.16 ac.= 21.30
ZONING & SETBACKS:			
PROPERTY ZONING:	C-1		
FRONT SETBACK:	50'		
REAR SETBACK:	20'	SIDE SETBACKS:	15'
C-1 DENSITY:			
ALLOWED:	NONE	PROVIDED:	20 / 2.05 ac.= 9.76
GREEN SPACE:			
IMPERVIOUS AREA:	78,016 s.f.	1.79 ac.	
PERVIOUS AREA:	105,371 s.f.	2.42 ac.	
TOTAL AREA:	183,387 s.f.	4.21 ac.	% GREEN SPACE: 57.48 %

PARKING REQUIREMENTS:

ZONING C-1		ZONING RMF-24	
PROFESSIONAL OFFICE	REQ. RATIO:	APARTMENT BUILDINGS	REQ. RATIO:
SQUARE FOOTAGE: 11,126 S.F.	1 SPACE/300 S.F.	70 BEDROOMS	1 SPACE / 1 BEDROOM
STD REQUIRED:	37 SPACES	STD REQUIRED:	70 SPACES
HC REQUIRED:	2 SPACES	HC REQUIRED:	3 SPACES
APARTMENT BUILDINGS	REQ. RATIO:		
22 BEDROOMS	1 SPACE / 1 BEDROOM		
STD REQUIRED:	22 SPACES		
HC REQUIRED:	1 SPACES		

TOTAL REQUIRED FROM C-1 & RMF-24:	
TOTAL STD REQUIRED:	129 SPACES
TOTAL HC REQUIRED:	6 SPACES
TOTAL SPACES REQUIRED:	135 SPACES
TOTAL PROVIDED FROM C-1 & RMF-24:	
TOTAL STD PROVIDED:	78 SPACES
COMPACT PROVIDED	32 SPACES (27.59%)
HC PROVIDED:	6 SPACES
TOTAL SPACES PROVIDED:	116 SPACES
TOTAL BIKE RACKS PROVIDED: 3	

FLOOD CERTIFICATION:

THIS PROPERTY IS LOCATED WITHIN A PRESENTLY ESTABLISHED 100-YEAR FLOOD PLAIN, AS DETERMINED BY SCALING THE NATIONAL FLOOD INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP FOR WASHINGTON COUNTY, ARKANSAS AND INCORPORATED AREAS.

MAP NUMBER: 05143C0095 D
REVISED DATE: JULY 21, 1999

SUBJECT PROPERTY LIES WITHIN THE FOLLOWING ZONES: ZONE "X", ZONE "AE", AND ZONE "AE" FLOODWAY.

OWNER(S) / DEVELOPER(S)

TETRA INVESTMENT, LLC
CONTACT: CHARLES BELL, SR.
130 N. MAIN STREET
CAVE SPRINGS, AR 72718

ON-SITE SOIL TYPE

SYMBOL	NAME
Le	LEAF SILT LOAM
Sn	SLOAR SILT LOAM

STATE PLAT CODE: 500-16N-30W-0-20-320-72-1452
CITY PLAT PAGE 598

LEGEND

EXISTING		PROPOSED
	IRON PIN/PIPE FOUND	
	IRON PIN SET	
	BENCHMARK	
	BOUNDARY LINE	
	RIGHT-OF-WAY LINE	
	EASEMENT LINE	
	BUILDING SETBACK LINE	
	ASPHALT PAVING	
	CONCRETE PAVING	
	SIDEWALK	
	CURB AND GUTTER LINE	
	EDGE OF PAVEMENT (EOP)	
	MAILBOX	
	SIGN	
	CHAIN LINK FENCE LINE	
	WIRE FENCE LINE	
	BOARD FENCE LINE	
	STORM SEWER LINE	
	DRAINAGE STRUCTURE	
	FLARED END SECTION (FES)	
	WATER MAIN	XX"W
	FIRE HYDRANT ASSEMBLY	
	GATE VALVE	
	BLOWOFF VALVE	
	SINGLE ¾" WATER METER	
	DOUBLE ¾" WATER METER	
	SEWER MAIN	XX"SS
	FORCE MAIN	XX"FM
	SEWER SERVICE LINE	
	SEWER MANHOLE	
	TELEPHONE (UNDERGROUND)	UGT
	TELEPHONE (OVERHEAD)	OHT
	FIBER OPTIC LINE	
	ELECTRIC (UNDER GROUND)	UGE
	ELECTRIC (OVERHEAD)	OHE
	ELECTRIC STUB	
	GAS LINE	GAS
	GAS METER	
	QUAD CROSSING	
	UTILITY POLE	
	STREET LIGHT(S)	
	RETAINING WALL	
	TO BE ABANDONED	
	BICK RACK	
	FLOODWAY	
	FLOOD PLAIN	

GENERAL SITE NOTES:

- DIMENSIONS ARE MEASURED FROM THE BACK OF CURB, THE FACE/CORNER OF THE BUILDING(S) OR THE CENTER OF STRIPE.
- LAYOUT OF SITE PLAN IS BASED ON AND LIMITED TO SURVEY INFORMATION.
- ALL CURB & GUTTER SHALL BE 24" WIDE PER DETAIL SHEET.
- ALL CURB RADII SHALL BE 4' UNLESS OTHERWISE SPECIFIED ON PLANS.
- ALL PAVEMENT MARKING SHALL BE APPLIED IN ACCORDANCE WITH THE REQUIREMENTS OUTLINED IN THE MOST CURRENT EDITION OF THE "MANUAL FOR TRAFFIC CONTROL DEVICES" (MUTCD).
- ALL SIGNS, TRAFFIC CONTROL DEVICES, ETC. SHALL FOLLOW THE GUIDELINES OF THE MUTCD.
- THE CONTRACTOR SHALL REFER TO THE ARCHITECTURAL DRAWINGS FOR BUILDING FLOOR PLANS AND DIMENSIONS, WALL SECTIONS, DOOR OPENINGS, BUILDING UTILITY ENTRANCE POINTS, ETC. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ARCHITECT AND ENGINEER IN THE EVENT THAT THE CIVIL SITE PLANS BUILDING LAYOUT DOES NOT MATCH THE ARCHITECTURAL DRAWINGS.
- ALL HANDICAP SPACES SHALL BE STRIPED / MARKED IN ACCORDANCE WITH THE HANDICAP STRIPING DETAIL.
- ALL PAVEMENT INDICATED SHALL BE STANDARD DUTY BITUMINOUS PAVEMENT UNLESS OTHERWISE NOTED ON PLAN. THE PAVEMENT SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE PAVEMENT SECTION DETAIL.
- CONSTRUCTION STAKING COORDINATES SHALL BE CALCULATED ACCORDING TO THE DIMENSIONS SHOWN ON THESE PLANS. THE CONTRACTOR SHALL VERIFY THE ACCURACY OF THE COORDINATES SHOWN ON THE PLANS AND NOTIFY THE ENGINEER OF ANY IRREGULARITIES BEFORE CONSTRUCTION STARTS.
- ALL PEDESTRIAN ACCESS RAMPS SHALL HAVE DETECTABLE TRUNCATED DOME PANELS PER A.D.A. AND CITY STANDARDS AND THE DETAIL SHEET.

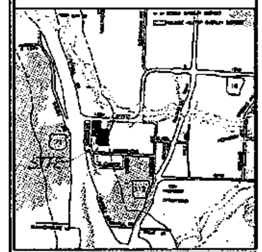
GENERAL NOTES:

ALL NEW UTILITIES SHALL BE PLACED UNDERGROUND. ALL EXISTING OVERHEAD UTILITIES BELOW 12kV SHALL BE RELOCATED UNDERGROUND. CONTRACTOR SHALL COORDINATE WITH THE APPROPRIATE UTILITY COMPANY.

SURVEY DESCRIPTION:

ALL OF LOTS 1, 2, 3 and 4, BLOCK 1 IN RED ARROW SUBDIVISION No. 2, AS SHOWN ON THE FINAL PLAT RECORDED IN PLAT BOOK 3 AT PAGE 423; ALSO PART OF LOTS 11, 12 AND 13 IN CORNELIUS SUBDIVISION, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK 1 AT PAGE 275, ALL BEING PART OF THE SE 1/4 OF THE SW 1/4 OF SECTION 20, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND IRON PIN AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE NORTH LINE OF SAID LOT 1 S87°16'37"E 150.27 FEET; THENCE DEPARTING SAID NORTH LINE S02°29'04"W 149.94 FEET TO A FOUND IRON PIN; THENCE S87°15'49"E 263.54 FEET; THENCE S02°39'36"W 467.31 FEET TO THE NORTHERLY LINE OF THE REPLAT OF A PART OF RED ARROW No. 2; THENCE WITH SAID NORTHERLY LINE N87°35'59"W 253.08 FEET TO THE SOUTHEAST CORNER OF LOT 7 OF SAID REPLAT OF A PART OF RED ARROW No. 2; THENCE N22°13'20"W 69.94 FEET TO A FOUND IRON PIN AT THE NORTHEAST OF SAID LOT 7; THENCE N02°29'40"E 178.50 FEET TO A FOUND IRON PIPE AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE N87°18'17"W 130.00 FEET TO A FOUND IRON PIN AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE N02°28'09"E 376.90 FEET TO THE POINT OF BEGINNING, CONTAINING 4.21 ACRES, MORE OR LESS, SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF RECORD OR FACT.



This drawing is "PRELIMINARY - NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below:

DATE

PROJECT DESIGN CONSULTANTS, INC.
PDC

4285 N. SHILOH DRIVE
SUITE 104
FAYETTEVILLE, AR 72703
Ph: 479.521.5405
Fx: 479.521.0919

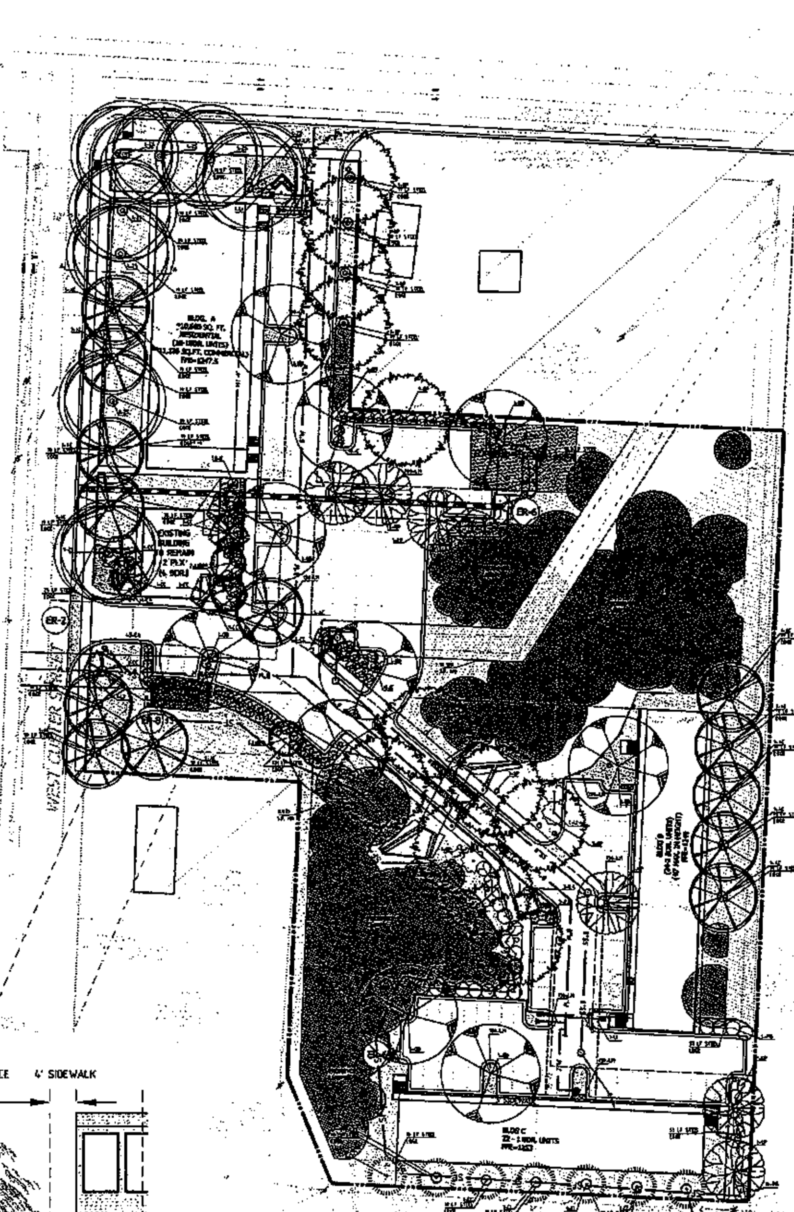
PROJECT Nº: 2005065	DRAWN BY: CRQ
CHECKED BY: ☐	SUBMITTAL DATE: 1/16/2007
DRAWING NAME:	5065-Design.dwg

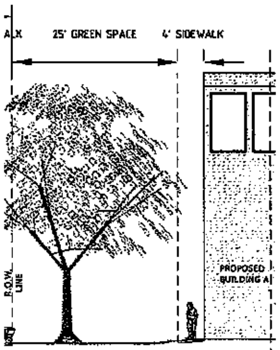
Nº	REVISIONS:	DATE:
-		BY:
		BY:
		BY:
		BY:
		BY:
		BY:

PROJECT:
PEBBLE CREEK FLATS
LSD
FAYETTEVILLE, AR

SHEET TITLE:
LARGE SCALE DEVELOPMENT PLAN

SHEET Nº:
3.0

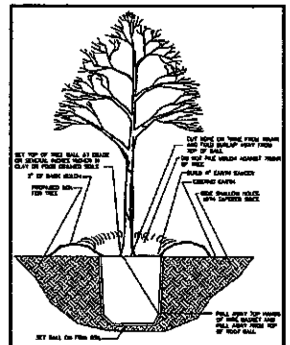


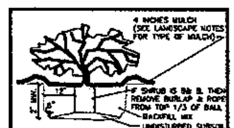


CROSSING SECTION A-A
SCALE 1" = 10'

N

GRAPHIC SCALE
(IN FEET)
1 INCH = 40 FEET


TREE PLANTING DETAIL (LS 2)
N.T.S.



SHRUB PLANTING DETAIL (LS 1)
N.T.S.

GENERAL LANDSCAPING NOTES:

- LANDSCAPE CONTRACTOR SHALL CONTACT ARKANSAS ONE CALL FOR UTILITY LOCATIONS PRIOR TO BEGINNING LANDSCAPE WORK.
- ALL LANDSCAPE BEDS TO HAVE WEED FABRIC INSTALLED PRIOR TO MULCHING .
- ALL LANDSCAPE BEDS ARE TO BE MULCHED WITH EITHER TANNED HARDWOOD BARK OR REDWOOD MULCH, WITH A THICKNESS OF 3" OVER ENTIRE BED.
- SOIL WITHIN LANDSCAPE BEDS IS TO BE AMENDED WITH EQUAL PARTS OF PERLITE (OR EQUITABLE SUBSTITUTE), PEAT MOSS AND CLEAN TOP SOIL. ALL LANDSCAPE BEDS ARE TO HAVE SOD REMOVED BEFORE INSTALLATION OF PLANT MATERIAL.
- IRRIGATION SYSTEM WILL BE DESIGN BY IRRIGATION CONTRACTOR AT A LATER DATE. (CONTRACTOR SHALL GUARANTEE FOR 2 YEARS).
- BEFORE PLANTING, CONTRACTOR TO CONTACT CITY OF FAYETTEVILLE'S LANDSCAPE ADMINISTRATOR TO VERIFY TREE PRESERVATION COMPLIANCE.
- GRASS AREAS SHALL BE SODDED WITH ZOYSIA GRASS MANUFACTURER'S INSTRUCTIONS. WITH A MIXTURE OF 70% ZOYSIA AND 30% BLUEGRASS AT A RATE OF 204LBS/1000 S.F.
- IF GRASSED AREA IS HYDROSEEDED, A MULCH EMULSIFIER SHALL BE ADDED (NOT CONTAINING ASPHALT) AND APPLIED PER MANUFACTURER'S INSTRUCTIONS.
- EACH BUILDING SHALL HAVE AN IRRIGATION HOSE BIBB LOCATED EVERY 100 FEET FROM EACH OTHER FOR PLANT IRRIGATION. CONTRACTOR SHALL COORDINATE WITH THE ARCHITECT FOR LOCATION.
- REQUIRED LANDSCAPING SHELL BE INSTALLED PRIOR TO THE ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY.

LEGEND

EXISTING / PROPOSED

IRON PIN/PIPE FOUND
IRON PIN SET
BENCHMARK
BOUNDARY LINE
RIGHT-OF-WAY LINE
EASEMENT LINE
BUILDING SETBACK LINE
ASPHALT PAVING
CONCRETE PAVING
SIDEWALK
CURB AND GUTTER LINE
EDGE OF PAVEMENT (EOP)
MAILBOX
SIGN
CHAIN LINK FENCE LINE
WIRE FENCE LINE
DECORATIVE FENCE
STORM SEWER LINE
DRAINAGE STRUCTURES
FLARED END SECTION (FES)
WATER MAIN
FIRE HYDRANT ASSEMBLY
GATE VALVE
BLOWOFF VALVE
SINGLE ¾" WATER METER
DOUBLE ¾" WATER METER
SEWER MAIN
FORCE MAIN
SEWER SERVICE LINE
SEWER MANHOLE
TELEPHONE (UNDERGROUND)
TELEPHONE (OVERHEAD)
FIBER OPTIC LINE
ELECTRIC (UNDER GROUND)
ELECTRIC (OVERHEAD)
ELECTRIC STUB
GAS LINE
GAS METER
QUAD CROSSING
UTILITY POLE
STREET LIGHT(S)

LANDSCAPE PLANTING LEGEND

SYMBOL	KEY	QTY	BOTANICAL/COMMON NAME	COMMENTS
	GB	8	GINKGO BILOBA GINKGO	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	ZS	8	ZELKOVA SERRATA JAPANESE ZELKOVA	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	AC	11	ACER CAMPESTRE HEDGE MAPLE	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	KP	4	KOELREUTERIA PANICULATA GOLDEN RAIN TREE	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	QP	13	QUERCUS PHELLOS WILLOW OAK	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	CC	4	CERCIS CANADENSIS EASTERN REDBUD	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	LIBPP	2	LAGERSTROEMIA INDICA "BASHAM'S PARTY PINK" CRAPE MYRTLE	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	LI	9	LAGERSTROEMIA INDICA CRAPE MYRTLE	3 GALLON 24"-30" HT.
	PG	47	PHOTINIA GLABRA JAPANESE PHOTINIA	3 GALLON 24"-30" HT.
	CL	7	CUPRESSOCYPARIS LEYLANDII LEYLAND CYPRESS	BALLED & BURLAPPED 2" CALIPER LIMBED 6ft FROM GROUND
	IC	[illegible]	ILEX CRENATA "HELLERI" JAPANESE HOLLY	3 GALLON 24"-30" HT.
	AG	[illegible]	ABELIA GRANDIFLORA GLOSSY ABELIA	3 GALLON 24"-30" HT.
	LM	[illegible]	LIRIOPE MUSCARI "VARIEGATA" LIRIOPE	GROUNDCOVER
	HH	24,317 S.F.	HEDERA HELIX ENGLISH IVY	GROUNDCOVER
		[illegible] S.F.	GRASSED AREA	

CERTIFICATE OF AUTHORIZATION PROJECT DESIGN CONSULTANTS, INC. #741 ARKANSAS · ENGINEER

This drawing is "PRELIMINARY - NOT FOR CONSTRUCTION" until above seal holder acknowledges the Cancellation of this disclaimer below:

Amy Scott, ASLA

DATE

PROJECT DESIGN CONSULTANTS, INC.
PDC

4285 N. SHILOH DRIVE
SUITE 104
FAYETTEVILLE, AR 72703
PHONE: (479) 521-5405
FAX: (479) 521-0919

PROJECT Nº: 2005065	DRAWN BY: NEDKOV
CHECKED BY: ☐	SUBMITTAL DATE: 1/16/2007
DRAWING NAME:	TP&LSP.dwg

Nº	REVISIONS:	DATE:
		BY:
		BY:
		BY:
		BY:
		BY:
		BY:

PROJECT:
PEBBLE CREEK FLATS LSD
FAYETTEVILLE, AR

SHEET TITLE:
LANDSCAPE PLAN
-

SHEET Nº:
5.2

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

6-Feb-07
City Council Meeting Date

Tim Conklin	Long Range Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 06-2399: (West Side Annexation C-1): Submitted by the City of Fayetteville for property located at the southeast and southwest corners of Hwy. 16 and Harmon Road. The property is zoned R-A, Residential Agricultural, and contains approximately 3.93 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a $ -	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 1-19-07 Date

City Attorney 1-22-07

Paul A. Becker
Finance and Internal Service Director 1-22-07 Date

Mayor 1/22/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 1-19-07

Received in Mayor's Office
ENTERED 1/22/07

Comments:

Left on the second reading 2/6/07

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2399, FOR APPROXIMATELY 3.93 ACRES, LOCATED AT THE SOUTHWEST AND SOUTHEAST CORNERS OF HWY. 16 AND HARMON ROAD FROM R-A, RESIDENTIAL AGRICULTURAL, TO C-1, NEIGHBORHOOD COMMERCIAL.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

> From R-A, Residential Agricultural to C-1, Neighborhood Commercial, as shown on Exhibit "A" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this day of , 2007.

APPROVED: ATTEST:

By: ____________________________ By: ____________________________

DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director T.C.

From: Karen Minkel, Senior Long Range Planner K.M.

Date: January 10, 2007

Subject: Rezoning for West Side Annexation C-1 (RZN 06-2399)

RECOMMENDATION

The Planning Commission recommended in favor of rezoning the subject property from R-A, Residential Agricultural to C-1, Neighborhood Commercial, on approximately 3.93 acres located located at the southeast and southwest corners of Hwy. 16 and Harmon Road.

BACKGROUND

The subject property contains approximately 3.93 acres and is located at the southeast and southwest corners of Hwy. 16 and Harmon Road. The property is part of two developments that were approved by Washington County prior to annexation. Westridge subdivision surrounds the property on the southeast corner and has had final plat approval. The City expects 46 single-family detached homes to be built in this development. Somerset subdivision surrounds the property on the southwest corner and has had preliminary plat approval. Washington County approved 87 lots. These developments, combined with the existing residential developments in this area, suggested the need for limited commercial development that would serve nearby neighborhoods. The property to the north of the proposed commercial rezoning is undeveloped and agricultural/rural residential.

The Future Land Use Plan shows the subject property as Residential Neighborhood, which is described as "almost exclusively residential in nature...but encourages traditional neighborhood development that incorporates low-intensity non-residential uses." C-1 permitted uses are "designed to provide convenience goods and personal services for persons living in the surrounding residential areas." These statements make the proposed zoning consistent with the Future Land Use Plan.

DISCUSSION

This item was heard at the regular Planning Commission meeting on January 8, 2007. The Planning Commission voted 9-0-0 to recommend approval of this rezoning request to the City Council.

BUDGET IMPACT

None.

EXHIBIT A
RZN 06-2399 West Side Annexation C-1
January 8, 2007

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

6-Feb-07
City Council Meeting Date

Tim Conklin T.C.	Long Range Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 06-2399: (West Side Annexation RSF-4): Submitted by the City of Fayetteville for property located at the southeast corner of Harmon Road and Hwy. 16. The property is zoned R-A, Residential Agricultural, and contains approximately 17.63 acres. The request is to rezone the subject property to RSF-4, Residential Single Family-4 units/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 1-19-07 Date

City Attorney 1-22-07

Paul A. Becker
Finance and Internal Service Director 1-22-07 Date

Mayor 1/24/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 1-19-07

Received in Mayor's Office
ENTERED 1/22/07

Comments:

Left on second reading 2/6/07

City Council Meeting of February 6, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director T.C.

From: Karen Minkel, Senior Long Range Planner K.M.

Date: January 10, 2007

Subject: Rezoning for West Side Annexation RSF-4 (RZN 06-2399)

RECOMMENDATION

Planning staff recommends in favor of rezoning the subject property from R-A, Residential Agricultural to RSF-4, Residential Single Family-4 units/acre, on approximately 17.63 acres located at the southeast corner of Harmon Road and Hwy. 16.

The Planning Commission recommended maintaining the current zoning R-A, Residential Agricultural.

BACKGROUND

The subject property contains approximately 17.63 acres and is located at the southeast corner of Hwy. 16 and Harmon Road. Westridge Subdivision, which received final plat approval on July 6, 2006 from the Washington County Planning Board, has an overall density of 2.7 units/acre, and homes are currently under construction. The surrounding properties to the south are residential, and the surrounding properties to the east, west and north are undeveloped and agricultural/rural residential.

Originally, Planning staff recommended rezoning an additional 37.69 acres located at the southwest corner of Harmon Road and Hwy. 16. Somerset Subdivision received preliminary plat approval prior to annexation on April 6, 2006 from the Washington County Planning Board. The overall density reflected in the preliminary plat is 2.3 units/acre. However, the original developer is no longer planning to develop this project, which means that a new owner may want to change the density and design; staff proposes to request a rezoning for this property if and when an approved subdivision receives final plat approval.

The Future Land Use Plan shows these areas as Rural, which is described as "lands in an open or cultivated state or sparsely settled." The RSF-4 designation is inconsistent with the Future Land Use Plan. The intent of the proposed zoning, however, is to honor the development that has been approved by Washington County prior to annexation and is under construction in order to make the approved development conforming. Rezoning this property will not encourage the rezoning of adjacent properties.

DISCUSSION

This item was heard at the regular Planning Commission on January 8, 2007. Commissioner Clark made a motion to forward the overall rezoning of the newly annexed area with the removal of the 55.33 acres proposed as RSF-4, which was seconded by Commissioner Ostner. The Planning Commission voted 9-0-0 to approve the rezoning with the removal of the 55.33 acres because: 1) the density was not compatible with the surrounding properties; and 2) allowing a greater density than what was shown on the plats could result in an overall density greater than 2.3 units/acre. The second point in the Commission's reasoning would not apply to Westridge Subdivision, which has already had final plat approval.

City Attorney Kit Williams stated that the Planning Division could issue building permits based on the preliminary and final plats, and "if the owner wishes to have his land rezoned…he can be like any other citizen and petition to have the land rezoned." These individual requests would apply to potentially 46 residents in the Westridge Subdivision. Staff recommends the rezoning of the 17.63 acres so that these lots conform to the zoning district.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2399, FOR APPROXIMATELY 17.63 ACRES, LOCATED AT THE SOUTHEAST CORNER OF HWY. 16 AND HARMON ROAD FROM R-A, RESIDENTIAL AGRICULTURAL, TO RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

> From R-A, Residential Agricultural, to RSF-4, Residential Single Family, 4 units per acre, as shown on Exhibit "A" attached hereto and made a part hereof.

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

PASSED and **APPROVED** this day of , 2007.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

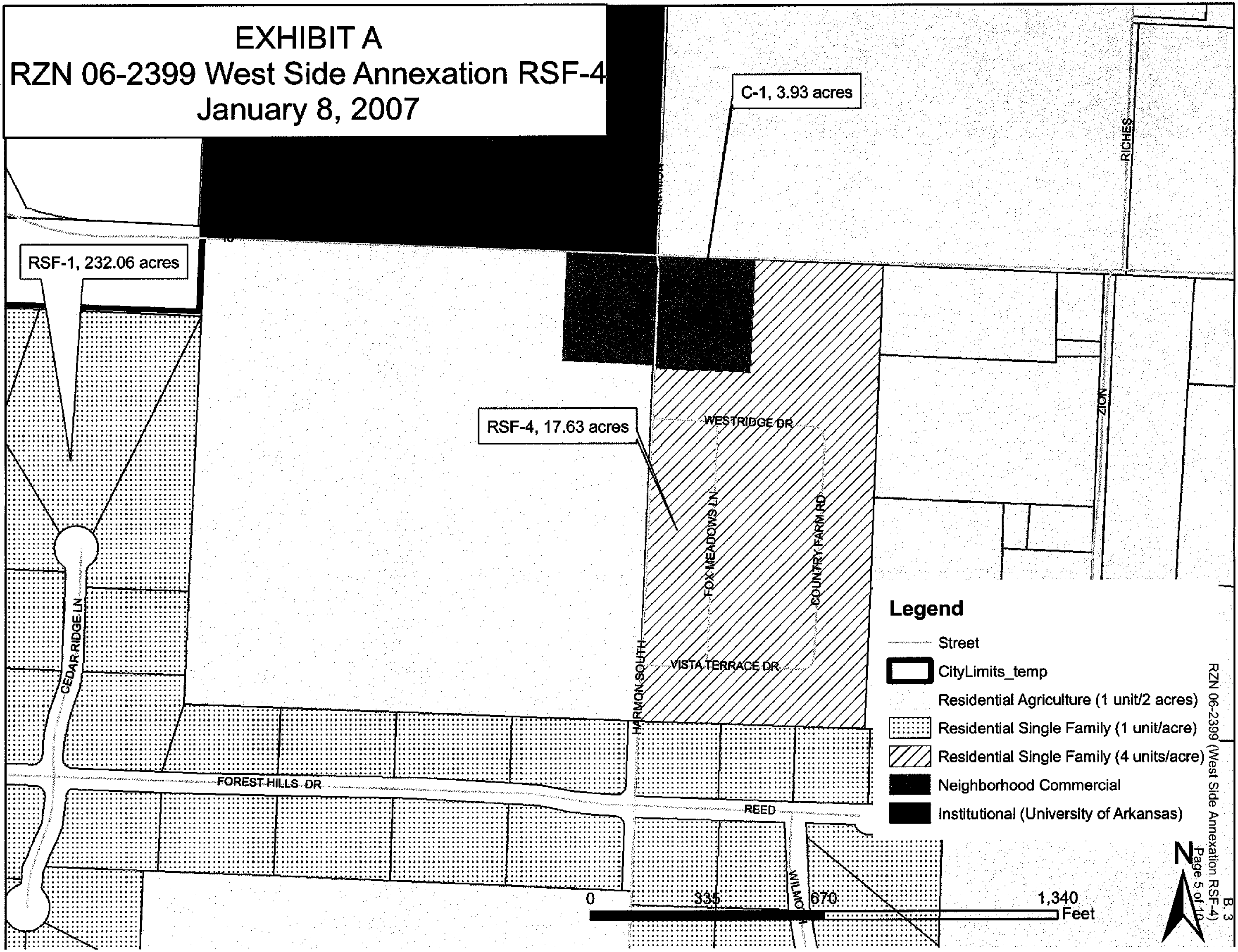


EXHIBIT A
RZN 06-2399 West Side Annexation RSF-4
January 8, 2007
C-1, 3.93 acres
RSF-1, 232.06 acres
RSF-4, 17.63 acres
RICHES
ZION
WESTRIDGE DR
FOX MEADOWS LN
COUNTRY FARM RD
VISTA TERRACE DR
HARMON SOUTH
CEDAR RIDGE LN
FOREST HILLS DR
REED
WILMOTH
Legend
Street
CityLimits_temp
Residential Agriculture (1 unit/2 acres)
Residential Single Family (1 unit/acre)
Residential Single Family (4 units/acre)
Neighborhood Commercial
Institutional (University of Arkansas)
0
335
670
1,340
Feet
N

Annexation RSF-4.

January 6, 2007

To: Fayetteville Planning Commission

Concerning: RZN 06-2399

We, the residents of Forest Hills subdivision and adjoining areas, object to the rezoning (from R-A to RSF-4) that portion of the 55.33-acre parcel of land bounded by Highway 16 and Harmon Road South and property owners in Forest Hills subdivision.

We feel strongly that it should be zoned as Residential Single Family (RSF-1) or remain as Residential Agriculture (R-A), for the following reasons:

1. The RSF-4 designation does not fit with the majority of the adjacent zoning. Though now residents of Fayetteville, we consider our community to be "country." We bought and developed our places with this in mind, and we want the adjoining areas to be similar.

2. The rezoning would appear to violate the general Fayetteville planning policy (which we applaud), of keeping high density housing concentrated toward the center of the city. Approving this proposal would set a precedent that would violate the integrity of the general policies used in development of the 2025 plan. We recognize that there is a small, existing, partially-built Westridge subdivision, that must now be rezoned to RSF-4. In retrospect, we hope that the city's position would not have been to approve that zoning. Although that can not be corrected, we see no justification in adding the additional acres with the RSF-4 designation.

3. The rezoning and concomitant house construction of four houses per acre would eventually lead to adding of hundreds of automobiles to the already heavy traffic on Highway 16. For those who drive that road regularly, we know that will mean additional delays and accidents.

4. Without a city sewer system hookup available, the RSF-4 designation implies a private sewage system that requires a large drainage field. We are not convinced those systems are fully effective nor safe from the standpoint of drainage of pollutants into down-stream underground water systems.

Thank you for hearing our plea and giving full consideration to our request.

Kim + Susan Bray 13271 Forest Hills Drive, Fayetteville
Ricky + Schelly Cochran 14891 Cedar Ridge Ln FYV 251-1204
Chad + Leslie Fett 14954 Timber Ridge Rd. Fay, AR. 571-4910
Jeanette Edge 14959 Timber Ridge Rd Fay AR 72704
Kevin & Terri Stope 14831 Timber Ridge Rd. Fay AR 72704
Shelby & Lori Gardner 14889 Timber Ridge Rd. Fay AR 72704
Barry McNeill 13546 Forest Hills " " "
Dave + Debbie [illegible] 14725 Cedar Ridge Rd. " 72704
Gene + Sue Ann Fulcher 13230 Forest Hills 571-8015
Rachel Fulcher 13230 Forest Hills " " "
Patrick Ali 13189 Reed Rd, Fayetteville AR 582-3384
[illegible] Ali 13189 Reed Rd Fayetteville AR 582-3384
[illegible] Miller + Ashley 13173 Reed Rd Fayetteville 2008168
Nikifor Panov 14711 Wilmoth Rd Fayetteville AR 72704 4792832728
Larry D. Gibson 14690 Wilmoth Rd Fayetteville 72704 479 267-1235
Kathy Gilson 14690 Wilmoth Rd. Fayetteville 72704 479-267-1235
Donald Hudson 14714 Wilmoth Rd Fayetteville 72704 479-841-3914
[illegible] 14693 Wilmoth Rd Fayetteville 72704 479-873-0128
[illegible] 14675 Wilmoth Rd Fayetteville 72704
June Brosius 14668 Wilmoth Rd. Fayetteville 72704
Jim + Shana Scott 14639 Wilmoth Rd. Fayetteville 72704 267-2950
Bill Waltz 14646 Wilmoth Fayetteville 72704 2675868
Kelli Clemens 14693 S. Harmon Rd Fayetteville 72704 4099578
Ben Clemens 14693 S. Harmon Rd Fayetteville 72704 409 9578
Jeremy & Janelle Doss 13239 Edwards Ln Fayetteville AR 72704 571-13
James + Tammy Shipley 13395 Edwards Ln Fayetteville AR 72704 442-7995
Robert Lea 13349 Edwards Lane Fay 72704 442-0437
[illegible] Lea 13349 Edwards Lane Fayetteville, AR 72704 442-0437
Chris & Melissa Clark 14598 Harmon Rd S Fayetteville AR 72704 443-6640
Alvin Watson 14500 Harmon Rd South 479-521-5606
Bobby Wilson 14496 Harmon Rd South 479-521-5395
Dawn Wilson 14496 Harmon Rd South 479-521-5395
Dan Copeland 14474 Harmon Rd South 479-422-8600
Sandra Copeland 14474 Harmon Rd. South 479-530-3916
Andrea Partain 14375 Harmon Rd South 479-575-0680
Virginia Ann Burnett 14242 Harmon Rd South 479 5829189
Barry P. Smith 14218 Harmon Rd. South 479 575-0187
Lisa [illegible] Dean 13360 Forest Hills Dr. 479-582-7958

Meg S. Rogers 13751 Forest Hills Drive Fayetteville
Ron G. Rogers 13751 FOREST HILLS DR. FAY
Maria Altmann 13722 FOREST HILLS FAYETTEVILLE
Aldwin L. Cross 13722 FORREST HILLS FAYETTEVILLE
[illegible] P. 13668 Forest Hills Fayetteville
[illegible] 13704 FOREST HILLS DR. FAYETTEVILLE AR
Peggy L Varel 13704 Forest Hills Dr Fayetteville
Colleen Gann 13752 Forrest Hills Dr Fayetteville
Lynn Gann 13752 FOREST HILLS DR FAYETTEVILLE
Glynn Jardin 13759 Forest Hills Dr
[illegible] 13759 Forest Hills Dr. Fayetteville

Calvin + Doris Bey, 13361 Forest Hills Dr. Fayetteville
Jerry & Diane Owens 13791 Forest Hills Dr Fayetteville
BRADY & Amy MEADORS 14904 Timber Ridge RD FAYETTEVILLE
Janet & Jimmy Smyth 14898 Cedar Ridge Ln. Fayetteville
Larry & Helen Balding 13316 Forest Hills Dr F'ville
Eugene & Edith Patton 13194 Reed Rd F'ville
Barbara & Randall Lewis 13136 Reed Rd Fayetteville AR
Jim Ball 13105 Reed Rd Fayetteville
Delois Daugh 13116 Reed Road Fayetteville
Kermit Daugh 13116 Reed Road Fayetteville
Anna T Heath 13317 Forest Hills Faye.
Jack Messer 14697 Cedar Ridge Lane Fayetteville 72704
Mark & Amy Kersey 13498 Forest Hills Dr Fayetteville 72704
Leslie & Kristi Hassell 14724 Forest Hills Dr Fayetteville AR 72704
* Donna Kisling 14925 TIMBER RIDGE RD, FAYETTEVILLE, AR 72704
Jessica Leicher 14650 Walnut Ridge Rd. Fayetteville, AR. 72704
Regina S. Bollinger 13620 Forest Hills Dr. Fayetteville, AR 72704
[illegible] 13272 Forest Hills Dr Fayetteville, AR 72704
Mark & Kathy Baker 14726 CEDAR RIDGE LN FAYETTEVILLE AR 72704
Karl + Jennifer Welsch 13646 Forest Hills Dr. Fayetteville AR 72704
Dennis & Missy Hilson 13648 FOREST HILLS DRIVE Fayetteville, AR 72704
Dan + Andrea Charles 13229 Forest Hills Drive Fayetteville AR 72704
* Paul Tyson 14662 Walnut Ridge Ln, Fayetteville AR 72704
[illegible] Tyson 14662 Walnut Ridge . Fayetteville Ar 72704
Montie D. Bailey 14856 Cedar Ridge Lane Fayetteville AR 72704
Nancy L. Bailey 14856 Cedar Ridge Lane Fayetteville Arkansas 72704

AGENDA REQUEST

FOR: COUNCIL MEETING OF FEBRUARY 6, 2007

FROM:
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve An Agreement With AT&T Arkansas To Allow It To Offer Internet Protocol/Cable TV Type Service In Fayetteville

APPROVED FOR AGENDA:

Public Information and Policy Advisor	1/19/07 Date
City Attorney	1/19/07 Date
Mayor	1/19/07 Date

Tabled to Feb. 20, 2007 CC mtg 2/6/07

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor
City Council
Susan Thomas, Public Information & Policy Advisor

FROM: **Kit Williams**, City Attorney

DATE: **January 19, 2007**

RE: **Proposed Agreement with AT&T Arkansas to provide Internet Protocol/Cable Television type service in Fayetteville**

The Fayetteville Telecom Board held a hearing about the proposed Agreement with AT&T Arkansas on January 18, 2007. The Internet Protocol services to be offered by AT&T Arkansas were explained by representatives from AT&T and citizens were allowed to present their opinions and questions about the proposal.

I also attended (after leaving the Ordinance Review Committee meeting on Public Art) and explained that this proposed Agreement was an interim agreement because the law concerning the power of cities in Arkansas to regulate the type of services to be offered by AT&T Arkansas to our citizens was unsettled both at the state and federal levels. I have tried to formulate this interim agreement so that AT&T Arkansas would have to match (approximately) the basic terms of our agreement with Cox Communications. The Telecom Board unanimously gave their general approval to this proposed agreement.

AT&T Arkansas would pay the same 5% franchise fee (although it might not cover all the components Cox Communications is paying the 5% fee on). AT&T Arkansas would also carry the Public, Educational and Government Channels on its basic package (lowest tier). AT&T Arkansas would also be required to pay for the new equipment our PEG station would need to convert our programs to run on an Internet Protocol cable.

If the law becomes clearer in the future, which removes, alters, or enhances the City's power of regulation over internet protocol services, this interim agreement would be modified after further negotiation between the parties.

To avoid the necessity for litigation and to bring further competition into the cable/satellite television market in Fayetteville, I join with the Telecom Board in recommending that the City Council approve this agreement.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **City Council**

CC: **Telecom Board**

FROM: **Kit Williams**, City Attorney

DATE: **February 7, 2007**

RE: **Proposed AT&T Arkansas contract**

Attached is the final proposed Agreement accepted by AT&T Arkansas. This contract differs from the one submitted to the Telecom Board in a few sections:

(1) Paragraph 3. Compensation to Fayetteville.

In order to make this more comparable to the City's agreement with Cox Communications, I enlarged the definition of "gross revenues" to include "pay-per-view fees, equipment rental, installation and repair fees ..." I also included the language that "the 5% fee paid to Fayetteville by AT&T Arkansas is applicable to the same gross revenue items as presently required of the current cable television provider for all subscriber paid services ...." This 5% fee is payable to Fayetteville "quarterly by the twenty-first day of the first month of the subsequent quarter." I believe these additional terms create a more level playing field for Cox and AT&T Arkansas.

(2) Paragraph 4. Public Education and Government Programming.

In response to concerns of the Telecom Board and others, I added: "AT&T Arkansas will carry this PEG content on its video platform in its basic (lowest tier package) ...."

I cannot recommend, nor will I include within the proposal unless so instructed by the City Council, a provision to charge AT&T Arkansas more (1% of gross revenues for the PEG channels) than is charged to Cox. The City Council long ago determined that the franchise fees generated by Cox should not be designated for nor paid directly to the PEG channel operation, but should be paid into the City's General Fund to be appropriated by the City Council for all City needs. These funds are not generated by the PEG channels, but are derived from the use of the City's streets and rights of way by Cox (or now by AT&T Arkansas). Therefore, I will follow the City Council's established policy and not designate any part of the fee on gross revenue for PEG.

Requests for free INET services or other extra benefits are premature for this contract. In four years, I hope Fayetteville has at least two viable, healthy competitors in this market. At that point, we will be in a much better position to offer incentives (such as a longer contract) for providers in exchange for additional services for the City.

That will also be the time to look at and address coverage and availability issues (if any). This contract will give AT&T Arkansas enough time to expand its system and demonstrate to the City that it will **voluntarily** provide the wide and equitable accessibility for our citizens that our City Council desires. If we find problems with fair accessibility after this initial four year expansion, the City will be in a better and more informed position to require improvements.

CONCLUSION

I recommend we agree to the terms presented by AT&T Arkansas in the attached contract. Competition is surely healthy and will likely lower costs and improve services and choices for our citizens. Our more detailed and lengthy contract with Cox was negotiated when the City had clear franchising rights with which a TV cable company had to comply. It was also negotiated not when the cable company was first entering Fayetteville's market, but after it had been here for years and had an established system and customer base.

The voluntary agreement offered by AT&T Arkansas satisfies the basic needs of Fayetteville, ensures a fairly level playing field for both Cox and AT&T Arkansas, and fosters healthy competition for our citizens' cable options. I recommend its approval.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE AN AGREEMENT WITH AT&T ARKANSAS TO ALLOW IT TO OFFER INTERNET PROTOCOL/CABLE TV TYPE SERVICE IN FAYETTEVILLE

WHEREAS, AT&T Arkansas wishes to use City of Fayetteville rights-of-way to provide Internet Protocol enabled broadband voice, data, and video (TV) services to Fayetteville residents; and

WHEREAS, the law regulating such services is unclear and still evolving; and

WHEREAS, it is in the best interests of the citizens of Fayetteville to provide "legal means for AT&T Arkansas to provide cable TV type competition into our market under similar conditions existing for Cox Cable.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Agreement with AT&T Arkansas allowing it to use the City's rights-of-way to furnish its internet protocol cable television type services for the same 5% franchise fee paid by Cox Cable and with the same requirement to carry the Public, Educational and Government channels on its lowest tier, basic cable package and authorizes Mayor Coody to sign this Agreement attached to this Resolution as Exhibit A.

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: ______________________
DAN COODY, Mayor

By: ______________________
SONDRA SMITH, City Clerk

AGREEMENT

THIS AGREEMENT ("Agreement") dated this 20th day of February, 2007 ("Effective Date") is made by and between Southwestern Bell Telephone, L.P., a Texas limited partnership doing business as AT&T Arkansas ("AT&T Arkansas") and the City of Fayetteville, Arkansas, a municipal corporation ("Fayetteville"). AT&T Arkansas and Fayetteville shall sometimes be referred to separately as a "Party," and collectively as the "Parties."

RECITALS

A. As a telecommunications provider, AT&T Arkansas has statewide authority under Ark. Code Ann. §23-17-101 to construct, operate and maintain its telecommunications facilities in the public rights of way ("ROW") throughout the state of Arkansas.

B. Under Ark. Code Ann. §14-200-101, Fayetteville is permitted to impose reasonable terms and conditions on AT&T Arkansas' use and occupation of the Fayetteville's ROW and to collect a reasonable franchise fee for such use and occupation of its ROW.

C. AT&T Arkansas is in the process of upgrading its existing telecommunications network to provide an integrated Internet Protocol ("IP") enabled broadband platform of voice, data and video services ("IP Network"), the video component of which is a switched, two-way, point-to-point and interactive service ("IP-enabled Video Service"). The IP Network upgrade will involve the use of Fayetteville's ROW.

D. AT&T Arkansas believes that Ark. Code Ann. §23-17-101 covers the construction, operation and maintenance of the IP Network, and that AT&T Arkansas is not required to obtain a separate franchise or other authorization from Fayetteville to offer IP-enabled services including IP-enabled Video Services within Fayetteville over the IP Network.

E. AT&T Arkansas further believes that Fayetteville's right to regulate the construction of the IP Network in Fayetteville's ROW is limited to the right to impose reasonable conditions regarding the time, place, and manner of AT&T Arkansas' use and occupation of Fayetteville's ROW.

F. Fayetteville believes that the provision of IP-enabled Video Services by AT&T Arkansas is beyond the scope of Ark. Code Ann. §23-17-101 and is subject to Fayetteville's cable television franchising authority.

G. Both AT&T Arkansas and the City of Fayetteville agree that the deployment of the IP Network and the provision of IP-enabled Video Services should not be delayed by litigation to establish the scope of Ark. Code Ann. §23-17-101 or the application of Fayetteville's franchise ordinance to IP-enabled Video Services.

H. Fayetteville and AT&T Arkansas further agree that litigation to resolve this issue would be complex and protracted, and that it is in the best interests of both Parties and the residents of Fayetteville to reach a compromise of each other's positions and claims.

NOW, THEREFORE, in consideration of and reliance upon the respective representations, promises, concessions, terms and conditions contained herein, Fayetteville and AT&T Arkansas agree as follows:

1. Term. The term of this Agreement shall commence on the Effective Date of this Agreement and continue through the end of 2011. The term may be extended upon mutual agreement of the Parties.

2. Change of Law. AT&T Arkansas and the City of Fayetteville agree to consult in the event that after the Effective Date, any court, agency, commission, legislative body, or other authority of competent jurisdiction issues a finding that limits the validity or enforceability of this Agreement, in whole or in part. Should the finding be final, non-appealable and binding upon either Fayetteville or AT&T, this Agreement shall be deemed modified or limited to the extent necessary to address the subject of the finding unless either party, within thirty (30) days of receipt of the ruling, provides written notice to the other party of election to terminate, in which case this Agreement shall terminate within six (6) months or such earlier period as the parties mutually may agree. Where the effect of a finding is a modification, the parties shall enter into good faith negotiations to modify this Agreement in the manner which best effectuates its overall purposes and the intentions of the parties. Failure to reach a mutually satisfactory modification within ninety (90) days of the commencement of such efforts shall entitle either party to terminate the Agreement on the provision of thirty (30) days' written notice.

3. Compensation to Fayetteville. During the term of this Agreement, AT&T Arkansas shall pay to Fayetteville a fee of 5% of the gross revenues from subscription fees, pay-per-view fees and equipment rental, installation and repair fees collected from each subscriber to AT&T Arkansas' IP-enabled Video Services product delivered over the IP Network in Fayetteville's rights of way. It is understood by the parties that the 5% fee paid to Fayetteville by AT&T Arkansas is applicable to the same gross revenue items as presently required of the current cable television provider for all subscriber paid services and no others until and unless the FCC or a Court determines the fee should apply to more or fewer items. The fee does not apply to non-video revenues or the non-video revenues of a bundled product containing video and non-video offerings. The fee will be forwarded to Fayetteville quarterly by the twenty-first day of the first month of the subsequent quarter. Upon request, AT&T Arkansas shall make their records available to Fayetteville to demonstrate compliance with this paragraph for a period of three (3) years preceding the request.

4. Public, Educational and Governmental Programming.

(a) AT&T Arkansas shall provide some form of access for Fayetteville's noncommercial, public, education and governmental ("PEG") programming through AT&T Arkansas' IP-enabled Video Services.

(b) AT&T Arkansas shall not be responsible for content of PEG programming.

(c) As soon as practicable, AT&T shall provide written notice that it has the technical capability to provide IP based access for Fayetteville's PEG channel (in use on the Execution Date of this Agreement) over the platform AT&T wishes to use with this agreement. If technological feasibility requires a change in the current Fayetteville technology, Fayetteville may be required to support a change in or addition to current Fayetteville technology now in use for PEG programming to make it compatible with AT&T Arkansas' IP enabled video technology.

(d) AT&T Arkansas will provide Fayetteville capacity on its platform to carry the same number of PEG channels that Fayetteville currently has activated as of the effective date of this Agreement. PEG content will be made available by Fayetteville placing its content on the public Internet. AT&T Arkansas will carry this PEG content on its video platform in its basic (lowest tier package) using its standard Internet-sourced PEG solution. AT&T will provide Fayetteville a one-time up front capital grant to cover the initial set up costs incurred by Fayetteville to make this content available on the Internet. Should AT&T seek to improve its transmission method in a fashion that will substantially affect the integrity of the Internet sourced PEG solution (compatibility), AT&T accepts the responsibility for necessary costs of capital improvements that might be needed by Fayetteville.

(e) PEG programming will be available via Internet for AT&T Arkansas' IP Video subscribers to view both on the TV and computer. PEG programming will be available via the Internet from the end user's computer for AT&T HomeZone subscribers who also have High Speed Internet Access.

5. Emergency Message. AT&T Arkansas shall carry all Federal, State and Local alerts provided over the Federal Emergency Alert System through AT&T's IP-enabled Video Services in the event of a public safety emergency, which at a minimum will include the concurrent rebroadcast of local broadcast channels.

6. Customer Service. AT&T Arkansas will offer IP-enabled Video Services and provide customer service consistent with the requirements of 47 C.F.R. Section 76.309(c). AT&T Arkansas will respond to complaints and outages in a diligent fashion.

(a) AT&T Arkansas shall give subscribers in Fayetteville thirty (30) days notice of any rate increases, channel lineup changes, or other substantive service changes.

(b) AT&T Arkansas shall restore any pavements, sidewalks, driveways that are disturbed during the installation, improvement or extension of IP-enabled Video services to a standard that is both commercially reasonable and in compliance with the ordinances of Fayetteville.

(c) AT&T Arkansas shall not refuse to render IP-enabled Video Services based solely upon the income or minority status of any resident or group of residents.

7. Service area. This Agreement shall apply to AT&T's service area within the municipal boundaries of Fayetteville as they exist upon the date of execution of this agreement and may hereafter be extended. AT&T shall make video programming available, subject to technology or other economic feasibility, to all residential units within the service area, by use of IP-based video technology or other alternative video programming technology.

(a) On December 31, 2007 and the same date in every year thereafter, AT&T Arkansas shall tender an annual report indicating the status of its video programming service. The report shall: (i) indicate the number of subscribers; and (ii) the technology being used to provide such video programming.

(b) AT&T Arkansas shall be considered to have breached this agreement if AT&T Arkansas fails to diligently offer video programming throughout Fayetteville, unless: (i) delay is attributable to Force Majeure; (ii) delay is attributable to Fayetteville; (iii) delay is attributable to AT&T Arkansas' inability to obtain needed private easements: (iv) delay is attributable to special technical requirements; or (v) delay is justified by reasonable commercial standards of construction.

8. Obligations of Fayetteville. During the term of this Agreement Fayetteville will not attempt to nor subject the provision of AT&T Arkansas' IP-enabled Video Services over the IP Network to regulation under any cable television franchise ordinance or similar ordinance. In addition:

(a) Fayetteville agrees to subject the construction and installation of the IP Network to the same process and review as it subjects the installation and construction of AT&T Arkansas' existing telecommunications infrastructure.

(b) Fayetteville agrees not to unreasonably block, restrict, or limit the construction and installation of the IP Network.

(c) Fayetteville agrees to process any and all applicable permits for the installation, construction, maintenance, repair, removal, and other activities associated with the IP Network in a timely and prompt manner.

9. Jurisdiction and Venue. This contract shall be construed pursuant to the laws of Arkansas. Jurisdiction and venue shall be in Washington County, Arkansas.

10. Breach of Agreement. Should either party claim that a breach of any part of this Agreement has occurred, that party will provide prompt written notice to the other, specifying the nature of the breach; and upon receipt the other party shall cure such breach within 60 days.

11. Mediation Recommended. Both AT&T Arkansas and the City of Fayetteville shall make diligent good faith efforts to resolve all issues and disputes that might arise in the administration of this Agreement through discussions between designated representatives of the Parties. If such discussions have failed, the use of a mediator is recommended.

12. Insurance. AT&T Arkansas shall maintain, throughout the term of this Agreement, insurance in the minimum amounts as follows:

Workers Compensation	Statutory Limits
Commercial General Liability	$1,000,000 per occurrence, Combined Single Liability (CSL) $2,000,000 General Aggregate
Auto Liability	(including all owned, non-owned, and hired vehicles) $1,000,000 per occurrence (CSL)
Umbrella Liability	$1,000,000 per occurrence (CSL)

13. Notices. Any notice to be given under this Agreement shall be in writing and may be delivered to either personally, by facsimile or by certified or registered mail with postage prepaid and return receipt requested, addressed as follows:

If to The City of Fayetteville:	City Attorney's Office City of Fayetteville 113 W. Mountain Street, Ste. 302 Fayetteville, AR 72701 FAX: (479) 575-8315
If to AT&T Arkansas:	Mr. Edward Drilling, President, AT&T Arkansas AT&T Arkansas 1111 W. Capitol Avenue Little Rock, AR 72201-3005

14. Modification. This Agreement may be amended or modified only by a written instrument executed by both Parties.

15. Assignment. AT&T Arkansas may not assign or transfer this Agreement or any interest therein without the prior consent of Fayetteville except to any affiliate of AT&T Arkansas.

16. Entire Agreement. This Agreement embodies the entire agreement and understanding of Fayetteville and AT&T Arkansas with respect to AT&T Arkansas' use of Fayetteville ROW in connection with the offering and provision of IP-enabled services including IP-enabled Video Services within Fayetteville using facilities constructed and placed within Fayetteville's ROW. As such it merges and supersedes all prior verbal agreements, understandings and representations by either party on the matters set forth herein.

17. Waiver. Failure on the part of either Party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

18. Miscellaneous.

(a) AT&T Arkansas and Fayetteville each hereby warrants that it has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

(b) The headings used in this Agreement are inserted for convenience or reference only and are not intended to define, limit or affect the interpretation of any term or provision hereof. The singular shall include the plural; the masculine gender shall include the feminine and neutral gender.

(c) AT&T Arkansas and Fayetteville shall cooperate fully with one another in the execution of any and all other documents and in the completion of any additional actions including, without limitation, the processing of permits that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

(d) Nothing contained in this Agreement is intended or shall be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of the Parties hereto toward any person or entity not a party to this Agreement, unless otherwise expressly set forth herein.

(e) Nothing contained in this Agreement is intended or shall be construed as amending, modifying or otherwise affecting any other agreements, authorizations or memoranda which Fayetteville and AT&T Arkansas have now. Further, nothing contained in this Agreement is meant to change, limit, modify, restrict or limit any current rights or jurisdiction that either Fayetteville or other governmental entities currently have nor is this Agreement intended to change, limit, modify, restrict or limit any rights AT&T Arkansas currently has under existing federal and state law and under existing Fayetteville ordinances and existing construction permits issued by Fayetteville.

19. Binding Effect. This Agreement shall be binding upon and for the benefit of AT&T Arkansas and the City of Fayetteville.

20. Counterpart Execution. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same agreement. Signature pages may be transmitted by facsimile and any signature transmitted by facsimile will be given the same force and effect as an original signature.

21. Authority of City Council. This agreement is not intended to limit the authority of the Fayetteville City Council regarding the use of streets, easements, and public rights of way ("ROW") by public utilities, specifically including those that communicate information. The City Council expressly reserves the right to increase the fee imposed in paragraph 3 of this Agreement to that which is imposed on other video service providers in order to generally maintain competitive neutrality, so long as such fee does not exceed the maximum rate authorized under Section 622 of the Federal Communications Act (47 U.S.C. Section 542).

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement and made the same effective as of the 20th day of February, 2007.

AT&T ARKANSAS

By: ______________________________
Name: Edward Drilling
Title: President – AT&T Arkansas

CITY OF FAYETTEVILLE, ARKANSAS

By: ______________________________
Name: **DAN COODY**
Title: Mayor

ATTEST:

By: ______________________________
SONDRA SMITH, City Clerk

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

2/20/2007
City Council Meeting Date

Kevin Springer	Budget & Research	Finance
Submitted By	Division	Department

Action Required:

Approve a resolution reappropriating 2006 uncompleted capital project budgets, capital project funds, and outstanding purchase commitments as referenced in the attached schedules the 2007 Budget.

	$ -	
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 [X] Budget Adjustment Attached [X]

Department Director	Date	Previous Ordinance or Resolution #
City Attorney	2/1/2007 Date	Original Contract Date:
Paul A. Becker Finance Director	2-2-07 Date	Original Contract Number:
Mayor	2/6/07 Date	

Received in City Clerk's Office ENTERED 2/2/07

Received in Mayor's Office ENTERED 2/6/07

Comments:

Fayetteville
ARKANSAS

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Coody and City Council

THRU: Paul A. Becker, Director of Finance

FROM: Kevin Springer, Budget Manager

DATE: February 2, 2007

SUBJECT: **2006 Re-Budgeting Request**

Recommendation

Because of the need for project continuation, staff recommends approval of the re-authorization request at the February 20, 2007 City Council meeting. In addition, staff is recommending approval of any changes to this request that may arise due to finalizing the 2006 year end which would result in a decrease in the total authorized budget. Any administrative changes will not increase the use of fund balance for 2006 and 2007. City Council is requested to amend the 2007 Adopted Budget by re-authorizing up to $163,698,250 for purchase commitments and capital improvements as follows.

Commitments Outstanding	$	11,202,523
Uncompleted Items/Capital Projects		28,117,475
Bonded Capital Projects		124,378,252
Total Re-Authorizations	$	163,698,250

A finalized listing of the capital project re-budgets will be submitted to City Council as an informational item with the 2006 Project Closeout report during the First Quarter of 2007.

Background

In the past at the close of each budget year, City Staff routinely requests re-authorization of on-going capital projects and re-authorization of some operational funding that was not committed during the prior budget year and outstanding purchase commitments.

Discussion

This request re-authorizes project funding for identified and scheduled capital improvements in the current fiscal year. Currently, all uncommitted capital projects are placed on hold until City Council re-authorizes the unexpended funds into 2007.

Please find attached a schedule of capital projects by Improvement Type which were included in the 2006 Budget but did not incur a financial obligation during the 2006 fiscal year. The 2006 estimated unreserved fund balance/retained earnings for the respective funds reflected the cost of the requested re-budgets. These re-budgeted items, therefore, do not impact the estimated fund balance amounts estimated in the 2007 budget.

The re-authorization of prior year's appropriated projects and items are normal budget operating procedures and are generally for one-time expenses. Approval of this request will allow the 2007 Budget to be increased to reflect the attached information. Several of the requested re-authorizations include revenue offset in the form of grant revenues.

Total requested re-budgets for all funds are $163,698,250 as reflected in the following worksheet. These amounts will require City Council action. For your information, a summary by Funding Source and Improvement Type is included following this memo. The re-budget amounts are broken out into two separate categories:

- Obligated: These items have Contracts/Purchase Orders already issued on them during 2006 and the City will not receive the item and/or service until 2007.

- Unobligated: These items did not have any Contracts/Purchase Orders issued on them as of 2006.

Budget Impact & Closing

All of the funds requested in this re-authorization come from unexpended funds. They do not increase the use of operating reserves over what was estimated in the 2007 Annual Budget. This request simply retains project funding for identified and scheduled capital improvements for the current fiscal year.

If you have any questions concerning the attachment or the procedure, please feel free to contact either Paul A. Becker (575-8330) or Kevin Springer (575-8226). Thank you for your attention to this request.

RESOLUTION NO. ______

A RESOLUTION APPROVING A BUDGET ADJUSTMENT TO REAPPROPRIATE $163,698,250.00 IN ORDER TO RETAIN CURRENT FISCAL YEAR PROJECT FUNDING FOR IDENTIFIED, SCHEDULED AND ON-GOING CAPITAL IMPROVEMENTS; AND AUTHORIZING THE BUDGET & RESEARCH DIVISION TO MAKE ANY NEEDED REDUCTIONS.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment to re-appropriate $163,698,250.00 in order to retain current fiscal year project funding for identified, scheduled, and on-going Capital Improvements.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Budget & Research Division to reduce any item on the attached schedules based on final audited financial activity

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

SUMMARY LISTING

OF 2006 REAPPROPRIATIONS BY FUNDING SOURCE / TYPE

City of Fayetteville, Arkansas

- Summary Listing of 2006 Reappropriations

Funding Source / Project Category	Obligated	Unobligated	Total
	Reappropriation Expense Items		
BONDED CAPITAL PROJECTS			
Wastewater System Improvements Project Fund:			
Wastewater Treatment Improvements	$ 62,578,735	$ 10,721,917	$ 73,300,652
	62,578,735	10,721,917	73,300,652
TIF Capital Improvements Fund:			
Other Capital Improvements	-	207,909	207,909
	-	207,909	207,909
2006A Sales Tax Construction Fund:			
Street Improvements	628,093	23,868,381	24,496,474
Transportation Improvements	-	817,775	817,775
Wastewater Treatment Improvements	-	25,555,442	25,555,442
	628,093	50,241,598	50,869,691
TOTAL BONDED CAPITAL PROJECTS			$ 124,378,252
CAPITAL PROJECTS/ITEMS			
General Fund:			
Donations	3,157	346,139	349,296
Other Capital Improvements (Grants)	-	1,970	1,970
Police Improvements (Grants)	-	142,186	142,186
Operational Items	216,618	55,954	272,572
Fire Improvements	-	354,200	354,200
Other Capital Improvements	-	10,379	10,379
Transfers to Sales Tax Fund	-	260,133	260,133
	219,775	1,170,961	1,390,736
Off-Street Parking Fund:			
Transportation Improvements	-	26,310	26,310
	-	26,310	26,310
Community Development Block Grant Fund:			
Community Development Block Grant	-	550,715	550,715
	-	550,715	550,715
Parks Development Fund:			
Transportation Improvements	-	36,338	36,338
Parks & Recreation Improvements	121,858	2,367,144	2,489,002
	121,858	2,403,482	2,525,340

City of Fayetteville, Arkansas

- Summary Listing of 2006 Reappropriations

	Reappropriation Expense Items		
Funding Source / Project Category	Obligated	Unobligated	Total
Impact Fee Fund:			
Water & Sewer Improvements	45,097	1,335,120	1,380,217
Wastewater Treatment Improvements	-	566,680	566,680
Police Improvements	-	270,388	270,388
Fire Improvements	-	220,809	220,809
	45,097	2,392,997	2,438,094
Drug-Law Enforcement Fund:			
Police Improvements (Grants)	-	3,990	3,990
	-	3,990	3,990
Replacement & Disaster Recovery Fund:			
Other Capital Improvements	15,788	206,734	222,522
Vehicles & Equipment Improvements	-	63,788	63,788
	15,788	270,522	286,310
Sales Tax Capital Improvements Fund:			
Street Improvements	4,688,989	3,918,596	8,607,585
Fire Improvements	1,019,713	1,906,497	2,926,210
Transportation Improvements	79,806	1,372,126	1,451,932
Information Technology Improvements	42,983	314,499	357,482
Other Capital Improvements	18,750	206,018	224,768
Police Improvements	604,355	2,264,403	2,868,758
Bridge & Drainage Improvements	46,905	1,398,185	1,445,090
Water & Sewer Improvements	24,511	111,215	135,726
Parks & Recreation Improvements	-	545,023	545,023
Aviation & Economic Development Improvements	-	60,000	60,000
	6,526,012	12,096,562	18,622,574
Water & Sewer Fund:			
Operational Items	13,935	-	13,935
Wastewater Treatment Improvements	36,250	146,849	183,099
Water & Sewer Improvements	3,189,739	7,402,099	10,591,838
Water & Sewer Services Improvements	89,166	114,912	204,078
	3,329,090	7,663,860	10,992,950

City of Fayetteville, Arkansas

- Summary Listing of 2006 Reappropriations

Funding Source / Project Category	Reappropriation Expense Items		
	Obligated	Unobligated	Total
Solid Waste Fund:			
Operational Items	11,538	-	11,538
Solid Waste Improvements	-	53,074	53,074
	11,538	53,074	64,612
Airport Fund:			
Aviation & Economic Development Improvements	48,403	70,764	119,167
	48,403	70,764	119,167
Shop Fund:			
Operational Items	3,815	-	3,815
Other Capital Improvements	-	35,360	35,360
Vehicles & Equipment Improvements	881,147	1,378,878	2,260,025
	884,962	1,414,238	2,299,200
COMMITMENTS OUTSTANDING	$ 11,202,523		
UNCOMPLETED ITEMS/CAPITAL PROJECTS		$ 28,117,475	
TOTAL REBUDGET REQUEST	$ 74,409,351	$ 89,288,899	$ 163,698,250

DETAIL LISTING

OF 2006 REAPPROPRIATIONS BY FUNDING SOURCE / TYPE

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items Obligated	Unobligated	Total
BONDED CAPITAL PROJECTS				
Wastewater System Improvements Project Fund:				
Wastewater Treatment Improvements	Wastewater System Improvements Project	$ 62,578,735	$ 10,721,917	$ 73,300,652
		62,578,735	10,721,917	73,300,652
TIF Capital Improvements Fund:				
Other Capital Improvements	Hwy 71 East Square Redevelop Dist. No. 1	-	207,909	207,909
		-	207,909	207,909
2006A Sales Tax Construction Fund:				
Street Improvements	Transportation Bond Street Improvements	628,093	23,868,381	24,496,474
Transportation Improvements	Transportation Bond Trail Improvements	-	817,775	817,775
Wastewater Treatment Improvements	Wastewater System Improvements Project	-	25,555,442	25,555,442
		628,093	50,241,598	50,869,691
	TOTAL BONDED CAPITAL PROJECTS			$ 124,378,252

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items		
		Obligated	Unobligated	Total
	CAPITAL PROJECTS/ITEMS			
General Fund:				
Donations	Animal Low Cost Spay/Neuter Donations	-	18,083	18,083
Donations	Animal Services Miscellanous Donations	3,157	80,339	83,496
Donations	Parks & Recreation Donations	-	10,783	10,783
Donations	PD Law Enforcement Federal Forfeitures	-	38,350	38,350
Donations	PD Law Enforcement State Forfeitures	-	73,481	73,481
Donations	Police Department Donations	-	22,990	22,990
Donations	YRCC Donations	-	2,113	2,113
Donations	Donation Contingency	-	100,000	100,000
Other Capital Improvements (Grants)	Historic Preservation Travel & Training	-	1,970	1,970
Police Improvements (Grants)	COPS Methamphetamine Training Grant	-	21,819	21,819
Police Improvements (Grants)	Internet Crimes Against Children Grant	-	6,764	6,764
Police Improvements (Grants)	Justice Assistance Grant	-	1,355	1,355
Police Improvements (Grants)	Justice Assistance Grant - 2006	-	44,248	44,248
Police Improvements (Grants)	Police STEP Grant	-	68,000	68,000
Operational Items	Building Safety	2,453	-	2,453
Operational Items	Community Code Enforcement - Contracts	-	12,000	12,000
Operational Items	Finance Director - Professional Services	5,000	-	5,000
Operational Items	Fire Department (Prevention) - Equipment	3,683	-	3,683
Operational Items	Fire Department (Operations) - Equipment	128,987	-	128,987
Operational Items	Human Resources - Compensation Plan	4,638	43,954	48,592
Operational Items	Miscellaneous Program - Contract Services	36,947	-	36,947
Operational Items	Police - Ammo	13,502	-	13,502
Operational Items	Police - Training	20,677	-	20,677
Operational Items	Purchasing - Training	731	-	731
Fire Improvements	Fire Records Management System	-	354,200	354,200
Other Capital Improvements	ADA Building Signs	-	3,000	3,000
Other Capital Improvements	Cityplan 2025 Study	-	7,379	7,379
Other Capital Improvements	Transfers to Sales Tax Fund (4470)	-	260,133	260,133
		219,775	1,170,961	1,390,736

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

		Reappropriation Expense Items		
Funding Source / Project Category	Project Description	Obligated	Unobligated	Total
Off-Street Parking Fund:				
Transportation Improvements	Parking Lot Improvements and Overlays	-	23,000	23,000
Transportation Improvements	Parking Management System	-	3,310	3,310
		-	26,310	26,310
Community Development Block Grant Fund:				
Operational Items	Community Development Block Grant Fund	-	550,715	550,715
		-	550,715	550,715
Parks Development Fund:				
Transportation Improvements	Trail Development	-	36,338	36,338
Parks & Recreation Improvements	Botanical Gardens/Lake Fay. State Grant	-	79,188	79,188
Parks & Recreation Improvements	Community Park Development	-	1,686,154	1,686,154
Parks & Recreation Improvements	Gordon Long/Red Oak Improvements	-	10,476	10,476
Parks & Recreation Improvements	Gulley Park Improvements	-	26,173	26,173
Parks & Recreation Improvements	Lake Fayetteville Trails	15,768	41,559	57,327
Parks & Recreation Improvements	Lake Fayetteville/Sequoyah Improvements	-	31,760	31,760
Parks & Recreation Improvements	Neighborhood Park Development	100,313	215,035	315,348
Parks & Recreation Improvements	Other Park & Safety Improvements	-	141,579	141,579
Parks & Recreation Improvements	Park Beautifications	-	18,059	18,059
Parks & Recreation Improvements	Playground & Picnic Improvements	-	102,520	102,520
Parks & Recreation Improvements	Skate Park	5,777	4,124	9,901
Parks & Recreation Improvements	Tennis/Basketball Surface Renovation	-	10,517	10,517
		121,858	2,403,482	2,525,340
Impact Fee Fund:				
Water & Sewer Improvements	Mount Sequoyah Pressure Plane Impvs	-	850,000	850,000
Water & Sewer Improvements	Water Impact Fee Cost Sharing Projects	45,097	-	45,097
Water & Sewer Improvements	Water Impact Fee Improvements	-	485,120	485,120
Wastewater Treatment Improvements	Wastewater Impact Fee Improvements	-	566,680	566,680
Police Improvements	Police Impact Fee Improvements	-	270,388	270,388
Fire Improvements	Fire Impact Fee Improvements	-	220,809	220,809
		45,097	2,392,997	2,438,094

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items Obligated	Unobligated	Total
Drug-Law Enforcement Fund:				
Police Improvements (Grants)	COPS Methamphetamine Training Grant	-	3,990	3,990
		-	3,990	3,990
Replacement & Disaster Recovery Fund:				
Other Capital Improvements	Flood Damage Repair - 2004	15,788	7,310	23,098
Other Capital Improvements	Replacement Copier Funds	-	199,424	199,424
Vehicles & Equipment Improvements	Other Vehicles/Equipment Under $10,000	-	63,788	63,788
		15,788	270,522	286,310
Sales Tax Capital Improvements Fund:				
Street Improvements	Duncan/California/Harmon Intersections	-	80,000	80,000
Street Improvements	Fayetteville Economic Corridor	138,933	24,706	163,639
Street Improvements	Garland - I-540 to Howard Nickell	-	167,803	167,803
Street Improvements	Huntsville - Happy Hollow to Stonebridge	-	200,000	200,000
Street Improvements	Huntsville & Happy Hollow - Intersection	63,818	-	63,818
Street Improvements	Kings Drive Improvements	275,571	200,773	476,344
Street Improvements	Morningside Dr & 15th St - Signalization	19,040	136,178	155,218
Street Improvements	Mount Comfort & Shiloh - Right-of-Way	-	400,000	400,000
Street Improvements	Mount Comfort Road - Widening & Turn Lan	206,333	228,889	435,222
Street Improvements	Rupple Road - Wedington to Mt. Comfort	-	500,000	500,000
Street Improvements	Street ROW / Intersection / Cost Sharing	147,698	-	147,698
Street Improvements	Township Widening - Gregg to N College	3,600	1,980,247	1,983,847
Street Improvements	Van Asche Boulevard - Cost Sharing	3,833,996	-	3,833,996
Transportation Improvements	In-House Pavement Improvements	79,806	56,612	136,418
Transportation Improvements	Sidewalk Improvements	-	151,999	151,999
Transportation Improvements	Traffic Signal Improvements	-	220,792	220,792
Transportation Improvements	Trail Development	-	924,423	924,423
Transportation Improvements	Trimmer/Slipform Paver & Curb Machine	-	18,300	18,300
Bridge & Drainage Improvements	Drainage Study/Phase II Stormwater Mgt	46,905	482,507	529,412
Bridge & Drainage Improvements	Other Drainage Improvements	-	395,661	395,661
Bridge & Drainage Improvements	State Bridge Cost Sharing Program	-	520,017	520,017
Water & Sewer Improvements	Broyles Road Extension Improvements	-	92,068	92,068
Water & Sewer Improvements	Sanitary Sewer Rehabilitation	6,817	-	6,817
Water & Sewer Improvements	Water System Master Plan Study	17,694	19,147	36,841

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items		
		Obligated	Unobligated	Total
Information Technology Improvements	Accessfayetteville Technical Improvement	-	10,121	10,121
Information Technology Improvements	AS/400 Computer Upgrades	-	115,850	115,850
Information Technology Improvements	Citywide Software Upgrades	-	8,004	8,004
Information Technology Improvements	District Court Software Improvements	2,700	32,226	34,926
Information Technology Improvements	Document Imaging System	-	28,015	28,015
Information Technology Improvements	Geographic Information System	-	42,138	42,138
Information Technology Improvements	Local Access Network (LAN) Upgrades	40,283	10,427	50,710
Information Technology Improvements	Microcomputer Replacements	-	5,395	5,395
Information Technology Improvements	Municipal Management System	-	23,345	23,345
Information Technology Improvements	New World Systems Supplemental Software	-	4,279	4,279
Information Technology Improvements	Printer Replacements	-	34,699	34,699
Fire Improvements	Fire Apparatus Lease Payments - BoA	-	10,282	10,282
Fire Improvements	Fire Apparatus Purchases	-	13,795	13,795
Fire Improvements	Fire Facility Maintenance	-	6,229	6,229
Fire Improvements	Fire Station #3 - Expansion	56,024	1,555,000	1,611,024
Fire Improvements	Fire Station #3/#5 - Lease Payment	-	13,051	13,051
Fire Improvements	Fire Station #5 - Relocation	963,689	308,140	1,271,829
Police Improvements	Police Building Improvements	-	4,382	4,382
Police Improvements	Police Electronic Ticketing	101,311	1,669	102,980
Police Improvements	Police Expansion Vehicles-Transf to Shop	-	11,172	11,172
Police Improvements	Police Technology Improvements	14,383	-	14,383
Police Improvements	Police/Courts Facility Expansion	488,661	2,247,180	2,735,841
Parks & Recreation Improvements	Forestry, Safety, & ADA Compliance	-	150,900	150,900
Parks & Recreation Improvements	Gordon Long/Red Oak Improvements	-	135,478	135,478
Parks & Recreation Improvements	Gulley Park Improvements	-	50,000	50,000
Parks & Recreation Improvements	Lake Fayetteville/Sequoyah Improvements	-	98,367	98,367
Parks & Recreation Improvements	Lights of the Ozarks	-	19,991	19,991
Parks & Recreation Improvements	Neighborhood Park Development	-	8,317	8,317
Parks & Recreation Improvements	Other Park & Safety Improvements	-	23,425	23,425
Parks & Recreation Improvements	Park Beautifications	-	34,408	34,408
Parks & Recreation Improvements	Playground & Picnic Improvements	-	6,700	6,700
Parks & Recreation Improvements	Walker Park Senior Complex	-	17,437	17,437

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items Obligated	Unobligated	Total
Other Capital Improvements	Building Improvements	10,000	110,250	120,250
Other Capital Improvements	Building Improvements - Leased Buildings	8,750	4,660	13,410
Other Capital Improvements	P.E.G. Television Center - Equipment	-	62,855	62,855
Other Capital Improvements	Telecommunication Systems Upgrades	-	28,253	28,253
Aviation & Economic Development Improvements	Economic Development Matches	-	48,835	48,835
Aviation & Economic Development Improvements	UA Economic Development Data Analysis	-	11,165	11,165
		6,526,012	12,096,562	18,622,574
Water & Sewer Fund:				
Operational Items	Water & Sewer Maintenance	437	-	437
Operational Items	Water & Sewer Maintenance	4,100	-	4,100
Operational Items	Water & Sewer Maintenance	9,398	-	9,398
Wastewater Treatment Improvements	Computer System Upgrades - W.W.T.P.	-	6,000	6,000
Wastewater Treatment Improvements	Plant Pumps and Equipment - W.W.T.P.	8,431	34,758	43,189
Wastewater Treatment Improvements	Testing Equipment - W.W.T.P.	-	5,534	5,534
Wastewater Treatment Improvements	Upgrade/Replace Lift Stations - W.W.T.P.	27,819	59,557	87,376
Wastewater Treatment Improvements	W.W.T.P. Building Improvements	-	41,000	41,000
Water & Sewer Improvements	24" Waterline Improvements & Replacement	473,134	101,572	574,706
Water & Sewer Improvements	36" Waterline Replacement & Protection	1,356,550	47,320	1,403,870
Water & Sewer Improvements	Broyles Road Extension Improvements	-	18,829	18,829
Water & Sewer Improvements	Collection System Capacity Management	1,802	11,962	13,764
Water & Sewer Improvements	Farmington Sewer Rehabilitation	63,351	364,926	428,277
Water & Sewer Improvements	Gregg - Waterline Relocation	-	45,350	45,350
Water & Sewer Improvements	Gregg Street Lift Station Remediation	-	115,760	115,760
Water & Sewer Improvements	HWY 62 Waterline Relocation Farmington	-	200,000	200,000
Water & Sewer Improvements	Impact Fee Update - Water & Wastewater	103,300	-	103,300
Water & Sewer Improvements	Mount Sequoyah Pressure Plane Impvs	-	245,181	245,181
Water & Sewer Improvements	Mount Sequoyah W&S System Upgrade	-	1,722,139	1,722,139
Water & Sewer Improvements	North College Waterline - Maple to North	7,465	94,729	102,194
Water & Sewer Improvements	Razorback Road Utility W/S Relocation	-	98,000	98,000
Water & Sewer Improvements	Sanitary Sewer Rehabilitation	1,100,671	3,859,927	4,960,598
Water & Sewer Improvements	Water & Sewer Operations Center Building	21,662	-	21,662
Water & Sewer Improvements	Water and Sewer Cost Sharing	20,595	276,404	296,999
Water & Sewer Improvements	Wedington Utility W/S Relocations	41,209	200,000	241,209

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items		
		Obligated	Unobligated	Total
Water & Sewer Services Improvements	Backflow Prevention Assemblies	-	16,490	16,490
Water & Sewer Services Improvements	Business Office Improvements	-	49,261	49,261
Water & Sewer Services Improvements	Meter & Equipment Parts Cleaning Machine	19,940	4,060	24,000
Water & Sewer Services Improvements	Utility Rate Review and Analysis	48,835	45,101	93,936
Water & Sewer Services Improvements	Water & Sewer Rate/Operations Study	1,899	-	1,899
Water & Sewer Services Improvements	Water Meters	18,492	-	18,492
		3,329,090	7,663,860	10,992,950
Solid Waste Fund:				
Operational Items	Solid Waste	11,538	-	11,538
Solid Waste Improvements	Composter/Mulcher ADEQ Grant Purchase	-	8,029	8,029
Solid Waste Improvements	Composting Site Improvements	-	19,174	19,174
Solid Waste Improvements	Recycling Improvements	-	22,620	22,620
Solid Waste Improvements	Roll-Off Recycling Boxes ADEQ Grant	-	3,251	3,251
		11,538	53,074	64,612
Airport Fund:				
Aviation & Economic Development Improvements	Airfield Re-striping	-	9,650	9,650
Aviation & Economic Development Improvements	Airport Expansion Equipment (AIP#21 REV)	-	46,566	46,566
Aviation & Economic Development Improvements	Airport Master Plan Update	6,137	-	6,137
Aviation & Economic Development Improvements	Fire Sprinkler System - Air Museum	-	548	548
Aviation & Economic Development Improvements	Terminal Building Rehabilitation	981	-	981
Aviation & Economic Development Improvements	Terminal Improvements - Sky Venture	-	14,000	14,000
Aviation & Economic Development Improvements	West GA Hangars	41,285	-	41,285
		48,403	70,764	119,167

City of Fayetteville, Arkansas
- Detail Listing of 2006 Reappropriations

Funding Source / Project Category	Project Description	Reappropriation Expense Items: Obligated	Unobligated	Total
Shop Fund:				
Operational Items	Fleet Operations	3,815	-	3,815
Other Capital Improvements	Wash Bay & Covered Storage Improvements	-	35,360	35,360
Vehicles & Equipment Improvements	Automatic Vehicle Wash System	-	169,825	169,825
Vehicles & Equipment Improvements	Backhoe/Loader - Expansion	-	21,200	21,200
Vehicles & Equipment Improvements	Fleet - Construction Equipment	19,109	281	19,390
Vehicles & Equipment Improvements	Fleet - Light/Medium Utility Vehicles	43,808	112,943	156,751
Vehicles & Equipment Improvements	Fleet - Medium/Heavy Utility Vehicles	76,003	119,067	195,070
Vehicles & Equipment Improvements	Fleet - Other Vehicles/Equipment	33,383	227,801	261,184
Vehicles & Equipment Improvements	Fleet - Police/Passenger Vehicles	-	263,251	263,251
Vehicles & Equipment Improvements	Fleet - Police/Passenger Vehicles - Expansion	-	13,176	13,176
Vehicles & Equipment Improvements	Fleet - Sanitation Vehicles/Equipment	442,314	324,023	766,337
Vehicles & Equipment Improvements	Fleet - Tractor/Mower	-	80,195	80,195
Vehicles & Equipment Improvements	Fuel Storage Improvements - Replacement	236,929	24,675	261,604
Vehicles & Equipment Improvements	Solid Waste Equipment - Expansion	29,601	22,441	52,042
		884,962	1,414,238	2,299,200
	COMMITMENTS OUTSTANDING	$ 11,202,523		
	UNCOMPLETED ITEMS/CAPITAL PROJECTS		$ 28,117,475	
	TOTAL REBUDGET REQUEST	$ 74,409,351	$ 89,288,899	$ 163,698,250

City of Fayetteville, Arkansas

- Summary Listing of 2006 Reappropriations

Funding Source / Project Category	Reappropriation Expense Items: Obligated	Unobligated	Total
BONDED CAPITAL PROJECTS			
Wastewater System Improvements Project Fund:			
Wastewater Treatment Improvements	$ 62,578,735	$ 10,721,917	$ 73,300,652
	62,578,735	10,721,917	73,300,652
TIF Capital Improvements Fund:			
Other Capital Improvements	-	207,909	207,909
	-	207,909	207,909
2006A Sales Tax Construction Fund:			
Street Improvements	628,093	23,868,381	24,496,474
Transportation Improvements	-	817,775	817,775
Wastewater Treatment Improvements	-	25,555,442	25,555,442
	628,093	50,241,598	50,869,691
TOTAL BONDED CAPITAL PROJECTS			$ 124,378,252
CAPITAL PROJECTS/ITEMS			
General Fund:			
Donations	3,157	346,139	349,296
Other Capital Improvements (Grants)	-	1,970	1,970
Police Improvements (Grants)	-	142,186	142,186
Operational Items	216,618	55,954	272,572
Fire Improvements	-	354,200	354,200
Other Capital Improvements	-	10,379	10,379
Transfers to Sales Tax Fund	-	260,133	260,133
	219,775	1,170,961	1,390,736
Off-Street Parking Fund:			
Transportation Improvements	-	26,310	26,310
	-	26,310	26,310
Community Development Block Grant Fund:			
Community Development Block Grant	-	550,715	550,715
	-	550,715	550,715
Parks Development Fund:			
Transportation Improvements	-	36,338	36,338
Parks & Recreation Improvements	121,858	2,367,144	2,489,002
	121,858	2,403,482	2,525,340

City of Fayetteville, Arkansas

- Summary Listing of 2006 Reappropriations

Funding Source / Project Category	Reappropriation Expense Items Obligated	Unobligated	Total
Impact Fee Fund:			
Water & Sewer Improvements	45,097	1,335,120	1,380,217
Wastewater Treatment Improvements	-	566,680	566,680
Police Improvements	-	270,388	270,388
Fire Improvements	-	220,809	220,809
	45,097	2,392,997	2,438,094
Drug-Law Enforcement Fund:			
Police Improvements (Grants)	-	3,990	3,990
	-	3,990	3,990
Replacement & Disaster Recovery Fund:			
Other Capital Improvements	15,788	206,734	222,522
Vehicles & Equipment Improvements	-	63,788	63,788
	15,788	270,522	286,310
Sales Tax Capital Improvements Fund:			
Street Improvements	4,688,989	3,918,596	8,607,585
Fire Improvements	1,019,713	1,906,497	2,926,210
Transportation Improvements	79,806	1,372,126	1,451,932
Information Technology Improvements	42,983	314,499	357,482
Other Capital Improvements	18,750	206,018	224,768
Police Improvements	604,355	2,264,403	2,868,758
Bridge & Drainage Improvements	46,905	1,398,185	1,445,090
Water & Sewer Improvements	24,511	111,215	135,726
Parks & Recreation Improvements	-	545,023	545,023
Aviation & Economic Development Improvements	-	60,000	60,000
	6,526,012	12,096,562	18,622,574
Water & Sewer Fund:			
Operational Items	13,935	-	13,935
Wastewater Treatment Improvements	36,250	146,849	183,099
Water & Sewer Improvements	3,189,739	7,402,099	10,591,838
Water & Sewer Services Improvements	89,166	114,912	204,078
	3,329,090	7,663,860	10,992,950

City of Fayetteville, Arkansas
- Summary Listing of 2006 Reappropriations

Funding Source / Project Category	Reappropriation Expense Items: Obligated	Unobligated	Total
Solid Waste Fund:			
Operational Items	11,538	-	11,538
Solid Waste Improvements	-	53,074	53,074
	11,538	53,074	64,612
Airport Fund:			
Aviation & Economic Development Improvements	48,403	70,764	119,167
	48,403	70,764	119,167
Shop Fund:			
Operational Items	3,815	-	3,815
Other Capital Improvements	-	35,360	35,360
Vehicles & Equipment Improvements	881,147	1,378,878	2,260,025
	884,962	1,414,238	2,299,200
COMMITMENTS OUTSTANDING	$ 11,202,523		
UNCOMPLETED ITEMS/CAPITAL PROJECTS		$ 28,117,475	
TOTAL REBUDGET REQUEST	$ 74,409,351	$ 89,288,899	$ 163,698,250

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

February 20, 2007
City Council Meeting Date

Tony Johnson	Fire	Fire
Submitted By	**Division**	**Department**

Action Required:

The Fayetteville Fire Department is seeking a bid waiver to purchase hardware, software, and radio equipment in order to install and implement mobile data terminals in all front line apparatus, reserve apparatus, and some staff vehicles. This equipment will be purchased utlizing grant funds and is the same equipment already procured by the Police Department. This will allow standardization of equipment as well as a more stable platform for the computer system to operate.

$ 268,600	$ 354,200.00	Fire Records Mgmt System
Cost of this request	**Category/Project Budget**	**Program Category/Project Name**
1010.3020.5801.00	$ -	Fixed Assets
Account Number	**Funds Used To Date**	**Program/Project Category Name**
06034.1	$ 354,200.00	General
Project Number	**Remaining Balance**	**Fund Name**

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Department Director — Date: 2/1/2007

City Attorney — Date: 2/7/2007

Paul a. Becker
Finance and Internal Service Director — Date: 2-7-2007

Mayor — Date: 2/7/07

Previous Ordinance or Resolution# ______

Original Contract Date: ______

Original Contract Number: ______

Received in City Clerk's Office
ENTERED 2/12/07

Received in Mayor's Office
ENTERED 2/7/07

Comments:

DEPARTMENTAL CORRESPONDENCE

To: Mayor Coody and members of the City Council

From: Tony Johnson, Fire Chief

Date: 2/1/2007

Subject: Approval of Bid Waiver for Mobile Data Terminals Project

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RECOMMENDATION:

Council approves a bid waiver for the purchase of software, hardware, and radio equipment in order for the Fire Dept to install and implement mobile data terminals in all front line and reserve apparatus as well as some command vehicles. I also request that Council authorizes Mayor Coody to issue a purchase order to Smith Two Way Communications for IP Mobile Net equipment for the radio equipment as well as the Motorola ruggedized laptops as they are the Motorola representative for this region. This is the same equipment that the Police Dept has already purchased for their mobile data terminals. A purchase order to New World is requested for the purchase of additional licenses and related required software for the mobile product that the Police Dept is currently utilizing.

BACKGROUND:

The Fayetteville Police Dept has been using New World Mobile Data software since 1999. This software allows real time access to dispatch information along with in car mapping and AVL capabilities. The Fire Dept has no access to dispatch information once in route. The New World system has the functionality to track information such as hydrants, pre fire plans, HAZMAT information, etc but this information cannot currently be accessed from the apparatus.

DISCUSSION:

Because this is the same equipment that is used by the Police Dept, the addition of this equipment for the Fire Dept would provide a standardized system citywide. Our current IT staff is already familiar with this equipment, which would allow for more efficient maintenance of the system. By not having another third party software interfacing with this product, the operating environment will be more stable and future upgrades to the system should not be affected. By utilizing the IPSeries product, the operating environment is also much more stable. We have looked at other third party products through the RFP process. All the products presented required an interface that would have to be written in order for their product to work. This could be a very time consuming as well as expensive process. It has also not been proven to work with the New World system. By staying with New World, we will eliminate this uncertainty and expense. By staying with the current hardware and radio equipment, all of the equipment would then be standardized citywide.

BUDGET IMPACT:

All of the funds required for this project will be from a 2006 Assistance to Firefighters Grant award. The money is available through September 2007 so long as the project has been completed by that time. For this reason, time is also a consideration for this request. By keeping the same system and equipment, the implementation process will be much quicker and easier.

ORDINANCE NO.__________

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF MOBILE DATA TERMINALS WITH THE ASSOCIATED HARDWARE AND SOFTWARE IN THE AMOUNT OF $268,600.00 FOR USE BY THE FAYETTEVILLE FIRE DEPARTMENT.

WHEREAS, the Fayetteville Police Department implemented New World Mobile Data Terminals with the associated hardware and software beginning in 2003; and,

WHEREAS, Fleet maintenance personnel are already trained and proficient in the maintenance of this equipment; and,

WHEREAS, maintaining uniform computer and communications equipment in front line and reserve Fire units as well as Police units will result in both increased operational and fiscal efficiencies.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding for Mobile Data Terminals with associated hardware and software.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of New World Systems Mobile Data Terminals with associated hardware and software in the amount of $268,600.00 for use by the Fayetteville Fire Department.

PASSED and APPROVED this 20th day of February, 2007.

APPROVED: ATTEST:

By: ____________________
DAN COODY, Mayor

By: ____________________
SONDRA SMITH, City Clerk/Treasurer

Fire Dept MDT project - AFG Purchases Requiring Council Approval:

Unit	Motorola Ruggedized Laptop w/ docking station	IP Series Mobile Radios	New World Mobile Software	TOTAL
E1	5,589	3,650	1,650	10,889
E2	5,589	3,650	1,650	10,889
E3	5,589	3,650	1,650	10,889
E4	5,589	3,650	1,650	10,889
E5	5,589	3,650	1,650	10,889
E6	5,589	3,650	1,650	10,889
E7	5,589	3,650	1,650	10,889
L1	5,589	3,650	1,650	10,889
L4	5,589	3,650	1,650	10,889
RESERVE PUMPER	5,589	3,650	1,650	10,889
RESERVE PUMPER	5,589	3,650	1,650	10,889
RESERVE LADDER	5,589	3,650	1,650	10,889
U1	5,589	3,650	1,650	10,889
B1	5,589	3,650	1,650	10,889
107	5,589	3,650	1,650	10,889
ASST CHIEF	5,589	3,650	1,650	10,889
ASST CHIEF	5,589	3,650	1,650	10,889
FM	5,589	3,650	1,650	10,889
AFM	5,589	3,650	1,650	10,889
FI	5,589	3,650	1,650	10,889
				-
Message Switch			13,000	13,000
NW CAD Interface			3,000	3,000
AVL Interface			3,000	3,000
MDT CAD Interface			1,000	1,000
AVL CAD Interface			3,000	3,000
GIS Software			3,200	3,200
Implementation/ Training			16,800	16,800
Initial Maint Agreement			7,821	7,821
	111,780	**73,000**	**83,821**	**268,601**

SMITH TWO-WAY RADIO, INC.
520 N. COLLEGE AVENUE
FAYETTEVILLE, AR. 72701
(479) 443-2222 FAX (479) 443-5677

"In Radio Since 1929"

QUOTATION

KENWOOD

MOTOROLA

Authorized Sales and Service

Customer Name: Fayetteville Fire Department	Ship To:
Contact Name:	Contact Name:
Address:	Address:
City: State: Zip:	City: State: Zip:
Phone: Fax: E-Mail:	Phone: Fax: E-Mail:

SALESPERSON	QUOTATION #	DATE	SHIPPED VIA	F.O.B. POINT	TERMS
Jeff Dalrymple	Mobile Data	2/2/07			

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
Any	IP-Mobilenet IP Series 32 800 mHz Mobile Data Radio	2785.00	
Any	Mobile Data Radio Installation Kit, includes power timer/surge suppressor, wiring harness and mounting hardware	325.00	
	800 mHz Mobile Antennas with cable kits and connectors (each radio requires 2, priced as such)	90.00	
	GPS Antenna with cable and connector, (each radio requires 1, priced as such)	100.00	
	Installation at Smith Two-Way Radio Fayetteville Shop, per radio	350.00	
	Total cost per radio with installation = $3650.00		
	TOTAL OF ITEMS		
	LABOR TO INSTALL		
	SUB TOTAL		
	SALES TAX		
	TOTAL		

Note: This quote valid for 30 days from date shown above.

New World Systems 6.0 *LIVE*
2/02/07 Vendor Inquiry Favorite: ____

Display Vendor Invoice Items

Vendor : 27860 Motorola Inc
Invoice: 50069664 ML900 LAPTOP, HIGH TIER DOCKING STATION
Taxes, freight or discounts have been applied to invoice.
Type option, press Enter. Reset: ____
5=Display 15=G/L Distribution

Opt	V	Description	Quantity	U/M	Amount/Unit
__		a) ML900 Ruggedized Laptop	5.0000	EA	4,690.00
__		b) High Tier Docking Station	5.0000	EA	899.00
					$5,589.00 ea

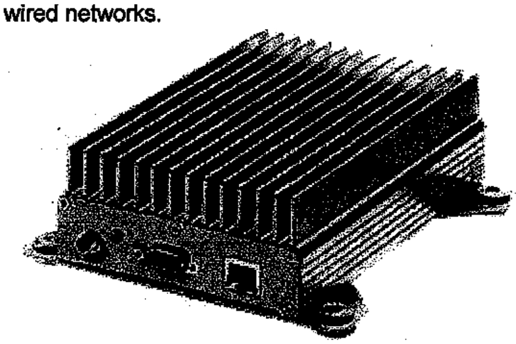
Bottom

F3=Exit F7=Full Exit F12=Cancel

IPSeries Mobile Radios

IP100/400/800 Radios

The IP Series mobile digital transceivers are intelligent mobile radios designed for the challenging requirements of mobile data and voice applications. Mounted in vehicles, intelligent devices may connect to the serial port or Ethernet port for connectivity back to the Internet Protocol Network Controller (IPNC) and other servers (CAD, message switch, records servers, LAN, etc.). The IP Series mobile radios provide the mobile link to land-based wired networks.



These mobile radios utilize a high-performance, four-level Frequency-Shift Keying (FSK) wireless data modem. A multi-layered approach is taken to maximize signal reliability including patented multi-receiver Intelligent Diversity Reception™, data scrambling, data interleaving, Forward Error Correction (FEC), and Viterbi soft-decision algorithms. The result is up to 20 dB performance improvement over competing products in low signal-to-noise environments. These unique features assure very high message success rates, even while transferring large blocks of data in a moving vehicle.

IP100/400/800 Series digital radios feature a low power consumption, high performance integrated GPS receiver. Embedding this technology in the mobile radio lowers the cost of acquiring GPS data from vehicles and ensures optimal performance.

Features

- Multi-patented, dual receiver, Intelligent Diversity Reception System™
- Native, end-to-end IP
- Ruggedized for public safety
- Multi-channel, multi-site intelligent roaming
- Supports up to 256 channels
- Over-the-air programming
- Forward Error Correction (FEC)
- Data interleaving for burst error protection
- High stability less than 2.5 ppm
- Serial Line Internet Protocol (SLIP) interface or 10 Base T Ethernet interface
- Digital Phase Lock Loop (PLL) frequency synthesizer
- Compact size, rugged construction
- Fast radio transit attack time – less than 5 ms
- Two (2) extremely sensitive, high overload, FM receivers
- Integrated Global Position System (GPS) receiver

IPMobileNet

Corporate Offices
16842 Von Karman Avenue, Suite 200
Irvine, California 92606
Voice: (949) 417-4590 Fax: (949) 417-4591

Web Site
www.ipmn.com

IPSeries Mobile Radios
IP100/400/800

General Specifications

PARAMETER	Specification IP100	Specification IP400	Specification IP800
frequency range	135 to 175 MHz	400 to 512 MHz	806 to 869 MHz
channel spacing/speed			
IPSeries	12.5 kHz / 9.6 kbps 25.0 kHz / 19.2 kbps	12.5 kHz / 9.6 kbps 25.0 kHz / 19.2 kbps	12.5 kHz / 9.6 kbps 25.0 kHz / 19.2 kbps
IPSeries32	12.5 kHz / 16 kbps 25.0 kHz / 32 kbps	12.5 kHz / 16 kbps 25.0 kHz / 32 kbps	12.5 kHz / 16 kbps 25.0 kHz / 32 kbps
mode of operation	half-duplex, diversity reception	half-duplex, diversity reception	half-duplex, diversity reception
operating temperature range	-30C to +60C (-22F to +140F)	-30C to +60C (-22F to +140F)	-30C to +60C (-22F to +140F)
power supply voltage	13.8 VDC +/-20%	13.8 VDC +/-20%	13.8 VDC +/-20%
power supply	<0.2 amps receive, typical	<0.2 amps receive, typical	<0.2 amps receive, typical
current consumption	<16 amps transmit, typical	<13 amps transmit, typical	<8 amps transmit, typical
number of channels	50	50	50
intelligent diversity reception	dual receiver, diversity reception	dual receiver, diversity reception	dual receiver, diversity reception
antenna connections	Two (2) type "N" jacks (tx/rx1, rx2)	two (2) type "N" jacks (tx/rx1, rx2)	two (2) type "N" jacks (tx/rx1, rx2)
interface connection	RS232 serial port connector or RJ45 Ethernet 10 Base T	RS232 serial port connector or RJ45 Ethernet 10 Base T	RS232 serial port connector or RJ45 Ethernet 10 Base T
Dimensions (HxWxD / lbs)	2 X 4.5 X 8 / 2.5 lbs	2 X 4.5 X 8 / 2.5 lbs	2 X 4.5 X 8 / 2.5 lbs
regulatory	FCC Part 90 and Part 15	FCC Part 90 and Part 15	FCC Part 90 and Part 15

IP Series Mobile Radio Transmitter Specifications

PARAMETER	Specification IP100	Specification IP400	Specification IP800
frequency stability	+/- 1.5 ppm @ operating temp	+/- 1.5 ppm @ operating temp	+/- 1.0 ppm @ operating temp
emission designator	20K0F1D	20K0F1D	20K0F1D
spurious and harmonic	-61 dBc max	-59 dBc max	-56 dBc max
transmit power	60 watts (+/- 1 dB)	40 watts (+/- 1 dB)	20 watts (+/- 1 dB)
transmit attack time	less than 5 ms	less than 5 ms	less than 5 ms

IP Series Mobile Radio Receiver Specifications

PARAMETER	Specification IP100	Specification IP400	Specification IP800
sensitivity (voice)	12.0 dB SINAD@ -119 dBm max level	12.0 dB SINAD@ -118 dBm max level	12.0 dB SINAD@ -118 dBm max level
distortion	less than 3% @ 1.0 kHz	less than 3% @ 1.0 kHz	less than 3% @ 1.0 kHz
spurious response	85 dBm minimum	85 dBm minimum	85 dBm minimum
intermodulation distortion	75 dB minimum	75 dB minimum	75 dB minimum

GPS Receiver Specifications

general	L1 frequency, C/A code (SPS), 8-channel continuous tracking receiver, 32 correlators
protocols	TSIP, TAIP, and NMEA 0183

Specifications are subject to change.

16842 Von Karman Avenue, Suite 200 · Irvine, CA 92606 · Voice: (949) 417-4590 · Fax: (949) 417-4591 · www.ipmn.com

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

20-Feb-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 07-2419: (Kelly, 681): Submitted by Dave Jorgensen for property located at 3184 South City Lake Road. The property is zoned R-A, Residential Agricultural, and contains approximately 44.74 acres. The request is to rezone the subject property to RSF-4, Residential Single-Family, 4 units per acre.

Action Required:	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	2-1-07 Date	Previous Ordinance or Resolution #	n/a
City Attorney	2-2-07	Original Contract Date:	n/a
Finance and Internal Service Director (Paul A. Becker)	2-2-07 Date	Original Contract Number:	n/a
Mayor	2/6/07 Date		

Received in City Clerk's Office ENTERED 2/2/07

Received in Mayor's Office ENTERED 2/2/07

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: January 31, 2007

Subject: Rezoning for Kelly (RZN 07-2419)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of rezoning the subject property from R-A to RSF-4 for approximately 44.74 acres located at 3184 S. City Lake Road, south of 15th Street and north of Wilson Hollow Road.

BACKGROUND

The subject property contains approximately 44.74 acres. The property is located at 3184 S. City Lake Road, south of 15th Street, north of Wilson Hollow Road, adjacent to the southern property line of Danaher Tool Company. The property is zoned R-A, Residential Agricultural and contains one single-family dwelling unit and accessory structure.

The request is to rezone the subject 44.74 acre property from R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 Units per Acre.

DISCUSSION

This item was heard at the regular Planning Commission on January 22, 2007. The Planning Commission voted 7-0-0 to recommend approval of this rezoning request to the City Council, finding it consistent with the Future Land Use Plan and all applicable findings.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2419, FOR APPROXIMATELY 44.74 ACRES, LOCATED AT 3184 SOUTH CITY LAKE ROAD FROM R-A, RESIDENTIAL AGRICULTURAL, TO RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-4, Residential Single-Family, 4 units per acre, as shown on 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: ______________________________ By: ______________________________

DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

EXHIBIT "A"

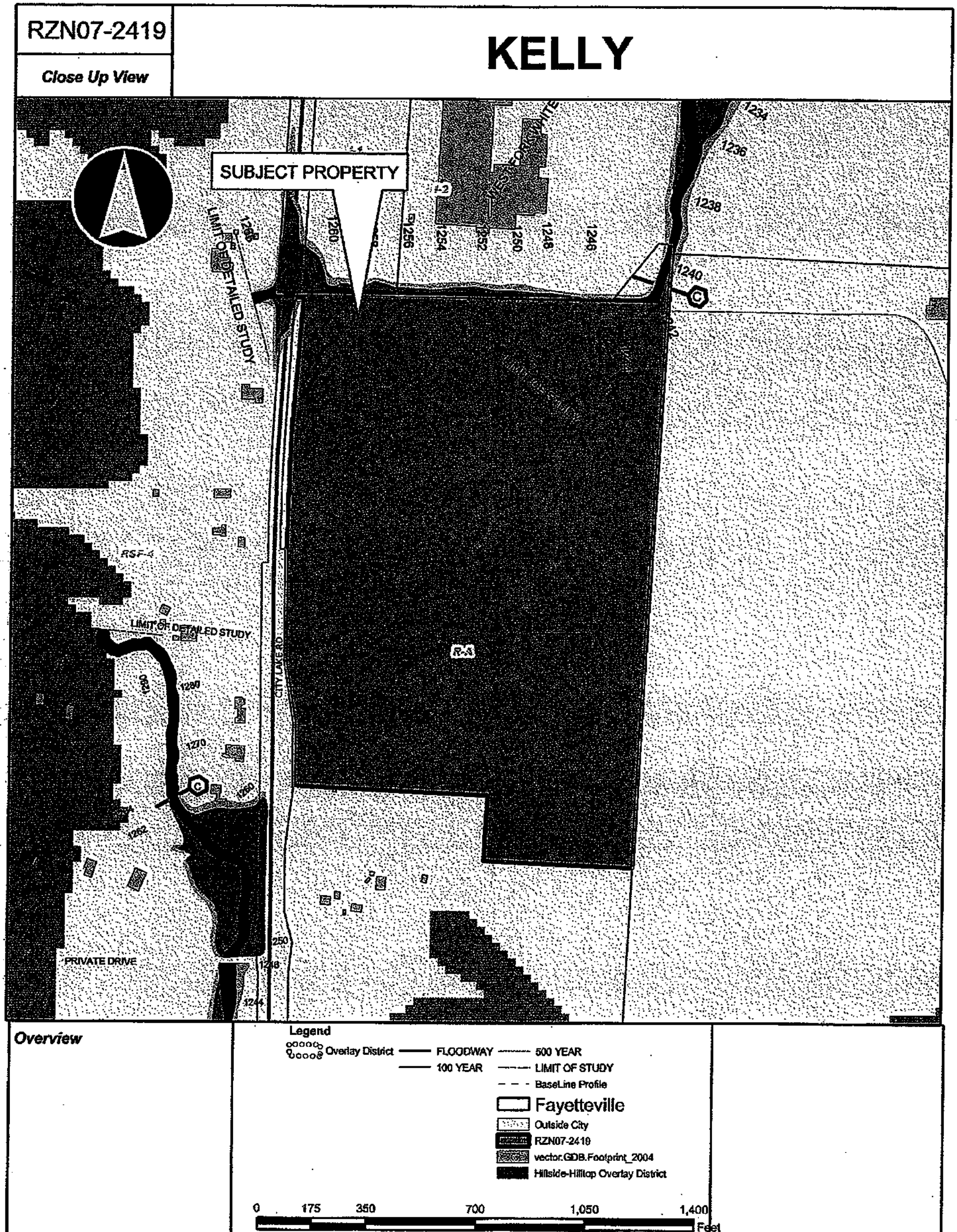

RZN07-2419
Close Up View
KELLY
SUBJECT PROPERTY
LIMIT OF DETAILED STUDY
RSF-4
LIMIT OF DETAILED STUDY
CITY LAKE RD
R-A
PRIVATE DRIVE
1234
1236
1238
1240
1260
1256
1254
1252
1250
1248
1246
1280
1270
1262
1250
1248
1244
Overview
Legend
Overlay District
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City
RZN07-2419
vector.GDB.Footprint_2004
Hillside-Hilltop Overlay District
0
175
350
700
1,050
1,400
Feet

EXHIBIT "B"
RZN 07-2419

PART OF THE SW1/4 OF THE SE1/4 OF SECTION 27, T16N, R30W, AND PART OF THE NW1/4 OF THE NE1/4 OF SECTION 34, T16N, R30W, ALL IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SW1/4, SE1/4 THENCE S02°52'39"W 660.49 FEET, THENCE N87°18'15"W 477.11 FEET, THENCE N02°52'39"E 208.71 FEET, THENCE N87°18'15"W 619.85 FEET, THENCE N00°01'21"W 199.69 FEET, THENCE N08°36'58"W 202.27 FEET, THENCE N00°02'11"W 359.36 FEET, THENCE N01°43'34"E 355.31 FEET, THENCE N04°26'05"E 472.75 FEET, FEET, THENCE S88°48'23"E 1129.34 FEET, THENCE N16°30'06"E 163.88 FEET, THENCE S03°12'15"W 1321.58 FEET TO THE P.O.B.; CONTAINING 44.74 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

Fayetteville
ARKANSAS

PC Meeting of January 22, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jesse Fulcher, Current Planner
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~January 17, 2007~~ *Updated January 18, 2007*

RZN 07-2419: (KELLY, 681): Submitted by DAVE JORGENSEN for property located at 3184 S. CITY LAKE ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 44.74 acres. The request is to rezone the subject property to RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE.

Planner: JESSE FULCHER

RECOMMENDATION:
Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION: Required YES
☐ Approved √ Forwarded ☐ Denied
Motion: Clark Second: Trumbo Vote: 7-0-0
Date: January 22, 2007

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied
Date: February 20, 2007 (1st reading if recommended)

BACKGROUND:

Property description: The subject property contains approximately 44.74 acres. The property is located south of 15th Street, north of Wilson Hollow Road, adjacent to the southern property line of Danaher Tool Company. The property is zoned R-A, Residential Agricultural and contains one single-family dwelling unit and accessory structure.

Proposal: The applicant proposes to rezone the property from R-A to RSF-4.

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	Danaher Tool Co.	I-1 Heavy Commercial Light Industrial/I-2, General Industrial
South	Two-family dwelling	R-A, Residential Agricultural
East	Single-Family Residential/Agricultural	Planning Area
West	Single-Family Residential	RSF-4, Res. Single-Family – 4 units/acre

INFRASTRUCTURE:

Streets: The site has access to City Lake Road. City Lake Road 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 an 8" waterline along City Lake Road. Upgrades to the existing water service will need to be reviewed at the time of development.

Sewer: Sanitary sewer is not adjacent to the site. Extension of sewer line(s) to the property will be required with future 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 44.74 acres are covered by Engine 1 and Ladder 1 at 303 N. Center Street.
- It is 3.4 miles from the station with an expected response time of 7 minutes 55 seconds. When the proposed Station 3 opens at Happy Hollow Road and Huntsville Road, the distance from the station will be 2.3 miles with an expected response time of 4 minutes 50 seconds.
- The Fire Department anticipates 41 (25 EMS – 16 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 recorded at 1443 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.

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 possibly** create an appreciable increase in traffic danger and congestion in the area unless some improvements are made to the intersection of 15th and Morningside.

CITY PLAN 2025 FUTURE LAND USE PLAN: Residential. Rezoning this property to RSF-4 is consistent with City Plan 2025 and compatible with surrounding land uses in the area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed RSF-4 zoning for a single-family residential use is compatible with adjacent and nearby single family residential land uses. City Plan 2025 future land use plan designates this area for residential use, which is compatible with the proposed RSF-4 zoning.**

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: **The proposed zoning is justified in order to promote orderly and consistent development patterns making use of existing infrastructure. A subdivision with density compatible to those surrounding subdivisions within the City could not be developed as it is currently zoned. A higher density than the R-A zoning district is appropriate in this area, and would provide compatibility with adjoining developments that are zoned RSF-4.**

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

Finding: **It is expected that a rezoning from R-A to RSF-4 would create an increase in traffic compared with that allowed under the existing zoning. However, the property has direct access to a collector street, which connects to 15th Street to the north and S. School Avenue to the south (both principal arterials). Additionally, a traffic signal is approved for construction at the intersection of City Lake Road and 15th Street that will help facilitate additional traffic that is generated by new developments in the area. Improvements to City Lake Road will be expected with future development of the property.**

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

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

sewer facilities.

Finding: **The proposed zoning would increase population density. Under an R-A, Residential Agricultural designation, the 44.74-acre tract would allow for a maximum of 22 dwelling unit (1 unit / 2 acres). With the proposed RSF-4 designation, 178 dwelling units would be permitted. 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: Nonresidential:	 2 acres 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.

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.

KELLY (RZN 07-2419)

Public water is located adjacent to the site. There is an 8" waterline along City Lake Road. Water service will need to be extended through the property at the time of development. Off-site water improvements may be required to properly supply this development with adequate fire protection.

Sanitary sewer is not available adjacent to the site. Sewer service will need to be extended to 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 may need to be studied at the time of development

The site has access to City Lake Road. City Lake Road. is an unimproved 2 lane roadway in this location. Improvements to the adjacent streets will be evaluated at the time of development.

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

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: January 16, 2007

Re: January 16, 2007 Zoning Review – Fire Department Comments

RZN 07-2419 (Kelly)

These 44.74 acres are covered by Engine 1 and Ladder 1 located at 303 N Center.

It is 3.4 miles from the station with an expected response time of 7 minutes 55 seconds.

When the proposed Station 3 opens at Happy Hollow and Huntsville, the distance from the station will be 2.3 miles with an expected response time of 4minutes 50 seconds.

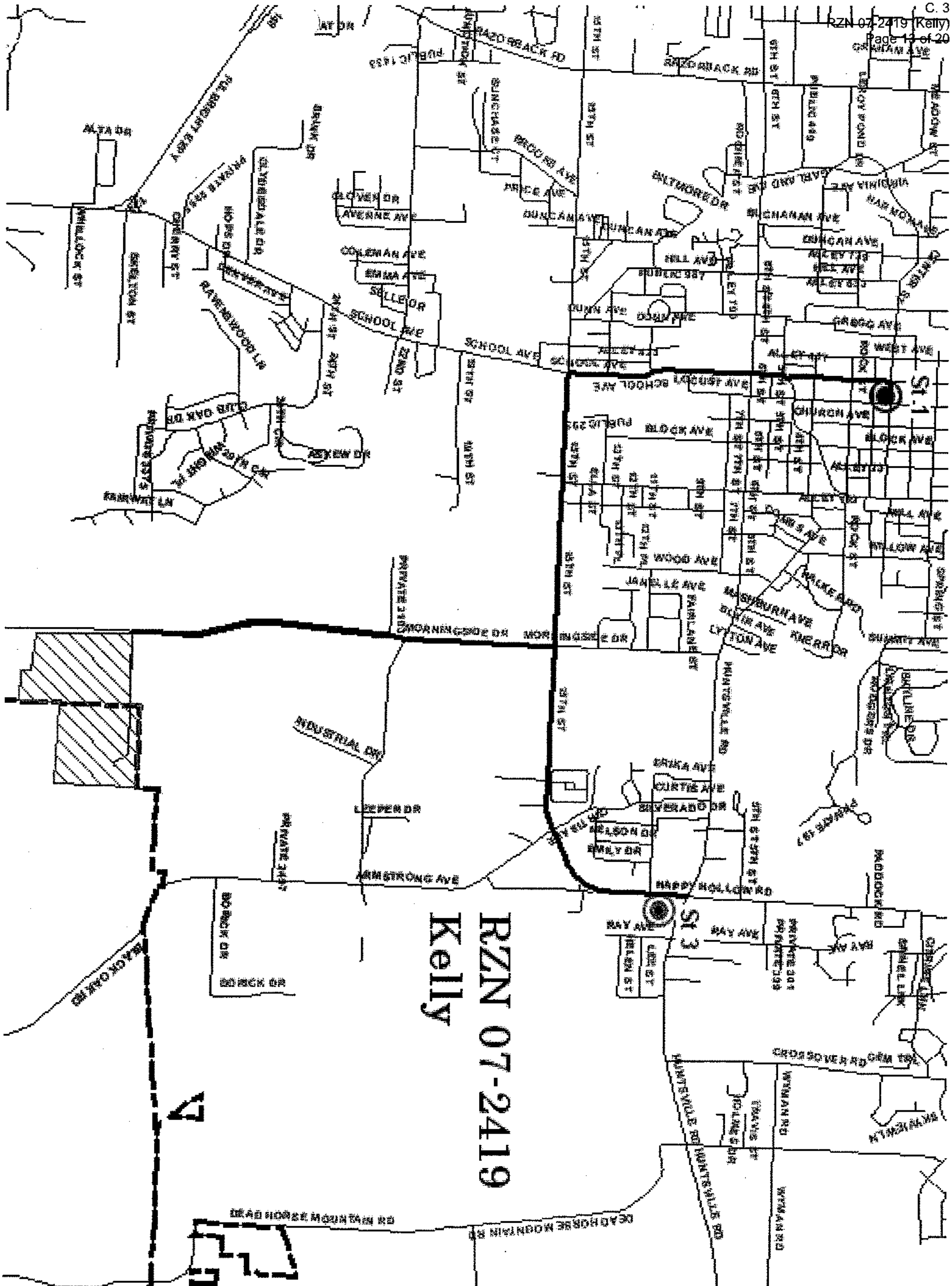
The Fire Department anticipates 41(25 EMS – 16 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is recorded at 1443 gallons/minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

Please feel free to contact me if you have any questions concerning these comments.

Dale Riggins
Fayetteville Fire Department


RZN 07-2419
Kelly
St. 1
St. 3
SCHOOL AVE
MORNINGSIDE DR
HAPPY HOLLOW RD
ARMSTRONG AVE
INDUSTRIAL DR
HUNTSVILLE RD
DEAD HORSE MOUNTAIN RD
LOCUST AVE
BLOCK AVE
WOOD AVE

Date 1/23/07

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed rezoning **RZN 07-2419: (KELLY, 681 / 720):** Submitted by **Dave Jorgensen** for property located at **3184 S. City Lake 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 is zoned **R-A** and contains **approximately 44.74 acres.** The request is to rezone the subject property to **RSF-4.**

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. It **will possibly** create an appreciable increase in traffic danger and congestion in the area unless some improvements are made to the intersection of 15th and Morningside.

Sincerely,

Captain William Brown
Fayetteville Police Department

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.

12/13/06

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RECEIVED
DEC 14 2006
PLANNING DIV.

Attn: Planning Dept
Re: Kelly Property Rezoning

Attached herewith please find the documents for a rezoning request on City Lake Road. This property is located on the east side of City Lake Road, south of Danaher tools. The property is currently RA and the request is to rezone to RSF-4.

The property to the north is I-2 and to the west is RSF-4; to the south is R-A and to the east is County.

There is an existing 8" waterline on City Lake Road. A sewerline extension will be required to the northeast to connect to an existing 12" sewer.

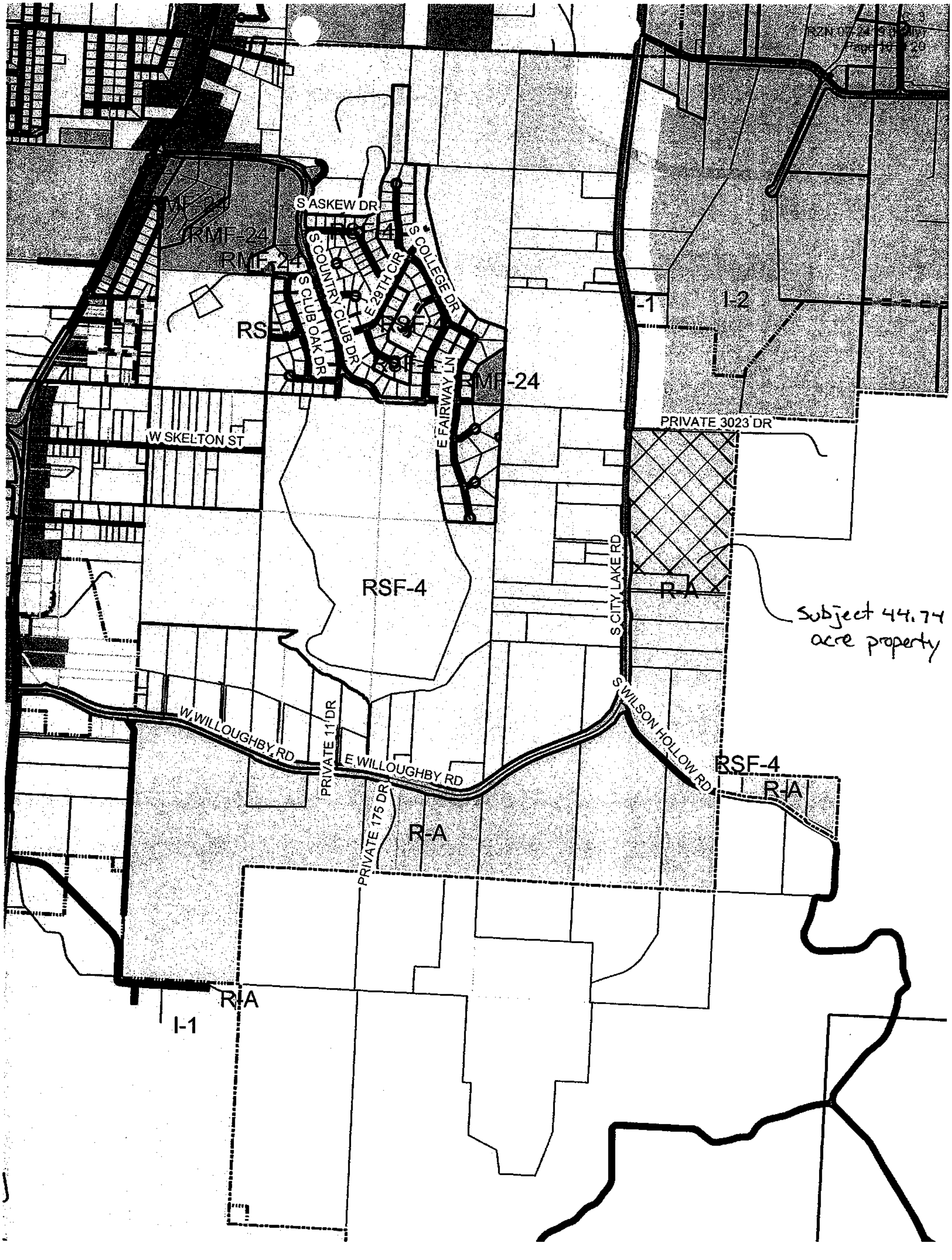
Access will be by City Lake Road which connects to 15th Street to the north and School Ave to the west.

Please review this information and call concerning any questions you may have.

Thank you.

Sincerely;

David L. Jorgensen, P.E.

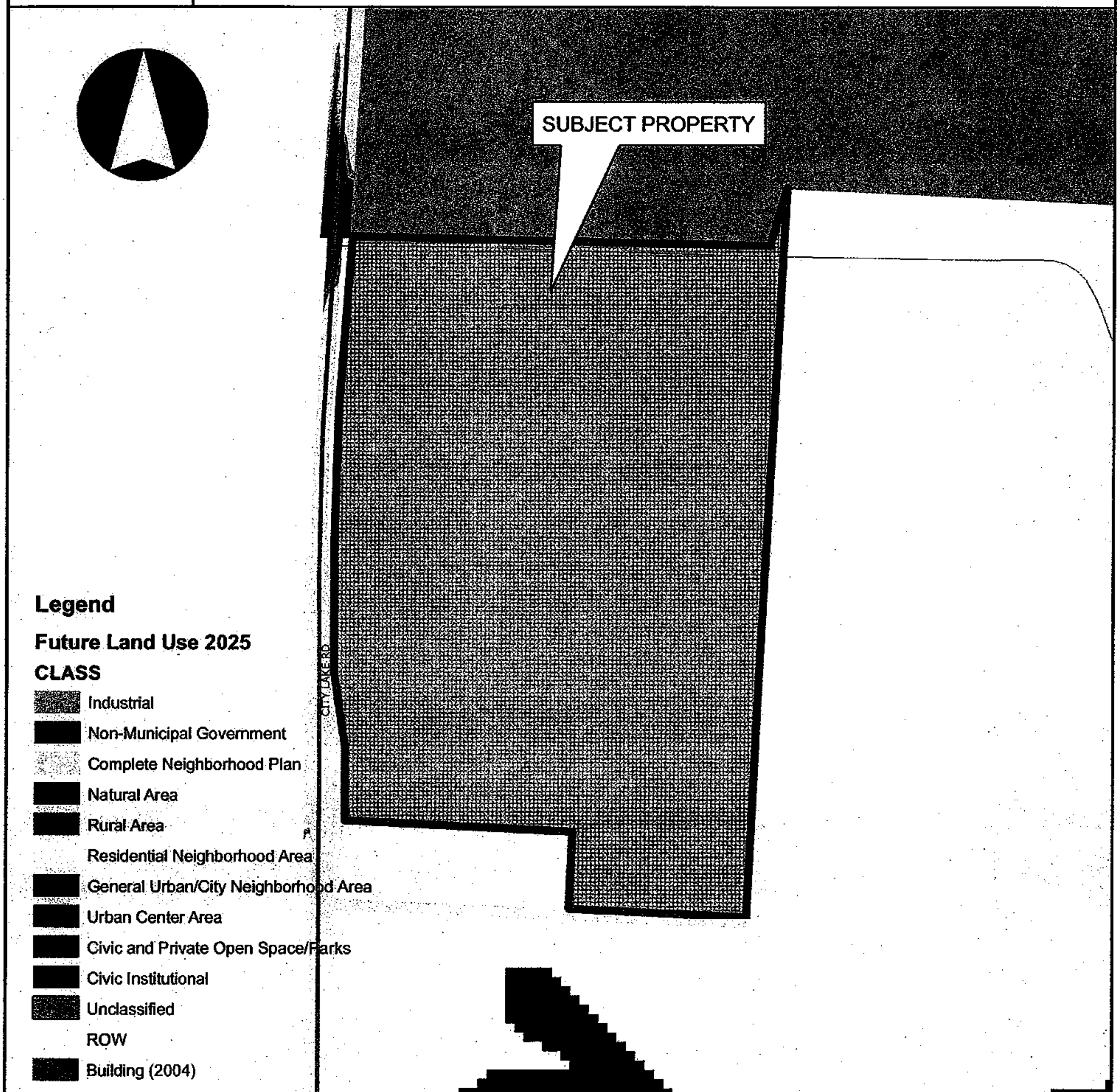


Subject 44.74 acre property

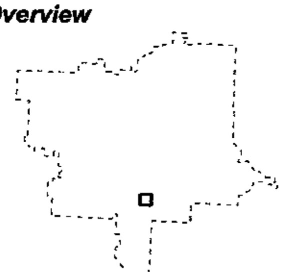
RZN07-2419

Future Land Use

KELLY



Overview



Legend

Subject Property

RZN07-2419

Boundary

Planning Area

Overlay District

Outside City

Streets

Existing

Planned

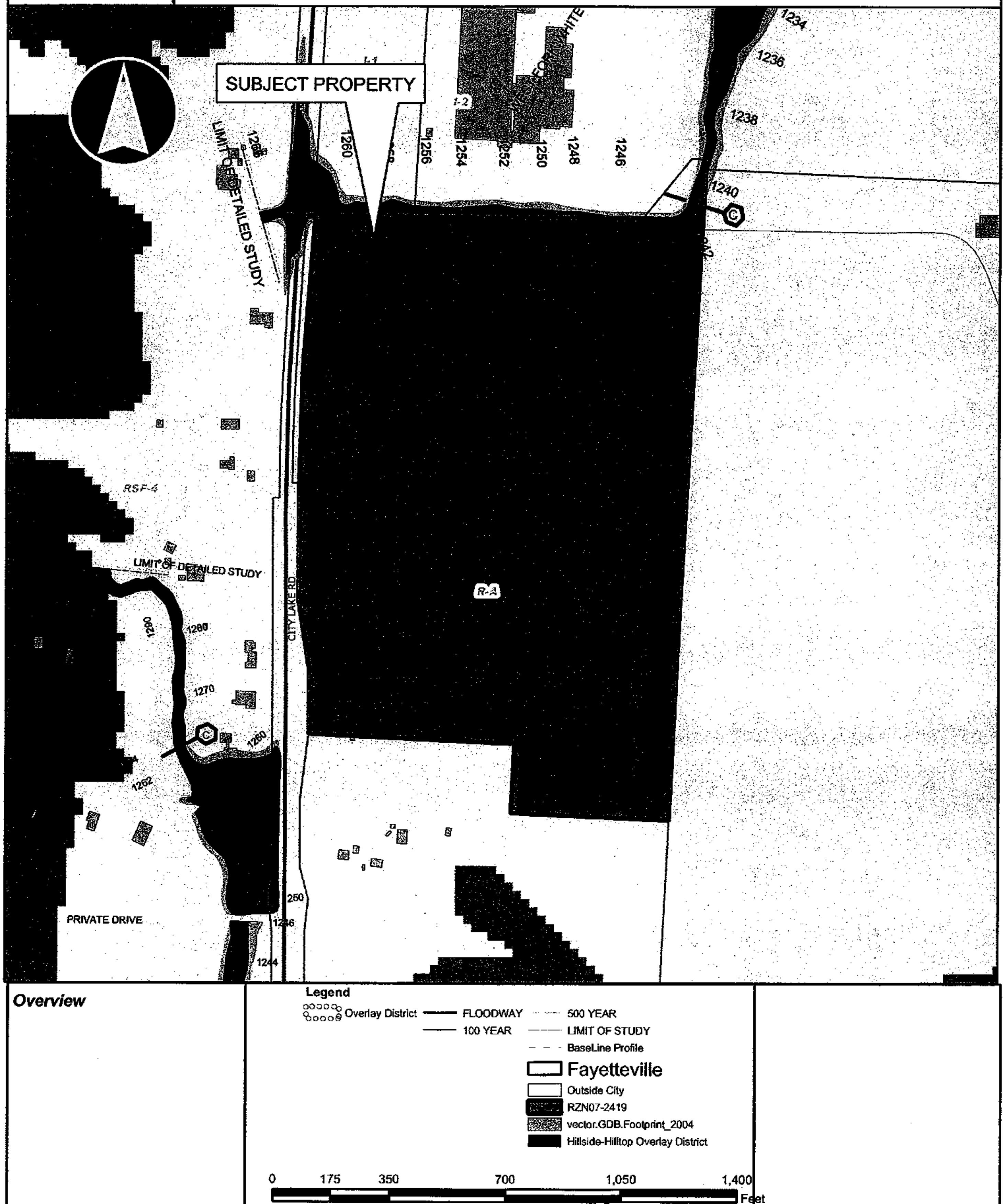
Legend

0 175 350 700 1,050 1,400 Feet

RZN07-2419

Close Up View

KELLY

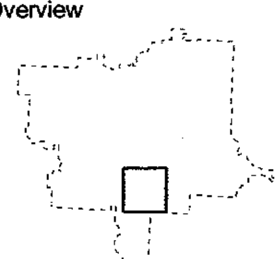


RZN07-2419

One Mile View

KELLY

Overview



Legend

Subject Property

RZN07-2419

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: January 23, 2007

Subject: Appeal of Wedington Circle Preliminary Plat (PPL 06-2302)

REQUEST

Alderman Lioneld Jordan and the applicant for Wedington Circle Preliminary Plat (06-2302) have both appealed the decision by the Planning Commission to approve this subdivision.

BACKGROUND

On February 2, 2006, the City Council approved a Master Development Plan to rezone approximately 6.13 acres of property to a unique R-PZD zoning district. The property is located north of Wedington Drive, west of Garland Avenue. The Master Development Plan approved a zoning which would permit a maximum 296 dwelling units and 16,576 square feet of commercial space. The R-PZD request was limited to zoning approval with development to follow in the form of a preliminary plat or large scale development.

Several conditions were placed on the Master Development Plan regarding the future development proposal of the property. These included the determination of street improvements with development and the street standards for interior/proposed streets (private versus public street). There was considerable discussion at the City Council and Street Committee after the Planning Commission reviewed and recommended the project, and several conditions were added to the project regarding the street improvements that were expected to be installed with the development of the site.

The applicant has initiated the first phase of development approvals for Wedington Circle, which consists of a Preliminary Plat. This plat indicates the water, sewer, grading, drainage and construction necessary to install the street connecting Wedington Drive to James Street that will serve future development. On January 08, 2007, the Planning Commission approved the Preliminary Plat for Wedington Circle with specific determinations regarding off-site street improvements and street standards.

Below is a summary of staff's recommendation and the Planning Commission approval for each of these items:

1. Off-site Street Improvements:

   Staff Recommendation: Based on the determinations made by the Street Committee and City Council during the approval of the Planned Zoning District, the developer shall be responsible for the closing of Mount Comfort Road between Garland Avenue and North Street, to include the installation of curb and gutter, sod, and landscaping; and installation of one traffic calming street table on James Street. With each large scale development proposal for the development of each lot, additional traffic improvements for traffic calming shall be added.

   Planning Commission Determination: A motion was made and approved with a vote of 5 to 4 to amend the condition of approval as described above to indicate the following: The City Council approved and required the street improvements as part of R-PZD 05-1776, to consist of the following: The applicant shall be responsible for the closing of Mount Comfort Road between Garland Avenue and North Street, to include the installation of curb and gutter, sod, and landscaping; and installation of one traffic calming street table on James Street. With each large scale development proposal for the development of each lot, additional traffic improvements for traffic calming shall be added. The Planning Commission does not recommend what the City Council approved for street improvements and requested that the Street Committee revisit this item. The Planning Commission specifically recommended traffic calming or a narrowing/choke of Mount Comfort Road and North Street, instead of a complete closure.

2. Street Standards:

   Staff Recommendation: Planning Commission determination of a waiver of Chapter 166.06 (K.10.b.i.) which requires that, "...any street connecting one or more public streets shall be constructed to existing City street standards and dedicated as a public street." *Due to the several waivers which would be required for the proposed street, including the street jog between Wedington Drive and Triangle Avenue, as well as the turning radius around the round-about, staff recommends that the street connecting Wedington Avenue and James Street be private. If approved, the applicant shall dedicate an access easement across the private street to allow public access between the dedicated rights-of-way and comply with all street and drainage criteria listed as part of Ch. 166.06 (K.10.b). The applicant shall modify the drawings to indicate the dedication of access easements instead of right-of-way along all private streets.*

   Planning Commission Determination: The Planning Commission voted in favor of the staff's recommendation to approve a waiver and permit a private street within the development, finding a public street in this case was not in the best interest of the City.

DISCUSSION

Wedington Place Preliminary Plat was approved on January 08, 2007 with a vote of 8-1-0, with Commissioner Myres voting "No." The conditions of approval were modified to reflect that street improvement requirements were based on the City Council's recommendations at the time of the Master Development Plan approval, and do not reflect the Planning Commission's recommendation. Considerable discussion regarding how the proposed development's relationship to this section of Mt. Comfort Road is relative to the traffic impact of this specific development occurred; the Planning Commission also discussed that creating traffic calming at the intersection of Mt. Comfort and North Street might function just as well as closing the street, and requested the Street Committee reconsider the decision. Additionally, a property owner that owns commercial properties in the area where Mt. Comfort Road would be closed spoke in opposition to the closing, stating that he had not been notified by the Street Committee or City Council that this would occur, and that it could potentially adversely impact his existing businesses. The majority of Planning Commissioners recommended reconsideration of the street improvements at Street Committee.

Based on staff recommendations and the waivers that would be required, the interior street was approved as a private street instead of a public street. Staff indicated that maintenance of this relatively steep street, along with a very small stacking distance and minimal offset from the State Highway at its entrance to Wedington Drive contributed to staff's recommendation that the street remain private.

BUDGET IMPACT

None.

HOUSES
INCORPORATED

217 North East Avenue
Fayetteville, AR 72701
telephone: 479.521.9155
facsimile: 479.521.6199

January 19, 2007

Sondra Smith, City Clerk
113 West Mountain Street
Fayetteville, Arkansas 72701

re: Wedington Circle LSD

Dear Ms. Smith,

As owners of the Wedington Circle project, we would like to submit an appeal of the Planning Commission's approval of our LSD application heard at the last planning commission session.

Your time and consideration is appreciated.

Respectfully,

Gregory T. House
for MansfieldHouse, LLC

RECEIVED
JAN 1 9 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

cc: Steve Mansfield
Tom Jefcoat

0[redacted]

01-19-07P04:53 RCVD

PPL
Planning Commission
Staff Report

Fayetteville ARKANSAS

PC Meeting of January 08, 2007

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 Glenn Newman, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	January 3, 2007 ***Updated January 10, 2007***

PPL 06-2302: Preliminary Plat (WEDINGTON CIRCLE PZD, 404): Submitted by MEL MILHOLLAND for property located NW OF WEDINGTON DRIVE AND GARLAND AVENUE. The property is zoned R-PZD 05-1776, RESIDENTIAL PLANNED ZONING DISTRICT and contains approximately 6.13 acres. The request is for a preliminary plat of a Residential Planned Zoning District with 6 mixed-use lots proposed. Planner: Suzanne Morgan

Findings:

Background: This item was forwarded to the Planning Commission at the November 30, 2006 Planning Commission meeting.

Property Description: The property consists of approximately 6.13 acres. On February 2, 2006, the City Council approved a Master Development Plan to rezone this property to a unique R-PZD zoning district. There is dense tree canopy (89%) and 10% slopes located on the undeveloped site; the property is not located within the Hillside Hilltop Overlay District. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

Surrounding Land Use and Zoning

Direction	**Land Use**	**Zoning**
North	Apartment Complex and single family homes	RMF-24
South	Single family homes (across Highway 62)	RSF-4
East	Harps, Arvest Bank	C-2 and C-1
West	Single family homes; apartment buildings	RSF-4; RMF-24

ZONING CRITERIA: R-PZD 05-1776 (Wedington Circle)
Planning Area 1, 6.13 acres

(A) *Proposed Uses.*
Permitted Uses

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collection recyclable materials
Unit 34	Liquor Stores
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities

* *Conditional use approval by the Planning Commission required.*

(B) *Density/Intensity*

Density (dwelling units)	**Intensity** (square feet nonresidential)
48.3 Units/Acre: Maximum 296 dwelling units *Anticipated development (not required by zoning):* 428 bedrooms 16 Efficiencies 156 1-bedroom 116 2-bedroom 8 3-bedroom	**Maximum 16,576 SF** *Anticipated development (not required by zoning):* Professional Office: 10,000 SF Retail: 6,576 SF

(C) *Bulk and area regulations.*

Lot width minimum	Lot area minimum	Land area per dwelling unit
None	None	No Bedroom – 800 SF One Bedroom – 800 SF Two Bedroom – 1,000 SF Three Bedroom or more – 1,200 SF

(D) *Setback requirements.*

Front	Side	Rear
0 feet	0 feet	5 feet

(E) *Height.* Maximum height for all structures is six stories.

(F) *Building area.* Maximum 100% building area.

(G) *Signage.* Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.

Proposal: The applicant requests preliminary plat approval for a mixed-use subdivision with 8 lots, two of which are unbuildable and reserved for tree preservation. The applicant proposes a 55' right-of-way in which a street shall be constructed at varying widths, narrowing at where parallel parking is proposed.

The overall project includes development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of is 93% residential use and 7% commercial use. Each development phase (2-7) shall be reviewed and approved by the Planning Commission as a large scale development, and may require Preliminary/Final plat approval as well if the applicant wishes to subdivide the property.

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial) and Garland Avenue to the east (Principal Arterial)

Right-of-way being dedicated: The applicant shall dedicate additional right-of-way for a total 55' from centerline for Wedington Drive by separate document prior to the recordation of the final plat.

With the ordinance establishing the Master Development Plan, the Planning Commission was given the determination of whether interior streets are to be public, private or a combination. Due to the several waivers which would be required for the proposed street, including the street jog between Wedington Drive and Triangle Avenue, as well as the turning radius around the round-about, staff recommends that the street connecting Wedington Avenue and James Street be private. To allow the construction of a private street that connects two public streets will require the approval of a waiver of Chapter 166.06 (K.10.b.i.) which requires that, "...any street connecting one or more public streets shall be constructed to existing City street standards and dedicated as a public street." The applicant shall dedicate an access easement across the private street to allow public access between the dedicated rights-of-way.

Street Improvements: Staff recommends the closing Mount Comfort Road between Garland Avenue and North Street, to include the installation of curb and gutter, sod, and landscaping, installation of one traffic calming street table on Saint James Street. With each large scale development proposal for the development of each lot, additional traffic improvements for traffic calming shall be added.

Parks:

- On August 1, 2005 The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for Wedington Circle for 12 single family units and 284 multi-family units.
- Fees are assessed in the amount of $118,272.
- Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.
- Parks fees are due before signing the final plat or before issuance of building permits allowing development to occur.

Tree Preservation:	Existing canopy:	88.5%
	Preserved canopy:	18.4%
	Required:	25%
	Mitigation:	Required

Recommendation: The Subdivision Committee recommending forwarding the preliminary plat to the Planning Commission with a recommendation for approval.

Staff recommends approval of **PPL 06-2302** with the following conditions:

Conditions of Approval:

1. ~~Planning Commission determination of appropriate street improvements.~~ ~~*Staff recommends*~~ ***The City Council approved and requires the following street improvements as part of R-PZD 05-1776, to consist of the following:*** *the closing Mount Comfort Road between Garland Avenue and North Street, to include the installation of curb and gutter, sod, and landscaping, installation of one traffic calming street table on Saint James Street. With each large scale development proposal for the development of each lot, additional traffic improvements for traffic calming shall be added.* ***The Planning Commission does not recommend what the City Council approved above, but asks that***

the Street Committee revisit this item and recommends traffic calming or a narrowing/choke of Mount Comfort Road.

The Subdivision Committee recommended approval of the street improvements.

The Planning Commission amended the language for Condition #1.

2. Planning Commission determination of a waiver of Chapter 166.06 (K.10.b.i.) which requires that, "...any street connecting one or more public streets shall be constructed to existing City street standards and dedicated as a public street." *Due to the several waivers which would be required for the proposed street, including the street jog between Wedington Drive and Triangle Avenue, as well as the turning radius around the round-about, staff recommends that the street connecting Wedington Avenue and James Street be private. If approved, the applicant shall dedicate an access easement across the private street to allow public access between the dedicated rights-of-way and comply with all street and drainage criteria listed as part of Ch. 166.06 (K.10.b).* ***The applicant shall modify the drawings to indicate the dedication of access easements instead of right-of-way along all private streets.***

   The Subdivision Committee recommended approval of the requested waiver.

   The Planning Commission recommended approval of the requested waiver.

3. Planning Commission determination of a variance of Ch. 177.05 (B)(3) Street Tree Planing Plan Requirements for Urban Streetscapes, which requires a ten foot wide or greater sidewalk where urban tree wells are located. *The applicant has stated that in preparing the original Master Development Plan, 8-foot sidewalks at the face of buildings, building set back, were shown and that concept has carried over into the preliminary plat. Staff is in support of this request finding that 8' is an adequate size for tree wells.*
   The Planning Commission recommended approval of the requested waiver.

4. Front building setbacks shall be enforced from the public right-of-way and private street access easements.

5. 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 placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

6. All development of the property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. Each Planning Area shall be evaluated based on the zoning and development criteria established with the Master Development Plan.

7. The applicant shall dedicate additional right-of-way for a total 55' from centerline for Wedington Drive by separate document prior to the recordation of the final plat.

8. Each Phase submitted for preliminary plat or large scale development review shall meet current development criteria at the time of submittal. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.

9. If within five (5) years of the City Council adoption of the Master Development Plan, the approved zoning criteria are not in accordance with the goals, policies and guidelines of the City of Fayetteville, the Planning Commission will determine whether the Master Development Plan shall be submitted to the City Council for reconsideration.

10. All public and private streets/drives shall conform to city standards. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution.

11. The applicant shall revise the intersection of Wedington Avenue and the proposed street such that it will function as a one-way in and one-way out access with a physical separation between the entrance and exit. This shall be done in accordance with AHTD approvals.

12. The GIS Division shall approve the legal description and State Plane coordinates.

13. The applicant shall survey the sidewalk location prior to construction.

14. All comments in the attached memo from the Engineering Division shall be addressed prior to submission of construction drawings.

15. In accordance with City Transportation Division requirements, adequate distance between the parallel parking spaces and the intersection of two streets shall be provided.

16. All landscaping requirements will be required with the development of the individual lots formed by this preliminary plat.

17. The applicant is proposing to utilize the urban streetscape option with tree wells. There are some areas at which the sidewalk and trees will be installed before final plat. Structural soil per City requirements and tree grates must be utilized. Please add a note to the Tree Preservation plan that states; Structural soil or similar treatment will be installed before the installation of the sidewalk per City of Fayetteville standards. An approved 4' X 4', or greater, iron tree grate with opening width of ¼ inch will be used.

18. Staff approved the Master Development Plan for this site with the condition that the applicant would preserve 18.4% of the canopy, mitigate to the required 25% (81 trees), and then add additional trees to screen the property along Wedington in the amount of 65 trees.

19. With this preliminary plat approval, Phase 1, the applicant is proposing to preserve 35% of the canopy. Canopy will only be removed for the installation of infrastructure. Further canopy will be removed after large scale approval has been granted for the individual lots.

20. This project is a non-residential subdivision. The applicant has chosen to utilize the Tree Preservation for Entire Subdivision option which would require all Tree Preservation requirements to be mitigated for at the time of Final Plat. The lots established by this preliminary plat will be required to come through the City's planning process. At this time the lots will be exempt from all Tree Preservation requirements except those of mitigation that can not be resolved until after the structures are designed.

21. On the Tree Preservation and Mitigation Plan approved by City Council for the Master Development Plan, the 65 trees added for screening were located near the Wedington right of way. Staff would like to continue conversations with the State Highway Department to try to get these trees planted within the expansive right of way. If permission is obtained these trees would be planted before final plat.

22. The applicant will be required 81 (2) inch caliper large species mitigation trees. At the time of Final Plat a Tree Mitigation Planting plan will be required to be filed with this final plat depicting the general location of the remaining trees and all the other required notes defined in Chapter 167 Tree Preservation and Protection on-site mitigation.

23. All of the 18.4% preserved canopy on this site must be placed within a Tree Preservation Area at the time of Final Plat. This will distinguish the physical bounds of this canopy and ensure preservation through the future development.

Standard Conditions of Approval:

24. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

25. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

26. All street names shall be approved by the 911 coordinator.

27. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

28. All new exterior lighting shall comply with the City's lighting ordinance.

Public Comment: Mr. Glenn David Wilson spoke regarding the off site improvements. He would like to see Mount Comfort remain open. He requested statistics on traffic accidents.

Planning Commission Discussion: Several members of the Commission discussed the street improvements and suggested that other traffic calming measures be put in place in lieu of removing the entrance to Mount Comfort Road on Garland Avenue and North Street.

Planning Commission Action: _yes_ Required _X_ Approved ___ Denied _____ Tabled

First Motion: by Anthes to amend Condition #1
Second: Clark
Vote: 5-4-0 (No Votes: Myres, Graves, Lack, Harris)
MOTION PASSED

Second Motion: by Anthes to approve the PPL with conditions as amended
Second: Graves
Vote: 8-1-0 (No Vote: Myres)

Date: January 8, 2007

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Suzanne Morgan, Planner Date: January 4, 2007

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (January 8, 2007 Planning Committee Meeting)

Development: **Wedington Circle PZD – 06-2302**

Engineer: **Milholland Company**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Submit Triangle Avenue as a Private Dive or make the following changes:
   a. Revise the dimensions of the traffic circle to allow a SU design vehicle (fire truck, small delivery truck, bus, etc.) to negotiate the intersection without driving over curbs.
   b. Provide 30 ft radius at the intersection with the traffic circle as required for public streets.
   c. Increase the length of the public roadway intersecting Wedington Drive to meet the required standard of 150 ft minimum jog on minor streets.
   d. Revise the "Tee" intersection on Triangle Ave to meet the minimum grade requirement at "Hilly" intersections of 4% max. within 100 ft of the intersection.
3. Offsite sanitary sewer mains identified in the Applicants summary as I and J (375 ft) shall be increased to an 8" diameter and K & L (650 ft) to a 10" with the associated construction and service connections along Mt Comfort Road.
4. Additional offsite traffic calming measures are required along Stephens Ave and Hendrix Street at the time of future development (3 each).

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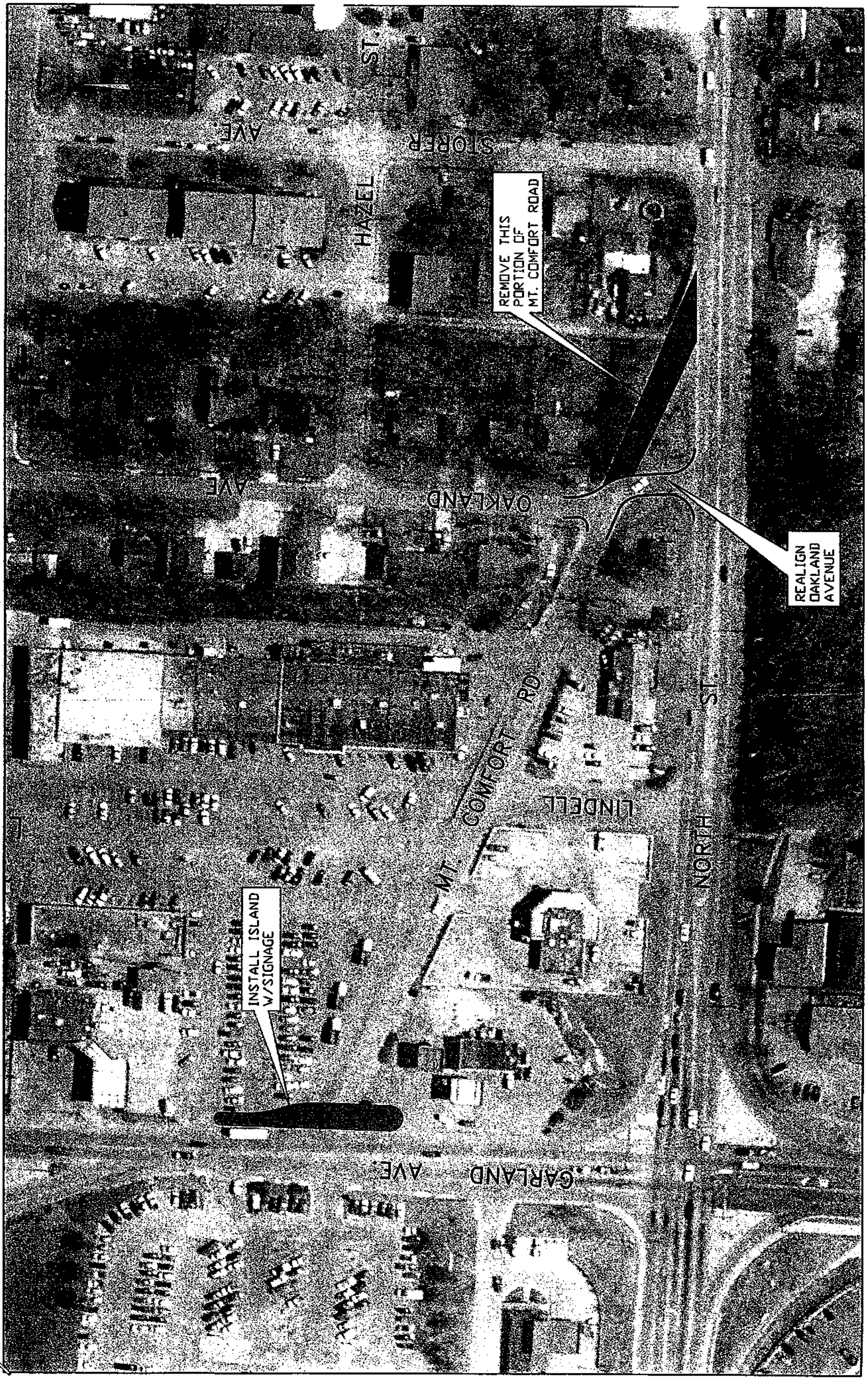


NORTH

R-PZD
City Council Agenda Request

(includes notes taken at City Council)

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 15, 2005

Subject: Master Development Plan - Residential Planned Zoning District for Wedington Circle (R-PZD 05-1776)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Master Development Plan - Residential Planned Zoning District (R-PZD) for Wedington Circle, based on the Master Development Plan, development standards, and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 6.13 acres. It does not grant development approval.

BACKGROUND

The property consists of approximately 6.13 acres. The applicant requests a rezoning and Master Development Plan approval for the subject property. There is dense tree canopy and 10% slopes located on the undeveloped site. The property is currently zoned RMF-24 and C-2. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

The mixed-use project will include development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way which would require a preliminary and final plat. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of 93% residential use and 7% commercial use. Each development phase (2-7) will be reviewed and approved by the Planning Commission as a large scale development, depending upon how they are submitted.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on December 12, 2005. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

The applicant has submitted a traffic study which does not recommend any improvements, however staff is aware of infrastructure that may be detrimentally impacted with this additional development. At the time of development, streets that the development will access may need to be improved to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a full street section width will be required on James Street to the intersection of Mount Comfort Road and potential improvements, including sidewalk, to Wedington Drive. Contribution to long-term or installation of short-term improvements to the intersection of Mount Comfort and Garland (Highway 112) has also been discussed, and will be evaluated at the time of development.

BUDGET IMPACT

None.

*

CC Notes (02.09.06)

- Traffic calming to be installed in adjacent neighborhoods (by city)
- City staff to present closing of Mt. Comfort east of Garland at next St. Comm.
- At time of development, project shall contribute to creating "T" intersection of Mt. Comfort/James & Garland as a long-term solution

R-PZD
City Council
Staff Report

Fayetteville ARKANSAS

PC Meeting of December 12, 2005

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: December 7, 2005 ***Updated December 15, 2005***

R-PZD 05-1776: Residential Planned Zoning District (Wedington Circle): Submitted by Rob Sharp Architect, Inc. in behalf of Greg House and Steve Mansfield for property located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue. The property is zoned RMF-24, Residential Multi-family – 24 units per acre, and C-2, Thoroughfare Commercial, and contains approximately 6.13 acres. The request is to approve a Master Development Plan – Residential Planned Zoning District for a mixed use development to include multi-family dwellings, offices, retail and associated parking.

Property Owner: Mansfield House, LLC   Planner: Suzanne Morgan

Findings:

Property Description: The property consists of approximately 6.13 acres; conflicting information has been provided regarding the size of the property and the applicant is in the process of obtaining an accurate surveyed legal description of the entire subject property. The applicant requests a rezoning and Master Development Plan approval for the subject property. There is dense tree canopy (89%) and 10% slopes located on the undeveloped site. The property is zoned RMF-24 and C-2 which allows for high density and high intensity uses. It is located north of Wedington Drive, just west of Garland Avenue and has some frontage on James Street.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Apartment Complex and single family homes	RMF-24
South	Single family homes (across Highway 62)	RSF-4
East	Harps, Arvest Bank	C-2 and C-1
West	Single family homes; apartment buildings	RSF-4; RMF-24

Proposal: The applicant requests a rezoning and Master Development Plan approval for a mixed-use project on the property. The project will include development of 7 phases, the first being the installation of required infrastructure and dedication of right-of-way. The remaining 6 phases will be the development of structures for residential and retail/office use. The proposal consists of is 93% residential use and 7% commercial use. Each development phase (2-7) shall be reviewed and approved by the Planning Commission as a large scale development, and may require Preliminary/Final plat approval as well if the applicant wishes to subdivide the property.

Process: The purpose of the subject request is to allow a mixture of uses within the entire project and create an urban environment for those who desire to live close to the University of Arkansas and within one mile of the central downtown area. The density proposed is 48 units per acre, with a maximum 296 units and 428 bedrooms. In order to do so, the Planned Zoning District process was recommended. City Council approval of the proposed Master Development Plan would effectively rezone the property based on the plans and information provided. However, it does not give development approval. The applicant is required to return through the preliminary plat, final plat and large scale development process, in this case, in order for the Planning Commission to confirm that the development plans presented are compliant with the zoning and Master Development Plans approved by the City Council.

The following bulk and area regulations are proposed by the applicant, and are included in detail within the attached submittal:

ZONING CRITERIA: R-PZD 05-1776 (Wedington Circle)
Planning Area 1, 6.13 acres

(A) *Proposed Uses.*

Permitted Uses

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 16	Shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupations
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 18	Gasoline service stations and drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 28	Center for collection recyclable materials
Unit 34	Liquor Stores
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities

** Conditional use approval by the Planning Commission required.*

(B) *Density/Intensity*

Density (dwelling units)	**Intensity** (square feet nonresidential)
49* Units/Acre: Maximum 296 dwelling units *Anticipated development* *(not required by zoning):* 428 bedrooms 16 Efficiencies 156 1-bedroom 116 2-bedroom 8 3-bedroom	**Maximum 16,576 SF** *Anticipated development* *(not required by zoning):* Professional Office: 10,000 SF Retail: 6,576 SF

***Staff has modified the density from 48.3 units per acre to 49 units per acre, with the understanding that the maximum number of dwelling units allowable is 296.**

(C) *Bulk and area regulations.*

Lot width minimum	**Lot area minimum**	**Land area per dwelling unit**
None	None	No Bedroom – 800 SF One Bedroom – 800 SF Two Bedroom – 1,000 SF Three Bedroom or more – 1,200 SF

(D) *Setback requirements.*

Front	**Side**	**Rear**
0 feet	0 feet	5 feet

(E) *Height.* Maximum height for all structures is six stories.

(F) *Building area.* Maximum 100% building area.

(G) *Signage.* Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.

(H) *Tree Preservation.* The applicant proposes to potentially preserve approximately 18.4% of the existing canopy on the property, though detailed site work has not been done. The percent canopy required to be preserved in a PZD is 25%. The applicant proposes mitigation of the 6.6% canopy with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy within the AHTD right-of-way to provide a buffer between this development and properties to the south, and to provide additional canopy to the property. Due to the difficult nature of this site to develop, staff is generally supportive of this proposal, and will evaluate the development plans to retain as much canopy as possible.

Water & Sewer: Water is currently available, and will be extended on-site with adequate fire protection (hydrants) and water line size to be provided as required by code. The Fire Department shall review the proposal to ensure adequate access to and within the site and sprinkling with each structure. Evaluations of the water system, sewer system, streets, and drainage will need to be made as the scope of the project becomes better defined. More specifically, the water distribution system may need to be upgraded to handle the increased demand for domestic and fire supply, the sanitary sewer system needs to be evaluated to show any deficiencies, streets and pedestrian access will need to be improved and follow City standards. Drainage improvements may include detention and/or improvements to the existing system.

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial) and Garland Avenue to the east (Principal Arterial)

Traffic: Access is proposed to be provided from Wedington Drive, a Principal Arterial, and James Street, a local street. Wedington Circle is constructed to its widest extent and the condition of James Street may need to be improved. At the time of development, streets that the development will access may need to be reconstructed to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a full street section width will be required on James Street to the intersection of Mount Comfort Road and potential improvements, including sidewalk, to Wedington Drive. Contribution to long-term or installation of short-term improvements to the intersection of Mount Comfort and Garland (Highway 112) has also been discussed, and will be evaluated at the time of development. Any curb cut or improvements on Wedington Drive shall require AHTD approval. Access for ladder trucks within this property and especially around the round-about for the Fire Department is a stated concern.

Interior to the project, public and private drives are proposed. Access to future structures will need to meet with Fire Department approval in order to provide adequate fire protection and emergency access in time of need. The slope, width and construction of interior drives to access future structures shall be evaluated at the time of development to ensure proper and safe access is achieved. Based on further evaluations by Planning and Engineering, interior streets may or may not be public.

Street Improvements: Staff recommends that street improvements be evaluated at the time of development for Wedington Drive along the project frontage and on James Street, as well as surrounding intersections. At this time the applicant has submitted a traffic study which does not recommend any improvements, however staff is aware of infrastructure that may be detrimentally impacted with this additional development.

Tree Preservation: Most of the site (88.66%) contains existing tree canopy. The majority of the property is intended to be utilized for development and to do so on slopes of 10% will create a great deal of disturbance. The applicant is preserving the tree canopy in one location on the property. The applicant proposes to preserve approximately 18.4% of the existing canopy on the property, utilizing retaining walls to minimize grading. The applicant proposes mitigation of the addition required 6.6% canopy with on-site tree plantings. Additionally, the applicant proposes planting an additional 14,170 square feet of tree canopy within the AHTD right-of-way to provide a buffer between this development and properties to the south. The Urban Forester's evaluation of the proposed tree preservation plan has been included in the staff report, and is cautiously supportive, due to the fact that this is a concept plan only, and further evaluation will need to be made at the time of development.

If developed under the current zoning regulations, 15% tree canopy in a C-2 zoning district and 20% canopy within an RMF-24 zoning district is required to be preserved.

Parks:

- On August 1, 2005 The Parks and Recreation Advisory Board recommended accepting money in lieu of land to satisfy the Park Land Dedication requirements for Wedington Circle for 12 single family units and 284 multi-family units.
- Fees are assessed in the amount of $118,272.
- Asbell School Park is within a half mile service area of this development. Given its proximity to Asbell as well as Lewis Soccer Complex and the playground at Leverett Elementary School, this development will have adequate access to recreation. Additionally, the developer is proposing a pool, workout room, and soft surface walking trail and playground within the tree preservation area.
- Parks fees are due before signing the final plat or before issuance of building permits allowing development to occur.

Public Comment: The applicants have presented their ideas to two Ward 4 neighborhood meetings. Staff has not received any public comments regarding this project, though the applicant indicates response has been, for the most part, favorable.

Recommendation: Staff recommends forwarding the Master Development Plan – Residential-Planned Zoning District for Wedington Circle (R-PZD 05-1776) to the City Council with a recommendation of approval with the following conditions:

Conditions of Approval:

1. ***After the Planning Commission meeting on December 12, 2005, staff reevaluated the recommended Lot Area Minimum for this property and modified the recommendation from "8,000 square feet" to "None" finding that to establish a lot area minimum in a dense, urban-type development was unnecessary.***

2. 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.

3. Approval of this Master Development Plan – Planned Zoning District shall not be construed as development approval. Pursuant to city ordinance, all development of the

property shall be approved by the Planning Commission through the large scale development and/or subdivision review process. Each Planning Area shall be evaluated based on the zoning and development criteria established with the Master Development Plan. Circulation, landscaping, tree preservation, design standards, connectivity, infrastructure improvements and other city policies and ordinances remain applicable with the development review process. The conceptual designs proposed are to be used as a template from which detailed plans are produced; however, it is expected that certain items will change, in accordance with the Planned Zoning District ordinance.

4. Each Phase submitted for preliminary plat or large scale development review shall meet current development criteria at the time of submittal. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development of the Phase with a one (1) year extension available.

5. If within five (5) years of the City Council adoption of the Master Development Plan, the approved zoning criteria are not in accordance with the goals, policies and guidelines of the City of Fayetteville, the Planning Commission will determine whether the Master Development Plan shall be submitted to the City Council for reconsideration.

6. The applicant currently proposes Tree Preservation less than required within a Planned Zoning District, though all detailed plans have not been proposed. The requirement is 25% tree canopy preservation. The applicant proposes approximately 18.4% tree canopy preservation. Staff recognizes that with the development of construction plans, grading and drainage plans, and utility easement requests the total percent canopy preserved may vary slightly from the 18.4% proposed. A Tree Preservation plan will be evaluated at the time of development submittal. The applicant shall install mitigation trees on site, and the applicant has proposed installation of an additional 14,170 square feet tree canopy with the AHTD right-of-way south of the subject property.

7. All signage within each Phase of the Master Development Plan shall be permitted in accordance with the current sign regulations at the time of development. Signage shall comply with the C-2 zoning requirements of the Fayetteville Sign Ordinance. Buildings containing only residential dwellings will adhere to the RMF-24 zoning district requirements of the Fayetteville Sign Ordinance.

* 8. All public and private streets/drives shall conform to city standards. Improvements to existing streets shall be determined by the Planning Commission at the time of development. Public and Private streets shall not be gated, unless permitted by express approval from the City Council by resolution. With this ordinance, the Planning Commission is given the determination of whether interior streets are to be public, private or a combination, to be determined at the time of development with a more thorough evaluation.

* 9. The applicant commissioned a traffic study for this project. Staff will be making the recommendations for street improvements at the time of development. Dedication of right-of-way to meet Master Street Plan requirements, appropriate drainage, lighting,

sidewalk and other surrounding or adjacent street and intersection improvements as determined to be appropriate in alleviating the impact of the increase in use and traffic generation shall be determined by the Planning Commission.

10. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

11. Prior to approval of an ordinance approving this Master Development Plan – Residential Planned Zoning District, the applicant shall submit a written legal descriptions including area in square feet or acres that read clockwise, meets all city ordinance requirements, and is adopted by the GIS division. ***The applicant has submitted a revised legal description which is currently being reviewed by the GIS Division and will be approved prior to the recordation of the ordinance adopting the R-PZD.***

Planning Commission Action: Required YES
❑ Approved ❑ Denied ❑ Tabled ✓ FORWARD TO CC
Motion: **Trumbo**
Meeting Date: **December 12, 2005** ***Second:*** **Clark**
Vote: **8-0-0**
Comments: ______________________________

The **"Conditions of Approval"** listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature ____________ Date ____________

CITY COUNCIL ACTION: **yes Required**

_____Approved _____Denied

Date: January 03, 2006

Comments:

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

By ____________ **Date** ____________

R-PZD City Council Minutes

NEW BUSINESS:

R-PZD 05-1776 Wedington Circle: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 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: Jeremy gave a brief description of the project. Staff is recommending approval of this ordinance, there were several findings. The Planning Commission voted 8-0 in favor of staff's findings.

Alderman Thiel: Seven percent of this is going to be commercial? What is going to be commercial?

Jeremy Pate: It's typically the bottom story or bottom floor.

Alderman Thiel: This will be along Wedington?

Jeremy Pate: When the highway department expanded Wedington they took a lot of right-of-way in this area, that right-of-way cannot be vacated, it is something that the highway department uses to tow their slope, so that will not be utilized. So there's really not a lot of retail frontage for this project. It's my understanding a lot of that will be along this primary street that goes from James to Wedington along that area. I think the plan is to have more of a mixed use sort of an integrated within the over all development. There will be underground parking as well.

Alderman Thiel: I assume that the access road is a private drive?

Jeremy Pate: It is.

Alderman Thiel: So they won't have access to that?

Jeremy Pate: What they've shown there is the potential for a cross access. That would have to be worked out in detail and permission given by that property owner. Hopefully that can be worked out because again that would provide another means of access ingress and egress. The slope has a lot to do with it as well because that's a pretty steep slope coming in off of Wedington to the north.

Alderman Thiel: Okay. Thank you.

Mayor Coody: Any other questions of comments. Yes sir.

Alderman Jordan: My concern is coming out on Wedington there's no way that you are going to be able to turn left on that road. I can tell you from experience it's just not going to happen. That means that your traffic is going to turn right, and if they are going to the campus they are going to go to Hall or Sunset and go that way. I already have a petition from the neighborhoods on Hall Street, that does not have anything to do with this project, but they were already concerned about traffic congestions, no sidewalk and the street being too narrow along that school. This is not going to help the situation any if people start cutting through Hall Street to go to the university. I think this is a good looking project but that has got to be addressed. It has to be addressed for the neighbors in that area. I've had some calls and e-mails from people from the Hendricks neighborhood association with concerns about it coming through their neighborhood as well. I think this is something that needs to be addressed before I can support this.

Jeremy Pate: One of the ideas behind supporting the higher density than we have in a zoning district currently is that it is located so near to infrastructure improvements already. It's close to the university and very easy to walk to. There is a transit stop directly to the east by the grocery store and a lot of people utilize the store parking and the parking lot across the street for a park and ride area. I think it does set itself up for more pedestrian traffic if it is student oriented. Obviously some students will still drive and park in neighborhoods or park in the parking garage at the university. We felt that was a positive thing in response to your question. I agree left hand turns will probably be difficult and we may see with further evaluation it may only need to be a right in right out. It depends on what the traffic loads are and how that's going to be handled. James Street would then take more of the brunt of the traffic. There are four homes currently on James Street otherwise it serves as a primary ingress and egress for a very large multi-family residential development as well as another apartment building and access from grocery stores. So it's already seen some traffic although the numbers are relatively low. I don't believe you'd have a hard time turning left, right or even walking down James Street currently because there are so many ways in and out. So this will add impact to the infrastructure in the area, we feel however that with the location of it, it will be a positive impact and that it will promote more pedestrian and bicyclist activity.

* **Alderman Marr:** I love these kinds of infill projects and I think the design is very attractive. My concerns are not about the development it's the ingress and egress and to make sure we can handle it in this particular area. My concern is the traffic from Mount Comfort. Was there any dialogue about closing that diagonal section there to take that piece out of this intersection and designing a more traditional T type intersection? I find it very hard to believe that 400 units would not create any additional traffic issues.

* **Jeremy Pate:** We had the same concern when we had the response of not a lot of impact. James Street in not an arterial street and if you look and you can't turn left on Wedington that's going to take some traffic that's going to be detrimentally impacted and therefore it will need to be improved. That goes in line with the comments about the intersection of Mount Comfort and Garland and that acute angle there that it creates. We will be recommending street improvements at the time of development, and that would potentially include intersection improvements as determined to be appropriate. What we did have dialogue about specifically was the intersection of Mount Comfort and Garland on the west side of Garland, we did not venture east of Garland Avenue. I think in some of our long term plans staff has indicated to the City Council that there will probably be a major intersection realignment in this area and there is the potential for closing that street.

Alderman Marr voiced his concerns about the current traffic in this area.

Alderman Lucas: I like this project. Are they tied to these things? For instance I like the round about in the middle.

Jeremy Pate: That will likely be incorporated in detail.

Alderman Lucas: This is not binding then?

Jeremy Pate: It is. It is a binding booklet. However it is a master plan so every detail might not be exactly as it is presented.

Alderman Lucas: I am also concerned about traffic. This will throw more traffic into the neighborhood. I don't have a solution. If were going to improve Garland then why can't we do something with that intersection at the same time?

Jeremy Pate: That's certainly within our long term plans. As far as a long term goal that would help with the cut through traffic. I think it's a problem with any project, this will create additional traffic. It's certainly something we will look at in detail.

Mayor Coody: Jeremy isn't Garland Avenue in the Street Bond issue?

Jeremy Pate: Yes.

Mayor Coody: Any other questions or comments?

Alderman Reynolds: Who ever pulls out of these apartments will be looking at three different driveways. The other thing is how wide are those streets going to be Jeremy?

Jeremy Pate: The interior ones? They are likely any where from a standard street 24' to 28' wide.

Alderman Reynolds: I noticed we have 296 multi family units, 428 bedrooms, and 392 parking places but of that 58 parking spaces are on the street. How are you going to put a car on either side of the street and get a fire apparatus through there?

Jeremy Pate: Typically the 28' section and that would be without parallel parking. If it had parallel parking on the street it would be widened to accommodate at least 8' on either side for the parallel parking to allow for a through access point.

Alderman Reynolds: The other thing I'd like to bring to your attention is the Fire Department letter. There was two items on there that the engineers need to look at and make sure they take care of in this project.

Jeremy Pate: Assuming this gets approved we would have to discuss how the entrance off of Wedington is accommodated and the round about. We will also discuss this with the Fire Department to make sure their apparatus can access through that.

Alderman Reynolds: But this doesn't come back to us?

Jeremy Pate: It goes to the Planning Commission for development approval.

Mayor Coody: Anymore questions for staff on this? I'm going to open up to public comment on this. Is there anyone that would like to comment on this development prospect?

Steve Mansfield, Mansfield's House: I appreciate you taking the time to consider this project. We are here before you for a concept plan as discussed we would have to go back to the Planning Commission for approval and to work out the details. What I 'd like to do is give you a little bit of the history of how it came about, some of the goals and why it's designed the way that it is. I like to talk a little bit about the planning of it and then let Rob Sharp come back and give you some of the details on the architectural side. Mr. Mansfield gave a brief description of the project.

Rob Sharp, Architect gave a presentation on the project. He stated the road capacity is there and they can probably make things better. He stated the developers have committed to a very high level of construction.

Alderman Ferrell: One of our objectives is to work with the university and the university has an objective to grow their campus and this campus is going to grow. I think this lends itself to people walking. I think this is a further cooperative partnership with the university in trying to provide housing.

Alderman Marr: There is nothing in the city administration or planning department's opinion at this point that could be done outside of the upcoming bond issue that would address all of the points of access as we look at this development.

Tim Conklin, Planning: BWR did look at this intersection as one of the five intersections for realignment and they had plans to realign.

Joyce Richards a resident voiced her concern about the traffic.

Bill Muller a resident stated he is impressed with the project. He feels this is an excellent project for the City of Fayetteville. He is also concerned about the traffic. He voiced his concern about the traffic study that was completed. He requested the Council to approve this but to exercise their power to reduce the impact on the neighborhoods.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the second reading.

Alderman Jordan asked that the staff try to resolve some of the problems with traffic in the neighborhoods.

<u>R-PZD 05-1796 Park West:</u> An ordinance establishing a Master Development Plan Residential Planned Zoning District titled R-PZD 05-1796, Park West, located at Highway 112 east of Deane Solomon Road, containing approximately 139.45 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.

approve this activity to be done under the current permit. We have offered to show them the site and meet with them on site.

I would ask for this to be tabled with we ask for a Corp ruling on if this will be included in the permit. We are requesting if they want to meet with us on site to do so within two weeks. This segment of the sewer line was originally predicted to advertise in February and open bids in March. This is the shortest section of sewer by length and also by construction period. Deferring this project another two to four weeks is not going to delay the net WSIP project on the west side of town.

Alderman Rhoads moved to table the resolution until the February 7, 2006 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the February 7, 2006 City Council meeting.

<u>**R-PZD 05-1776 Wedington Circle:**</u> An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 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 January 3, 2006 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Jordan: This went to the Street Committee last Thursday and we had quite a discussion over this issue. There is going to be a meeting between the developers and the neighborhood next week.

Joyce Richards a resident of Stephens Avenue said she went before the Street Committee and told them her concerns. She stated they would like to look at traffic calming and doing something with that general area in front of Harps. We have set up a neighborhood meeting for next week.

Alderman Jordan moved to table the ordinance until the February 7, 2006 City Council meeting. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

This resolution was tabled to the February 7, 2006 City Council meeting.

<u>**R-PZD 05-1796 Park West:**</u> An ordinance establishing a Master Development Plan Residential Planned Zoning District titled R-PZD 05-1796, Park West, located at Highway 112 east of Deane Solomon Road, containing approximately 139.45 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. ***This ordinance was left on the First Reading at the January 3, 2006 meeting.***

Traffic Signal Morningside Drive: A resolution authorizing City staff to design and construct a traffic signal at the intersection of 15^{th} Street and Morningside Drive.

Resolution 25-06 as Recorded in the Office of the City Clerk.

Alderman Marr moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

John D. Lindsey, LLC. Condemnation: A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by John D. Lindsey, LLC. ***This resolution was tabled at the December 20, 2005 City Council meeting to the January 3, 2006 City Council meeting. This resolution was tabled at the January 3, 2006 City Council meeting to the January 17, 2006 City Council meeting. This resolution was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.***

David Jurgens, Water and Wastewater Director: I recommend we go with the alternate alignment between the building and the creek and that the City Attorney work that out with the owner's attorney. Several of you have addressed wanting to get the statement from the owner concerning damages and move forward with the owner concerning the alternate alignment. Then we will work with the Corps on the issue. After discussions with our consultants we will pursue a nationwide permit or an amendment to our existing permit through the 404 program so that we can get that accomplished in the amount of time we require to not hold up the project.

Alderman Ferrell moved to table the resolution indefinitely. Alderman Lucas seconded the motion.

Alderman Thiel: We do have an affidavit from them?

City Attorney Kit Williams: We do not. We will get that though and if we do not get it we can bring it off the table.

Alderman Thiel: This will not slow down the treatment plant construction?

David Jurgens: I believe we can do this without slowing down the completion of the project.

Upon roll call the motion passed unanimously.

This resolution was tabled indefinitely.

R-PZD 05-1776 Wedington Circle: An ordinance establishing a Residential Planned Zoning District titled R-PZD 05-1776, Wedington Circle, located north of Wedington Drive (Hwy 112 Spur) and west of Garland Avenue, containing approximately 6.13 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 January 3, 2006 City Council meeting. This ordinance was left on the Third Reading at the January 17, 2006 City Council meeting.***

This ordinance was tabled at the January 17, 2006 City Council meeting to the February 7, 2006 City Council meeting.

Alderman Lucas: I think this is a good development. They have met with the neighbors as well as the staff. I want to stress that James Street, Mount Comfort and Garland intersection must be corrected to a tee intersection in order that traffic will not have to go through the Hendricks neighborhood to turn left on Garland. That is something that we need to work on. As far as the speed humps and the narrowing of Stephens, is that going to be done?

Gary Dumas, Director of Operations: The cost is amount $3,000 per devise. I think there are neighborhood traffic issues in this area already so I would assume we would be installing these.

Alderman Jordan: I think that is what we discussed at the Street Committee.

Alderman Cook: I struggle with this development. It is a logical place to put a development but to add a driveway onto Wedington at the crest of the hill makes me nervous. I think this will put more traffic into the neighborhood. We have discussed some traffic calming and that is a good thing but there are still going to be issues with some of the current streets. I am afraid we are going to put the development in there and then we are going to create worse problems. As far as the development I don't have a problem with it. I will probably support this but I struggle with the consequences of it.

Alderman Marr: I think this is an excellent example of infill, it is the kind of development that we want to see. It is in a University connection area, it has two bus stops nearby. I think we have had enough discussion at the Street Committee that hopefully we have sent a very strong message to the administration that we want to see a resolution to Mount Comfort, Garland and James intersection at this location.

Alderman Reynolds: The City Council experienced that intersection yesterday and it was not good. I think this is a very dangerous intersection.

Gary Dumas: We will have a recommendation to you at the next Street Committee meeting on how to close that intersection until the bond program comes through.

Alderman Reynolds: It will be done before this development is finished?

Gary Dumas: If the Street Committee concurs with the staff recommendation, yes.

A discussion followed on intersections in the area.

Alderman Jordan: I too have a problem with the intersection coming out on Wedington and the intersection at James and Mount Comfort. The intersection is in the Bond issue for that area and also the traffic calming helped me. I wanted to make sure that all the bases were covered and I think they have been. I think it is a good development and good infill.

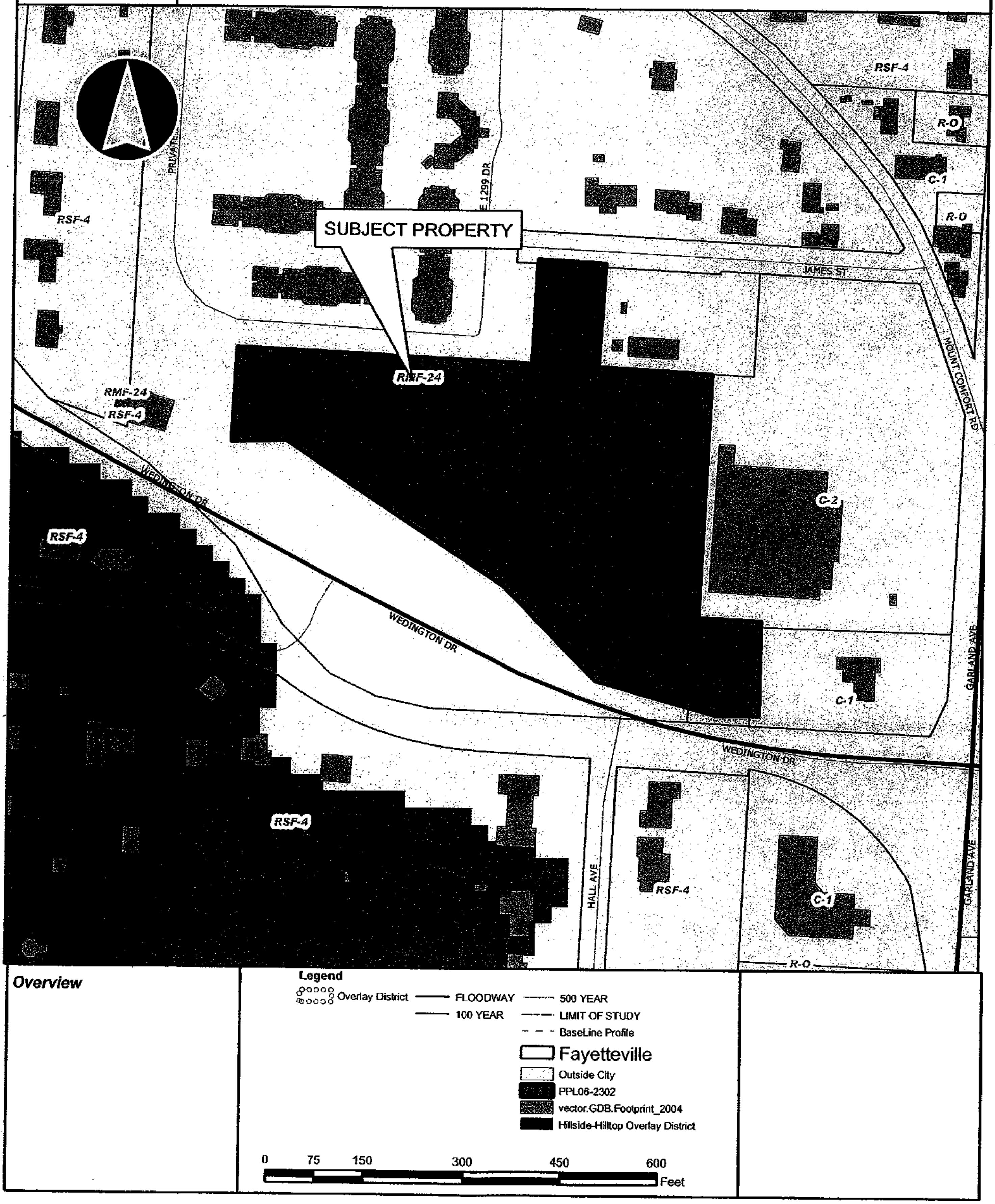
Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4826 as Recorded in the Office of the City Clerk.

PPL06-2302

Close Up View

WEDINGTON CIRCLE

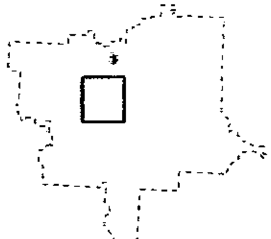


PPL06-2302

One Mile View

WEDINGTON CIRCLE

Overview



Legend

Subject Property

PPL06-2302

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

PPL06-2302

Close Up View

WEDINGTON CIRCLE

Overview

Legend

2006 Imagery (BW)
Value
High : 255
Low : 0
PPL06-2302
Hillside-Hilltop Overlay District

Overlay District
Fayetteville

FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile

0 125 250 500 750 1,000 Feet

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

20-Feb-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

R-PZD 06-2299: Planned Zoning District (Ruskin Heights, 370): Submitted by Community By Design for property located west of Highway 265/Crossover Road, on the south side of Mission Boulevard and contains approximately 28.93 acres. The request is for rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 295 attached and detached planned dwellings as well as 58,500 square feet of non-residential/commercial space.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a $ -	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ]   Budget Adjustment Attached [ ]

Department Director — 2-1-07 Date

City Attorney — 2-5-07

Paul A. Becker
Finance and Internal Service Director — 2-6-07 Date

Mayor — 2/6/06 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 2/6/07 E.D.

Received in Mayor's Office ENTERED 2/5/07

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: January 23, 2007

Subject: Residential Planned Zoning District for Ruskin Heights (R-PZD 06-2299)

RECOMMENDATION

The Planning Commission voted to forward the subject request for an ordinance creating a Residential Planned Zoning District (R-PZD) for Ruskin Heights. This action would establish a unique zoning district for a mixed use development on a 28.93-acre tract located on the south side of Mission Boulevard, approximately 0.5 mile east of Crossover Road.

BACKGROUND

The site is zoned RSF-4, and has not been previously developed except for large-lot single family homes. The approximately 29-acre site contains 18.6 acres within the Hillside/Hilltop Overlay District, comprising 62% of the land area. Tree canopy varies dramatically over the site, with a majority of the tree canopy on the perimeter property lines or old fence rows, and along the south and west portions of the property which is primarily sloped. The property is surrounded by a variety of uses, including a church, plant nursery, single family residences, multi-family residences, a commercial strip center, and is located approximately 0.5 mile from one of the larger commercial nodes in the City of Fayetteville, the development that surrounds the intersection of Hwy 45 (Mission Blvd) and Hwy 265 (Crossover Road). The request is for rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 295 attached and detached planned dwellings as well as 58,500 square feet of non-residential/commercial space. Should the PZD be approved as proposed, it would result in total of 68 lots at this time. Of these 68, lots 2, 3, and 65 are being approved in concept only, and must return through the development review process to be considered by the Planning Commission. The development approval proposed at this time is for 57 residential units (28 attached and 29 detached) and 16,636 square feet of non-residential/commercial space. 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 January 22, 2007 the Planning Commission voted 5-2-0 in favor of forwarding this request to the City Council with commissioners Clark and Graves voting 'No'. Two amendments were made to staff's recommended conditions of approval, and have been reflected in the conditions herein.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2299, RUSKIN HEIGHTS, LOCATED WEST OF HIGHWAY 265/CROSSOVER ROAD, ON THE SOUTH SIDE OF MISSION BOULEVARD; CONTAINING APPROXIMATELY 28.93 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 06-2299 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; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer 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:	ATTEST:
By: ______________________	By: ______________________
DAN COODY, Mayor	**SONDRA SMITH,** City Clerk/Treasurer

EXHIBIT "A"

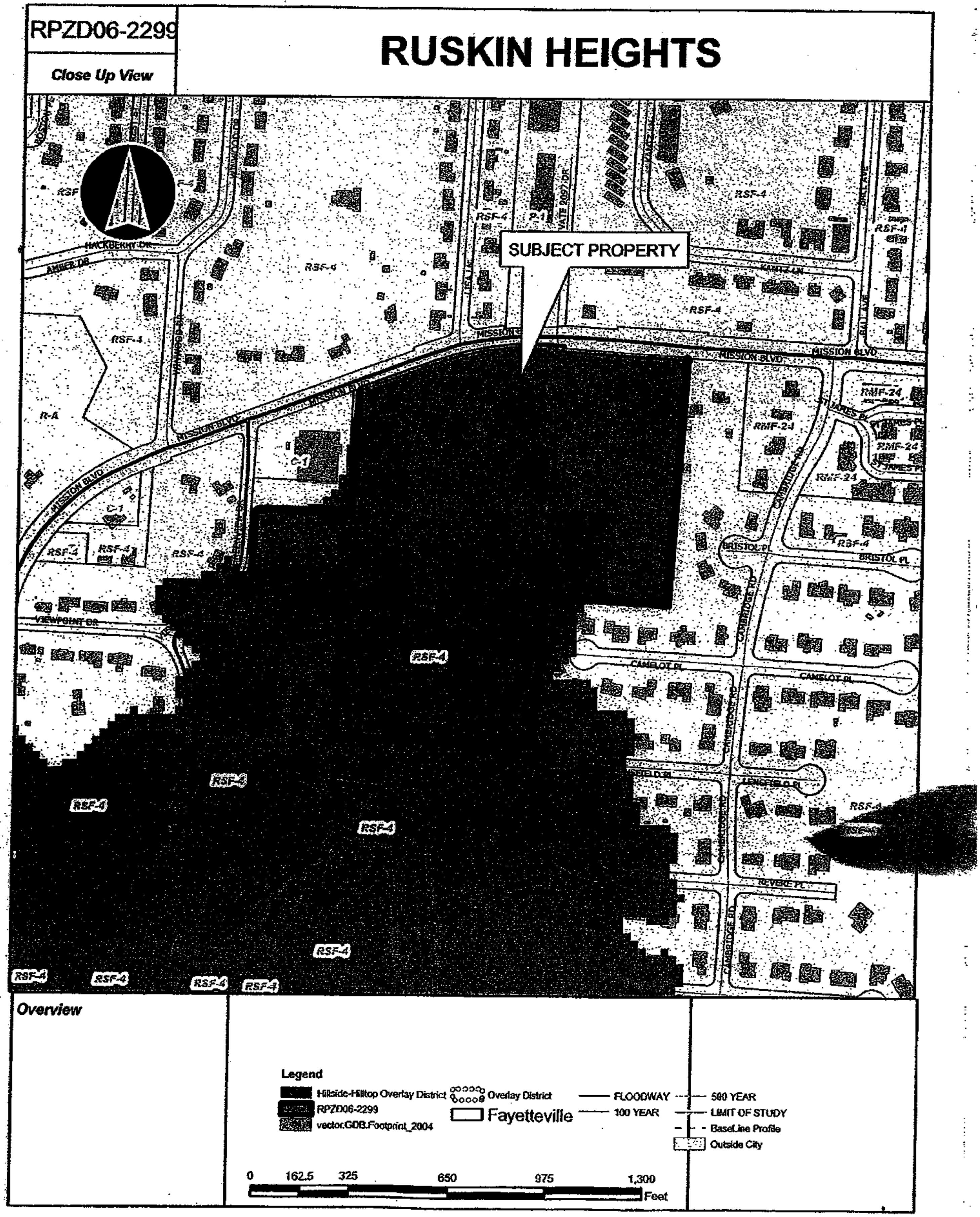

RPZD06-2299
Close Up View
RUSKIN HEIGHTS
SUBJECT PROPERTY
MISSION BLVD
HACKBERRY DR
AMBER DR
VIEWPOINT DR
CAMELOT PL
BRISTOL PL
REVERE PL
CAMBRIDGE RD
RSF-4
R-A
C-1
P-1
RMF-24
Overview
Legend
Hillside-Hilltop Overlay District
RPZD06-2299
vector.GDB.Footprint_2004
Overlay District
Fayetteville
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Outside City
0
162.5
325
650
975
1,300
Feet

EXHIBIT "B"
R-PZD 06-2299

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWO (2), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½" REBAR LOCATED S87°32'34"E 660.0 FEET FROM A STONE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE N 03°38'07" E 441.29 FEET ½" REBAR; THENCE N 87°33'26" W 135.00 FEET ½" REBAR; THENCE N 03°42'40" E 80.00 FEET ½" REBAR; THENCE N 87°33'28" W 175.00 FEET ½" REBAR; THENCE N 03°42'40" E 212.28 FEET ½" REBAR; THENCE S 87°48'42" E 310.03 FEET ½" REBAR; THENCE N 03°42'38" E 417.42 FEET TO A ½" REBAR LOCATED ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY NO. 45 (MISSION BOULEVARD); THENCE NORTHASTERLY ALONG SAID RIGHT-OF-WAY THE FOLLOWING: N 69°23'34" E 249.39 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 970.00 FEET, AN ARC LENGTH OF 108.99 FEET AND A CHORD BEARING OF N 72°36'42" EAST 108.93 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 978.84 FEET, AN ARC LENGTH OF 335.04 FEET AND A CHORD BEARING OF N 85°38'10" E 333.40 FEET TO A ½" REBAR, S 01°04'05" W 12.27 FEET TO A ½" REBAR; S 86°22'14" E 166.88 FEET TO A ½" REBAR, S 03°35'31" W 1.95 FEET TO A ½" REBAR, THENCE S 86°28'21" E 252.00 FEET TO A ½" REBAR; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING S 03°29'46" W 825.60 FEET TO A ½" REBAR LOCATED ON THE NORTH LINE OF THE PARK PLACE ADDITION PHASE II; THENCE N 85°48'23" W 422.74 FEET TO A ½" REBAR LOCATED AT THE NORTHWEST CORNER OF SAID ADDITION; THENCE S 03°45'46" W 491.63 FEET ALONG THE WEST LINE OF SAID ADDITION TO A STONE MONUMENT; THENCE N 87°31'58" W 657.93 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 28.93 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 06-2299

Page 1 of 10

The Planning Commission and Staff recommends the following conditions of approval associated with R-PZD 06-2299 (Ruskin Heights).

Streets and Right-of-Way

1. **Planning Commission determination** of street improvements. *Staff recommends the following street improvements, based on the proportionality of the development's impact:*

   a. The developer shall construct a 3-lane street section with pavement, curb, gutter, and storm drains, from where it currently stops east of the site on Mission Blvd west to Greenview Drive, to include complete 6-foot sidewalk connections on Mission Blvd. The applicant shall coordinate with the Engineering Division to determine if a continuous turn lane or turn lane at major intersections is more acceptable. *Construction of these improvements shall occur with Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area.*

   b. ~~The developer shall contribute the cost of a full traffic signal (assessment) for Lisa Lane/Mission Blvd intersection to be pro-rated as each phase develops (fees due prior to final plat for subdivisions and prior to building permit for other developments). Construction of the signal shall occur as soon as AHTD permits;~~ *The developer/applicant has offered to build at its sole cost the traffic signal at Lisa Lane/Mission Blvd. as soon as legally permissible by the Arkansas Highway and Transportation Department. Accordingly, as a condition of approval, the developer shall construct at its own cost a traffic signal at the intersection of Lisa Lane and Mission Blvd. upon completion of 57 residential units and 16,636 SF of non-residential area in Phases I-III (the development proposed at this time), or the granting of the warrant by the AHTD (whichever is earlier) unless such construction is expressly prohibited by the AHTD. If construction of the signal is prohibited, the full cost of the traffic signal shall be paid to the City prior to additional development being constructed over that within Phases I-III approved for development at this time. No zoning approval for development beyond the full build-out of Phases I-III is granted by the PZD ordinance unless and until the traffic signal is in full operation.*

   ~~c. The applicant shall pursue AHTD permits to construct all noted improvements to Mission Blvd. If, after application, AHTD will not allow improvements then assessments may be determined to be paid at that time (prior to final plat for subdivision and prior to building permit for other development);~~

   d. At the time of connection with Greenview Drive: 14' from centerline street improvements with curb, gutter, 6' sidewalks, and storm drainage on the east side of Greenview from Mission Boulevard south to Viewpoint Drive.

   e. A traffic warrant analysis shall be presented to the City and AHTD with every phase of the development to determine what improvements are warranted and will be installed with each phase of the development.

THE PLANNING COMMISSION APPROVED THIS CONDITION WITH CHANGES AS NOTED

CONDITIONS OF APPROVAL:

BY STAFF.

2. The applicant shall dedicate right-of-way as follows:
   a. **Planning Commission determination** of a lesser dedication of right-of-way for Mission Blvd. Mission Boulevard is identified as a principal arterial with a minimum of 55' from centerline right-of-way required to be dedicated to the City with the development of the property per UDC §166.05 (C.6). The developer requests a reduction in the Master Street Plan right-of-way dedication requirements in order to accommodate existing utilities along Mission Blvd., leaving the existing 40-feet from centerline in place. The applicant has submitted a formal waiver request along with an exhibit showing that the full Master Street Plan improvements to Mission Boulevard are possible without the full 55' from centerline right-of-way. However, this would require the greenspace and new sidewalk along Mission Boulevard to be placed under a pedestrian access easement granting the City full inspection, access, and maintenance rights for public benefit. The waiver request discusses that the full right-of-way dedication is difficult because of an existing 16.5 foot easement granted to Southwestern Bell adjacent to the existing right-of-way that would be required to be dedicated for a principal arterial. According to the applicant, this easement contains the largest and most expensive fiber optic line in the State of Arkansas, contained within a concrete duct run. Moving this line would be very expensive and could likely be required if the right-of-way is dedicated in its place. *Staff recommends in favor of the waiver request finding that the information presented by the applicant sufficiently indicates that Mission Boulevard can be improved to its Principal Arterial designation along the project frontage with half of a median, two lanes of traffic, and part of the greenspace within the right-of-way, and that the remainder of greenspace and sidewalk (15' total) would be provided within a public access easement allowing full maintenance rights by the City. These access easements shall be dedicated at the time of final plat.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

   b. 25' from centerline right-of-way dedication along Greenview Drive by the preliminary plat; variable right-of-way dedication along the internal streets as depicted on the site plan; rear alleys shall be within a 26' access easement owned and maintained by the property owner's association.

3. **Planning Commission determination** of a waiver of minimum street design standards:

   a. The applicant requests a waiver to allow varied return radius (CRR) as shown on the plat at all street intersections and driveways when City Code requires a 30' CRR for streets (UDC §171.02(C)). *Staff recommends approval of the CRR waiver requests, finding that the minimum effective turning radius as depicted in exhibits provided to staff provides evidence that adverse impacts to traffic and pedestrian safety would not occur.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

CONDITIONS OF APPROVAL:

b. The applicant requests a waiver to allow different street cross sections than are required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows designated parallel parking in the design as proposed. In addition, the palette of street widths proposed is not permitted with the adopted Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.

i. *Staff recommended denial of the waivers sought for Street J, finding the narrow width combined with steep topography would not be safe. The applicant has modified this street to a 24-foot width, which staff supports.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

ii. *Staff recommends approval of a waiver to construct all street cross sections as requested (see PZD booklet pages 2-4) finding the variety of street widths will help in traffic calming and are consistent with the overall TND development philosophy for this project to help encourage pedestrian activity, provided that a 7.5' parking lane is maintained, as measured to the face of curb. Staff will review detailed construction plans at the time of development.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

iii. *Alley cross-section of 12 feet for two-way traffic. Staff recommended a minimum pavement width of 16 feet for two-way traffic and 12 feet for two-way traffic, as outlined in the Master Street Plan. The applicant has revised the plans, indicating the 12-foot alley will be one-way; therefore staff supports the alley cross-sections as noted. The dead-end alleys shall be increased to a minimum of 16 feet of pavement and shall be designated for two-way traffic.*

THE PLANNING COMMISSION APPROVED THIS CONDITION WITH CHANGES AS NOTED.

c. The applicant requests a waiver to allow for retaining walls directly at the back of the right-of-way line when a minimum of two feet is required per UDC Section 171.01(C). *Pursuant to city code, a retaining wall is required to be constructed a minimum of two feet behind the right-of-way. As recommended by the Hillside Best Management Practices, keeping improvements within more confined areas (reducing right-of-way, utility easements, etc.) reduces the overall impact on the hillside. Allowing retaining walls to be designed appropriately closer to the right-of-way would allow grading and other site improvements to be as limited as possible, thus decreasing the impact on the site. According to the applicant, no sidewalks or right-of-way would be impeded by the proposal. Based on staff's review of this proposal, in the areas proposed for development, no anticipated issues with this request are foreseen. Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

CONDITIONS OF APPROVAL:
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d. The applicant requests to use alternate vertical K values for street and alley designs on the site rather than those required by the City of Fayetteville Minimum Street Standards due to the steep inclines creating substantial grading challenges. *Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

e. The applicant requests a waiver of the 150 horizontal curve radii required by the City of Fayetteville Minimum Street Standards due to the steep terrain on the site. *Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

f. The applicant request street grades greater than 4% within 100 of an intersection required by the City of Fayetteville Minimum Street Standards due to the steep terrain of the site. *Staff recommends approval of this request, based on several meetings to discuss these intersections, finding they will not create a dangerous situation.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

g. Gutter sections. The booklet calls out stand-up curbs, which are in contrast to the City's street design standards. *Staff supports the requested gutter section, which is in keeping with a more urban design standard. Similar curbs are utilized on Dickson Street and in the downtown area. Asphalt is used as the gutter pan, and provides a wider travel lane section without increasing the overall width of the street.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

4. All private alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the final plat.

5. No parallel parking spaces are allowed within 30' of a stop sign (Fayetteville Code of Ordinance Section 72.03(G)). The site plan has been revised to accommodate this requirement. The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.

6. A minimum of 26' clear shall be provided along all alleys to provided adequate room for a trash truck and arm to pick up residential trash carts.

7. Signs indicating future street extension shall be installed at all street stub-outs.

8. A temporary cul-de-sac or turnaround shall be constructed at the terminus of Street 'J' in accordance with State fire code requirements as it is a dead end greater than 150' in length.

CONDITIONS OF APPROVAL:
R-PZD 06-2299

Parking

9. **Planning Commission determination** of a request to allow fewer than required off-street parking spaces than allowed by ordinance for Phases 1-3 of the development, instead providing an abundance of on-street parking to meet parking ratios. As depicted in *Table* 3 provided earlier in this report, the applicant proposes to provide 112 off-street parking spaces when 160 are required, and proposes that the proposed 82 on-street parking spaces throughout public streets in the development would be able to accommodate the additional required parking spaces required in Phases 1-3. *Staff recommends approval of this request, recognizing that the streets throughout this development, as amended from the City's Master Street Plan specifically to provide on-street parking, would provide parallel parking and can safely satisfy the additional demands for parking not provided off-street as depicted in Table 3. Because of the mixed-use nature of the project, parking demands will peak at different times, as proven by ITE standards. This will result in a more efficient use of infrastructure than the typical single-use parking lots that are empty during off-peak hours. Future parking needs for expansion of any facilities on this property shall be provided in accordance with the UDC. Staff recommendation for this is tied to the street width and Solid Waste Division requirements for adequate access to be provided.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Commercial Design Standards

10. **Planning Commission determination** of commercial design standards for the commercial portion of the live/work structures and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of the live/work structures and all other structures in this development are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings/flats, townhouses, live-work units, and single-family detached houses. The zoning criteria and elevations for the residential and non-residential structures requires buildings to front the street, and small building setbacks help create a streetscape and facilitate an overall compact and complete development. There is a wide variety of uses and structures that prevent a visual monotony while maintaining a compatible architectural design throughout the site. All non-residential uses being proposed are located interior to the project, away from existing single family subdivisions.*

THE PLANNING COMMISSION FOUND IN FAVOR OF COMMERCIAL DESIGN STANDARDS.

Water and Sewer

11. Off-site water and sewer improvements shall be installed as necessary to provide domestic and fire protection to the development.

Phasing

12. **Planning Commission determination** of the proposed phasing plan. *Staff recommends approval of the phasing as indicated within the submittal. This project is required to obtain*

all permits in accordance to the Phasing as listed and depicted in the PZD booklet and noted below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions).

Phase No.	Year
Phase 1	2007
Phase 2	~~2008~~ *2007*
Phase 3	~~2009~~ *2007*
Phase 4	~~2010~~ *2008*
Phase 5	~~2011~~ *2010*
Phase 6	2012

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

PHASING HAS BEEN ADJUSTED SLIGHTLY FROM THE PLANNING COMMISSION REVIEW TO ACCOMMODATE THE DEVLEOPMENT OF PHASES I-III ALL IN ONE YEAR AS NOTED ABOVE AND REQUIRED IN THE AMENDMENTS TO STREET IMPROVEMENTS . STAFF IS IN SUPPORT OF THIS MODIFICATION.

Parks

13. The PRAB reviewed this project on September 26, 2006 and recommended, along with the developer, accepting the Ruskin Tower and surrounding land (0.11 acres) - a thirty foot by thirty foot viewing tower to be built at a cost of no less than $260,000. This recommendation is for a contribution of services, facilities and land to meet parkland dedication requirements, and must be approved by the City Council. The developer shall be required to construct a viewing tower to be dedicated to the city, pursuant to the criteria set forth below. The money-in-lieu requirement for the proposed development at the time of Parks and Recreation Board recommendation was $259,200 with 185 single family units and 120 multi-family units. The current proposal is for a maximum of 295 dwelling units. The developer is currently requesting approval for phases 1-3 with 29 single family residential units and 28 multi-family residential units. The money in lieu requirement for Phases 1- 3 is $46,880.

14. If the full $259,200 is not used in the building of the tower the balance will revert back to Parks.

15. Because the Park and Recreation Advisory Board's (PRAB) recommendation to build the tower can not be met in Phase I, money in lieu will be required and kept in the Park Land Dedication Fund account. The developer will be reimbursed for the cost of the tower up to $259,200 from the money collected when the PRAB recommendations are met. The Parkland Dedication Ordinance requires money received into the Park Land Dedication Fund to be expended within 3 years of the last date of the calendar year in which it was received. At the end of the second year following the collection of the fees, Park Staff will evaluate the project to assess the feasibility of the construction of the tower within the designated three year time frame of the Park Land Dedication Ordinance.

16. Money in lieu ultimately will be based on the number of single and multi-family units

approved. If the total number of residential dwelling units changes significantly from the number presented to PRAB, PRAB will reserve the right to reconsider their recommendation.

17. If the land/money dedication requirement is reduced, because of changes in the number of residential units from the requirement at the time of PRAB review, and the developer is not in agreement with the land/tower dedication at the agreed upon cost, the PRAB will have the option to re-evaluate their recommendation, subject to City Council approval. Should the land/money dedication requirement increase as the development is reviewed in the Planning Review process, the PRAB recommendation will be re-evaluated or money-in-lieu will be accepted for any increase in the dedication requirement above the value of the approved land/money dedication.

18. If the cost to build the tower exceeds the amount required by the parkland dedication ordinance, the developers agree, and shall, pay any excess. The design and development of the tower shall meet the approval of Parks staff. Additionally, maintenance of the tower and the 0.11 acres of land are the responsibility of the City with the P.O.A. required by contract to pay a fee for maintenance. The contract shall be a non-amendable maintenance contract with an inflation clause.

19. Additionally, the developer will provide the following public access easements on the Final Plat:

    a. A trail corridor located near the western boundary of the site through the tree preservation area with the POA retaining ownership. The Developer shall work closely with the Trails Coordinator and Urban Forester to develop this connection.
    b. A public access easement for the Spanish Steps, which will lead from the Market Pavilion near the entrance to the neighborhood, up the hill through the commercial area of the neighborhood and terminate at Ruskin Tower.
    c. A public access easement for the village green, the central green space of Ruskin Heights.

20. The Ruskin Tower design shall return to the Parks and Recreation Department for review and approval based on the concepts and criteria presented herein. The Ruskin Tower shall be a maximum of 45' in height as depicted in the project booklet.

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Tree Preservation Plan

21. Revise the tree preservation fencing and tree canopy numbers along the western most ingress/egress off of Mission Boulevard. There appears to be some canopy that could be preserved.

22. Lot 68 located on the east side of the project is unacceptable to the City Engineering Division for tree preservation/mitigation. With the proximity of the water and sewer line under this alley, the entire space to the eastern and southern property line must act as an easement. This

CONDITIONS OF APPROVAL:

change will not allow any canopy to be counted as preserved nor will it allow any of the trees planted in this area to be counted toward mitigation requirements.

23. Mitigation is required on this site. The applicant has requested and been approved to do a combination of on-site planting and money in lieu for the total 265 trees. With the comments of the previous condition, an additional 9 (2) inch caliper mitigation trees will be required. At the time of Final Plat a total number of on-site trees and money in lieu will be approved.

24. At the time of final plat a tree mitigation planting plan will be required for review and approval by the urban forester. All trees that can be planted before signature of final plat should be leaving only those on the individual lots to come with the development of the homes. The remainder of trees that can not fit on the site will be paid into the City's Tree Escrow Account.

25. A 3-year bond, letter of credit, or check in the amount of $250 per tree will be required before signature of final plat to ensure the maintenance and health of the trees planted on-site. Finding all trees healthy at the end of the 3 years the amount will be returned in full.

Landscape Plan

26. Future lots 2 and 3 will be required to go through large scale development at which time landscape requirements will be assessed. Landscape requirements for the remainder of the project (lot 65) will be assessed at time of development plans. Landscaping along the detention ponds and greenspace area to meet City Codes shall be installed with the development of those portions of the project.

27. A landscape plan stamped by a licensed landscape architect is required at time of construction drawings.

28. **Planning Commission determination** of a waiver request of UDC §177.05 (B.3), to utilize the urban streetscape option with a 9-foot sidewalk width as opposed to the required 10 feet. *Staff recommends approval of this waiver, finding that adequate width is proposed a to provide accessibility, pedestrian safety and room for the tree to grow.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Plat and Booklet Revisions

29. Revise the plat and booklet zoning criteria for all Planning Areas to require the building setbacks to be a minimum of 10' from all property lines exterior to the PZD boundary line.

General

30. **Planning Commission determination** of zoning criteria. *Staff is supportive of the zoning criteria presented, with the following exception: staff recommends a minimum building*

setback of 10' adjacent to any property line exterior to the overall 28.93-acre PZD boundary to provide a reasonable level of transition from adjacent properties. No alley or other form of development shall occur within 5' of a property line without the adjacent property owner's consent. The applicant has indicated compliance with this recommendation, though modifications to the booklet and plat are necessary.

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

31. Large scale development review is required prior to development for Lots 2 and 3. Lot 65 will be required obtain large scale development and/or subdivision approval prior to development, pursuant to the process identified in the UDC. A final plat shall be processed and approved prior to issuance of any building permits.

32. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. Encroachment of structures or any portion of a structure shall comply with all applicable Building Codes unless otherwise and specifically approved by the City Council at the time of development.

33. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards.

34. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.

35. 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.

36. Due to the very large and complex nature of this project, a detailed review of all aspects of the site and landscape plans in each phase of construction shall take place prior to issuance of building permits. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

Standard Conditions of Approval

37. 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).

CONDITIONS OF APPROVAL:
R-PZD 06-2299

38. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.

39. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.

40. 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.

41. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.

42. 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.

43. 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. Final plat for this project that shall include all easements and 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.

Fayetteville ARKANSAS

Planning Commission Meeting
January 22, 2007

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 January 23, 2007*

R-PZD 06-2299: Planned Zoning District (RUSKIN HEIGHTS, 370): Submitted by COMMUNITY BY DESIGN, LLC for property located at WEST OF HIGHWAY 265/CROSSOVER ROAD, ON THE SOUTH SIDE OF MISSION BOULEVARD. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 28.93 acres. The request is for rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 295 attached and detached planned dwellings as well as 58,500 square feet of non-residential/commercial space. The Preliminary Plat approval is for 68 lots. The development approval proposed at this time is for 57 residential units and 16,636 square feet of non-residential/commercial space.

Property Owner: RUSKIN HEIGHTS, LLC
Planner: ANDREW GARNER

Findings:

Property Description: The subject property consists of approximately 28.93 acres located on the south side of Mission Boulevard (State Highway 45), approximately 0.5 miles west of Crossover Road. The site is zoned RSF-4, and has not been previously developed except for large-lot single family homes. The approximately 29-acre site contains 18.6 acres within the Hillside/Hilltop Overlay District, comprising 62% of the land area. Tree canopy varies dramatically over the site, with a majority of the tree canopy on the perimeter property lines or old fence rows, and along the south and west portions of the property which is primarily sloped. Other portions of the property, especially that nearer Hwy 45, is clear of tree canopy altogether.

The property is surrounded by a variety of uses, including a church, plant nursery, single family residences, multi-family residences, a commercial strip center and is located approximately ½ mile from one of the larger commercial nodes in the City of Fayetteville, the development that surrounds the intersection of Hwy 45 (Mission Blvd) and Hwy 265 (Crossover Road).

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Mission Boulevard Baptist Church; Westwood Gardens Plant Nursery; Single family residences	P-1; RSF-4
South	Single family residences	RSF-4
East	Single family, multi-family	RSF-4, RMF-24
West	Single-family residential (Broadview Subdivision); Commercial shopping center	C-1; RSF-4

Proposal: The request is rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 295 attached and detached planned dwellings as well as 58,500 square feet of non-residential/commercial space. Should the PZD be approved as proposed, it would result in total of 68 lots at this time. Of these 68, lots 2, 3, and 65 are being approved in concept only, and must return through the development review process. The remaining lots (approximately 11 acres in land area) will not be reviewed again except by final plat approval. All necessary infrastructure must be installed and a final plat approved prior to issuance of a building permit for any structure on the property. The information submitted for each level of approval – rezoning, preliminary plat, and development – has been reviewed in detail by staff, and recommendations are noted herein.

Master Development Plan: The proposed uses over the site are listed in *Table 1.*

Table 1
Master Development Plan

Type of Use	Planning Area	Number of Units	Residential Density (Units/Acre)	Non-Residential Sq. Ft.	Non-Residential Intensity (sq.ft./acre)	Acres	%
Mixed Use Flats	PA-1	94	18.9	22,500	4,518	4.98	17.38%
Live/Work Townhouses	PA-2	81	12.2	36,000	5,521	6.65	23.02%
Single Family Detached	PA-3, 4, and 5	120	8.5	NA	NA	14.11	48.84%
Parks	PA-6	NA	NA	NA	NA	3.11	10.08%
TOTAL		**295**	**10.2**	**58,500**	**2,041**	**28.9**	**100.00%**

This project is designed to be a Traditional Neighborhood Development (TND) including a variety of housing types and land uses in a defined area. Rather than a typical, sprawling subdivision, this development attempts to create an eclectic, intimate, urban neighborhood of various uses connected by a network of paths, sidewalks, streets and lanes suitable for pedestrians as well as vehicles. Surrounding properties contribute to this mix of uses, with single-family attached, detached, commercial, agricultural and institutional surrounding property, near a major intersection of two state highways in the City. The proposal relies upon a complete, compact and connected approach; connectivity is on the whole low, however, due to existing constraints of surrounding developed neighborhoods with no outlets for connection. The applicants have attempted to address this by providing alternative connections to Mission Blvd. and Green View Drive.

The proposed zoning criteria and site plan allows for a more dense layout of single-family residences (8.5 units per acre in Planning Areas 3, 4, and 5) mixed with multi-family dwellings along Mission Boulevard in the mixed use flats, and interspersed within the live/work townhouses. This site layout and proposal would not be allowed under any standard zoning criteria, one of the purposes for which the Planned Zoning District ordinance was created, to promote and encourage projects that meet the adopted goals and policies of the city, yet do not fit the mold of current development or zoning requirements; and to allow for surrounding property owners to see the project's product with the rezoning request, as opposed to a request for a blanket zoning district with few limitations. The proposed zoning criteria for each Planning Area are provided in duplicate in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Preliminary Plat/Development Approval: The Preliminary Plat approval is for 68 lots. The development approval proposed at this time is for 57 residential units (28 attached and 29 detached) and 16,636 square feet of non-residential/commercial space as depicted in *Table 2*.

Table 2
Development Approval

Lot No.	Type of Lot	Total # of Lots	Total Acreage	Residential Units	Residential Density (Units/acre)	Non-Residential Space (sq. ft.)	Non-Residential Intensity (sq. ft./acre)
5-16, 18-23, 25-27, 58-64	Live/work	28	2.64	28	10.61	16,258	7,582
34-38, 40	Tree-house courts	7	0.55	7	12.73	–	–
28-32, 41-57	Single Family	22	2.96	22	7.43	–	–
4, 24, 39, 66, 68	Greenspace	5	–	–	–	–	–
1	Detention ponds	1	–	–	–	–	–
17, 67	Solid Waste/Utilities	2	–	–	–	378	–
2, 3	Mixed Use Flats	2	–	–	–	–	–
65	Future Development	1	–	–	–	–	–
TOTALS		**68**	–	**57**	–	**16,636**	–

Access and Connectivity: Access is proposed directly off of Mission Boulevard with three public streets, and a fourth point of ingress/egress off of Greenview Drive to the west. Access to the east and south is not feasible due to the existing homes in a conventional subdivision pattern without street stub-outs or other means of connection. As proposed, two points of ingress/egress would be constructed with the first 68 lots. These have been reviewed in detail and found acceptable. The third access, to the west, will need to be reviewed in detail at the time of development, to review alignment, etc.

A variety of street cross-sections is proposed and is designed to calm traffic and encourage pedestrian comfort and activity throughout the development. These street sections are narrow with small curb return radii consistent with the concepts of the Institute of Transportation Engineers' draft Context Sensitive Design Standards and the Smart Code, and do not meet the typical City's Unified Development Code or Master Street Plan criteria for geometrical design. The development has a number of well-connected interior streets and alleys that generally follow the topography of the site. The development is designed with an urban feel and proposes nine-foot sidewalks lined with tree wells along a number of the streets, and five-foot sidewalks along the more residential areas of the development.

Parking: Much of the parking for mixed use and residential areas is proposed to be on-street. At least one parking structure is planned for the mixed use area (PA-1). All parking lots will be to the interior of the mixed-use and residential lots. Most of the residences will be provided with private parking, either in alley-facing garages or driveways. The amount of off-street parking provided does not meet Unified Development Code requirements; Planning Commission approval is required in order to allow on-street parking to count for some of the required off-street parking spaces. *Table 3* lists the parking requirements required for the development approval portion of the project, and notes that a conditional use permit is typically required.

Table 3
Development Approval Off-Street Parking Requirements

Use	Buildings	Type of Unit	Unit Amount	Parking Ratio (1-space per ratio)	Parking Spaces Required
Office/Retail	Live/Work	Square Feet	12,748	250	51
Restaurant	Live/Work	Square Feet	3,510	100	35
MF Residential	Live/Work	# of bedrooms	84	1	84
SF Residential	Tree House Courts; Single Family	# of units	29	2	58
Off-street Parking Required by Ratio					**228**
Minimum Off-street Parking Allowed (30% Under Ratio)					**160**
Total Off-Street Parking Provided*					**112**
Off-street Deficit (Requiring Conditional Use Approval)					**48**
Total On-Street Parking Provided					**82**
Parking Excess if On-street Parking is Allowed to be Counted					**34**

* Off-street parking for the live/work units is provided with each lot having a double car garage (54 spaces). Off-street parking for the single family residential units is provided with each lot having a double car garage (58 spaces).

Phasing: Several phases are planned for Ruskin Heights over the next several years as listed below and depicted on the Project Phase exhibit provided in the PZD Booklet. All permits required for development within these phases are required to be obtained within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

Phase No.	Year
Phase 1	2007
Phase 2	2007
Phase 3	2007
Phase 4	2008
Phase 5	2010
Phase 6	2012

Water & Sewer: Water and sewer lines would be extended to serve the development.

Adjacent Master Street Plan Streets: Mission Boulevard/State Highway 45 (Principal Arterial); Greenview Drive (Local Street)

Right-of-way Dedication: 55' from centerline along Mission Boulevard/State Highway 45 by warranty deed is required. The developer requests a waiver from the Master Street Plan right-of-way dedication requirements to reduce the amount of right-of-way being dedicated in order to accommodate existing utilities along Mission Blvd. Metropolitan Bank under construction to the east is facing a similar situation with their project, in that a major trunk line for SBC follows this route. A formal waiver request along with an exhibit showing that the full Master Street Plan improvements to Mission Boulevard are possible without the full 55' from centerline right-of-way is included. This would require the new greenspace and sidewalk along Mission Boulevard to be placed within a pedestrian access easement.

25' from centerline along Greenview Drive by the preliminary plat; variable right-of-way dedication along the internal streets as depicted on the site plan; rear alleys would be within a 26' access easement owned and maintained by the property owner's association.

Street Improvements: Mission Boulevard (State Highway 45) is a designated as a Principal Arterial on the City's Master Street Plan, and provides a major east-west linkage between downtown Fayetteville and Crossover Road (State Highway 265), a major north-south corridor, and continues east outside of Fayetteville to the City of Goshen.

Beginning at its intersection with Crossover Road approximately 0.5-mile east of the site, Mission Boulevard is a three-lane road with curb, gutter, storm drains, and sidewalks in front of the existing commercial development on either side of Mission. The center turn lane, curb, gutter, storm drains, and sidewalks terminate at the end of the existing commercial development. Continuing west from Citizen's Drive, Mission is a two lane road without curb, gutter, or storm drains. There is sidewalk in front of the Glenbrook Subdivision and in front of the Mission Street Village office buildings, with open ditch drainage. Mission continues as a two-lane road with open ditch drainage with some isolated stretches of sidewalk past the project site to Greenview Drive. West of Greenview Drive, Mission continues as an unimproved two-lane road.

Staff's recommendation for street improvements includes:

- A 3-lane section from where it currently stops east of the site on Mission along with complete sidewalk connection on Mission where it does not currently exist along that portion, west to Greenview Drive (coordinated with improvements occurring with Metropolitan National Bank). The applicant shall coordinate with the Engineering Division to determine if a continuous turn lane or turn lane at major intersections is more acceptable, and all permits shall be obtained through AHTD;
- Traffic signal construction or assessment for Lisa Lane/Mission Blvd.
- The applicant shall pursue AHTD permits to construct these improvements to Mission Blvd. If AHTD will not allow improvements then assessments will be determined to be paid at that time (prior to final plat for subdivisions and prior to building permit for other development); and
- 14' from centerline street improvements with curb, gutter, sidewalks, and storm drainage on the east side of Greenview from Mission Boulevard, south to Viewpoint Drive.

Parks: The Park and Recreation Advisory Board (PRAB) recommended on September 26, 2006 to accept "Ruskin Tower" and surrounding land (0.11 acres) as depicted and described in the project submittal. A 30' by 30' viewing tower shall be built at a cost of no less that $259,200. If the cost to build the tower exceeds this amount, the developers will pay any excess. The design and development of the tower shall meet the approval of Parks staff. The maintenance of the tower and the 0.11 acre of land are the responsibility of the City with the Property Owner's Association required by contract to pay a fee for maintenance. The contract shall be a non-amendable maintenance contract with an inflation clause.

Additionally, the developer will provide the following public access easements:

(1) A trail corridor located near the western boundary of the site through the tree preservation area with the POA retaining ownership. The Developer shall work closely with the Trails Coordinator and Urban Forester to develop this connection.

(2) A public access easement for the "Spanish Steps," which will lead from the "Market Pavilion" near the entrance to the neighborhood, up the hill through the commercial area of the neighborhood and terminate at "Ruskin Tower."

(3) A public access easement for the village green, the central green space of Ruskin Heights.

If the full $259,200 is not used in building of the tower the balance will revert back to Parks. Because the PRAB recommendation to build the tower cannot be met in Phase I, money-in-lieu will be required and kept in the Park Land Dedication account. The developer will be reimbursed for the cost of the tower up to $259,200 from the money collected when the PRAB recommendations are met. The public easements will remain as permanent public access and there is to be a 150% bond for completion of the plaza if not built during phase one of the development.

Solid Waste Service: In its review of this plan, the Solid Waste Division has discussed that solid waste service will be provided with the following requirements that will be included as notes on the final plat and construction documents. Standard trash compactor service will be provided for the retail portions of the development, and residential services with carts provided for the single-family detached units. It is anticipated that alley service to the rear of structures can be provided as long as 26' clear is maintained to allow room for the truck and arm to pick up the carts. If 26' is ever encumbered, it is at the discretion of the Solid Waste Division to provide service to the front and parking may be required to be removed along the street. If the design does not function as intended it shall be at the discretion of Solid Waste Division to require dumpster service for this development.

Tree Preservation:	Existing Canopy:	16.0%
	Preserved Canopy:	3.36%
	Required Canopy:	16.00%
	Mitigation:	Required; 265 two-inch caliper trees

Public Comment: City staff has received a number of emails, phone calls, letters, and in-person visits with surrounding property owners both opposed to and supportive of the project. Main issues of concern include the density and overall intensity of the development not being compatible with the surrounding existing single-family development, traffic and pedestrian safety issues, adverse visual impacts, and hillside and erosion impacts, among others. Copies of all written public comment have been included as an attachment to this report. In addition, several members of the public spoke at the November 30, 2006 Subdivision Committee meeting. A summary of the public who spoke and their main issues of concern based on staff's unofficial notes taken at the meeting is included as an attachment to this report.

Subdivision Committee meeting November 30, 2006:
The Subdivision Committee expressed concerns primarily regarding the density/number of units proposed on the site, compatibility with adjacent properties and the traffic improvements along Mission Blvd., finding that without assurances that the improvements could be installed on the highway with the project, this project would compound a dangerous traffic situation. All Committee members stated a mixed-use project with a higher density than four units per acre may be acceptable and appropriate on this site. The Subdivision Committee recommended forwarding this item to the full Planning Commission for consideration with a recommendation for denial in its current form, with determinations on conditions of approval as noted herein.

Planning Commission meeting January 22, 2007:
Approximately 30 persons from the public spoke at the Planning Commission meeting, with those supporting the project and those opposed to it very evenly divided. Issues cited above and in the staff report were all discussed again. The Planning Commission chose to amend two conditions of approval, involving the width of proposed alleys and the timing of the improvements to Mission Blvd. Accordingly, the conditions of approval noted herein have been amended and the phasing of the projects adjusted to match that which is being reviewed. The Planning Commission voted 5-2-0 in favor of the project, with Commissioners Graves and Clark in opposition. Commissioners Ostner and Bryant were absent.

Recommendation: Finding that the proposed rezoning and development approval meets the majority of the goals of the Planned Zoning District ordinance, and meets many of the policies adopted within the CityPlan 2025 as noted herein, staff recommends forwarding **R-PZD 06-2299** to the City Council with a recommendation for approval with the following conditions of approval:

Conditions of Approval:

Streets and Right-of-Way

1. **Planning Commission determination** of street improvements. *Staff recommends the following street improvements, based on the proportionality of the development's impact:*

   a. The developer shall construct a 3-lane street section with pavement, curb, gutter, and storm drains, from where it currently stops east of the site on Mission Blvd west to Greenview Drive, to include complete 6-foot sidewalk connections on Mission Blvd. The applicant shall coordinate with the Engineering Division to determine if a continuous turn lane or turn lane at major intersections is more acceptable. *Construction of these improvements shall occur with Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area.*

   b. ~~The developer shall contribute the cost of a full traffic signal (assessment) for Lisa Lane/Mission Blvd intersection to be pro-rated as each phase develops (fees due prior to final plat for subdivisions and prior to building permit for other developments). Construction of the signal shall occur as soon as AHTD permits;~~ *With the express offer and approval by the developer, the developer shall construct at its own cost a traffic signal at the intersection of Lisa Lane and Mission Blvd. upon completion of 57 residential units and 16,636 SF of non-residential area in Phases I-III (the development proposed at this time), or the granting of the warrant by the AHTD (whichever is earlier) unless such construction is expressly prohibited by the AHTD. If construction of the signal is prohibited, the full cost of the traffic signal shall be paid to the City prior to additional development being constructed over that within Phases I-III approved for development at this time. No further development beyond the full build-out of Phases I-III (which includes those areas currently being approved in concept only (Lots 2, 3)) may be approved or constructed until and unless an operational and AHTD-approved traffic signal is functioning at the intersection. No zoning approval for development beyond the full build-out of Phases I-III is granted by the PZD ordinance unless and until the traffic signal is in full operation.*

   ~~c. The applicant shall pursue AHTD permits to construct all noted improvements to Mission Blvd. If, after application, AHTD will not allow improvements then assessments may be determined to be paid at that time (prior to final plat for subdivision and prior to building permit for other development);~~

d. At the time of connection with Greenview Drive: 14' from centerline street improvements with curb, gutter, 6' sidewalks, and storm drainage on the east side of Greenview from Mission Boulevard south to Viewpoint Drive.

e. A traffic warrant analysis shall be presented to the City and AHTD with every phase of the development to determine what improvements are warranted and will be installed with each phase of the development.

THE PLANNING COMMISSION APPROVED THIS CONDITION WITH CHANGES AS NOTED BY STAFF.

2. The applicant shall dedicate right-of-way as follows:
   a. **Planning Commission determination** of a lesser dedication of right-of-way for Mission Blvd. Mission Boulevard is identified as a principal arterial with a minimum of 55' from centerline right-of-way required to be dedicated to the City with the development of the property per UDC §166.05 (C.6). The developer requests a reduction in the Master Street Plan right-of-way dedication requirements in order to accommodate existing utilities along Mission Blvd., leaving the existing 40-feet from centerline in place. The applicant has submitted a formal waiver request along with an exhibit showing that the full Master Street Plan improvements to Mission Boulevard are possible without the full 55' from centerline right-of-way. However, this would require the greenspace and new sidewalk along Mission Boulevard to be placed under a pedestrian access easement granting the City full inspection, access, and maintenance rights for public benefit. The waiver request discusses that the full right-of-way dedication is difficult because of an existing 16.5 foot easement granted to Southwestern Bell adjacent to the existing right-of-way that would be required to be dedicated for a principal arterial. According to the applicant, this easement contains the largest and most expensive fiber optic line in the State of Arkansas, contained within a concrete duct run. Moving this line would be very expensive and could likely be required if the right-of-way is dedicated in its place. *Staff recommends in favor of the waiver request finding that the information presented by the applicant sufficiently indicates that Mission Boulevard can be improved to its Principal Arterial designation along the project frontage with half of a median, two lanes of traffic, and part of the greenspace within the right-of-way, and that the remainder of greenspace and sidewalk (15' total) would be provided within a public access easement allowing full maintenance rights by the City. These access easements shall be dedicated at the time of final plat.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

   b. 25' from centerline right-of-way dedication along Greenview Drive by the preliminary plat; variable right-of-way dedication along the internal streets as depicted on the site plan; rear alleys shall be within a 26' access easement owned and maintained by the property owner's association.

3. **Planning Commission determination** of a waiver of minimum street design standards:

   a. The applicant requests a waiver to allow varied return radius (CRR) as shown on the plat at all street intersections and driveways when City Code requires a 30' CRR for streets (UDC §171.02(C)). *Staff recommends approval of the CRR waiver requests, finding that the minimum effective turning radius as depicted in exhibits provided to staff provides evidence that adverse impacts to traffic and pedestrian safety would not occur.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

   b. The applicant requests a waiver to allow different street cross sections than are required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows designated parallel parking in the design as proposed. In addition, the palette of street widths proposed is not permitted with the adopted Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.

      i. *Staff recommended denial of the waivers sought for Street J, finding the narrow width combined with steep topography would not be safe. The applicant has modified this street to a 24-foot width, which staff supports.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

      ii. *Staff recommends approval of a waiver to construct all street cross sections as requested (see PZD booklet pages 2-4) finding the variety of street widths will help in traffic calming and are consistent with the overall TND development philosophy for this project to help encourage pedestrian activity, provided that a 7.5' parking lane is maintained, as measured to the face of curb. Staff will review detailed construction plans at the time of development.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

      iii. *Alley cross-section of 12 feet for two-way traffic. Staff recommended a minimum pavement width of 16 feet for two-way traffic and 12 feet for two-way traffic, as outlined in the Master Street Plan. The applicant has revised the plans, indicating the 12-foot alley will be one-way; therefore staff supports the alley cross-sections as noted. <u>The dead-end alleys shall be increased to a minimum of 16 feet of pavement and shall be designated for two-way traffic.</u>*

THE PLANNING COMMISSION APPROVED THIS CONDITION WITH CHANGES AS NOTED.

   c. The applicant requests a waiver to allow for retaining walls directly at the back of the right-of-way line when a minimum of two feet is required per UDC Section

171.01(C). *Pursuant to city code, a retaining wall is required to be constructed a minimum of two feet behind the right-of-way. As recommended by the Hillside Best Management Practices, keeping improvements within more confined areas (reducing right-of-way, utility easements, etc.) reduces the overall impact on the hillside. Allowing retaining walls to be designed appropriately closer to the right-of-way would allow grading and other site improvements to be as limited as possible, thus decreasing the impact on the site. According to the applicant, no sidewalks or right-of-way would be impeded by the proposal. Based on staff's review of this proposal, in the areas proposed for development, no anticipated issues with this request are foreseen. Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

d. The applicant requests to use alternate vertical K values for street and alley designs on the site rather than those required by the City of Fayetteville Minimum Street Standards due to the steep inclines creating substantial grading challenges. *Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

e. The applicant requests a waiver of the 150 horizontal curve radii required by the City of Fayetteville Minimum Street Standards due to the steep terrain on the site. *Staff recommends approval of this request.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

f. The applicant request street grades greater than 4% within 100 of an intersection required by the City of Fayetteville Minimum Street Standards due to the steep terrain of the site. *Staff recommends approval of this request, based on several meetings to discuss these intersections, finding they will not create a dangerous situation.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

g. Gutter sections. The booklet calls out stand-up curbs, which are in contrast to the City's street design standards. *Staff supports the requested gutter section, which is in keeping with a more urban design standard. Similar curbs are utilized on Dickson Street and in the downtown area. Asphalt is used as the gutter pan, and provides a wider travel lane section without increasing the overall width of the street.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

4. All private alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the final plat.

5. No parallel parking spaces are allowed within 30' of a stop sign (Fayetteville Code of

Ordinance Section 72.03(G)). The site plan has been revised to accommodate this requirement. The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.

6. A minimum of 26' clear shall be provided along all alleys to provided adequate room for a trash truck and arm to pick up residential trash carts.

7. Signs indicating future street extension shall be installed at all street stub-outs.

8. A temporary cul-de-sac or turnaround shall be constructed at the terminus of Street 'J' in accordance with State fire code requirements as it is a dead end greater than 150' in length.

Parking

9. **Planning Commission determination** of a request to allow fewer than required off-street parking spaces than allowed by ordinance for Phases 1-3 of the development, instead providing an abundance of on-street parking to meet parking ratios. As depicted in *Table* 3 provided earlier in this report, the applicant proposes to provide 112 off-street parking spaces when 160 are required, and proposes that the proposed 82 on-street parking spaces throughout public streets in the development would be able to accommodate the additional required parking spaces required in Phases 1-3. *Staff recommends approval of this request, recognizing that the streets throughout this development, as amended from the City's Master Street Plan specifically to provide on-street parking, would provide parallel parking and can safely satisfy the additional demands for parking not provided off-street as depicted in Table 3. Because of the mixed-use nature of the project, parking demands will peak at different times, as proven by ITE standards. This will result in a more efficient use of infrastructure than the typical single-use parking lots that are empty during off-peak hours. Future parking needs for expansion of any facilities on this property shall be provided in accordance with the UDC. Staff recommendation for this is tied to the street width and Solid Waste Division requirements for adequate access to be provided.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Commercial Design Standards

10. **Planning Commission determination** of commercial design standards for the commercial portion of the live/work structures and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of the live/work structures and all other structures in this development are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings/flats, townhouses, live-work units, and single-family detached houses. The zoning criteria and elevations for the residential and non-residential structures requires buildings to front the street,*

and small building setbacks help create a streetscape and facilitate an overall compact and complete development. There is a wide variety of uses and structures that prevent a visual monotony while maintaining a compatible architectural design throughout the site. All non-residential uses being proposed are located interior to the project, away from existing single family subdivisions.

THE PLANNING COMMISSION FOUND IN FAVOR OF COMMERCIAL DESIGN STANDARDS.

Water and Sewer

11. Off-site water and sewer improvements shall be installed as necessary to provide domestic and fire protection to the development.

Phasing

12. **Planning Commission determination** of the proposed phasing plan. *Staff recommends approval of the phasing as indicated within the submittal. This project is required to obtain all permits in accordance to the Phasing as listed and depicted in the PZD booklet and noted below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions).*

Phase No.	Year
Phase 1	2007
Phase 2	~~2008~~ *2007*
Phase 3	~~2009~~ *2007*
Phase 4	~~2010~~ *2008*
Phase 5	~~2011~~ *2010*
Phase 6	2012

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

PHASING HAS BEEN ADJUSTED SLIGHTLY FROM THE PLANNING COMMISSION REVIEW TO ACCOMMODATE THE DEVLEOPMENT OF PHASES I-III ALL IN ONE YEAR AS NOTED ABOVE AND REQUIRED IN THE AMENDMENTS TO STREET IMPROVEMENTS . STAFF IS IN SUPPORT OF THIS MODIFICATION.

Parks

13. The PRAB reviewed this project on September 26, 2006 and recommended, along with the developer, accepting the Ruskin Tower and surrounding land (0.11 acres) - a thirty foot by thirty foot viewing tower to be built at a cost of no less than $260,000. This recommendation is for a contribution of services, facilities and land to meet parkland dedication requirements, and must be approved by the City Council. The developer shall be required to construct a viewing tower to be dedicated to the city, pursuant to the criteria set forth below. The money-in-lieu requirement for the proposed development at the time of Parks and Recreation Board recommendation was $259,200 with 185 single family units and 120 multi-family units. The current proposal is for a maximum of 295 dwelling units. The developer is currently requesting approval for phases 1-3 with 29

single family residential units and 28 multi-family residential units. The money in lieu requirement for Phases 1- 3 is $46,880.

14. If the full $259,200 is not used in the building of the tower the balance will revert back to Parks.

15. Because the Park and Recreation Advisory Board's (PRAB) recommendation to build the tower can not be met in Phase I, money in lieu will be required and kept in the Park Land Dedication Fund account. The developer will be reimbursed for the cost of the tower up to $259,200 from the money collected when the PRAB recommendations are met. The Parkland Dedication Ordinance requires money received into the Park Land Dedication Fund to be expended within 3 years of the last date of the calendar year in which it was received. At the end of the second year following the collection of the fees, Park Staff will evaluate the project to assess the feasibility of the construction of the tower within the designated three year time frame of the Park Land Dedication Ordinance.

16. Money in lieu ultimately will be based on the number of single and multi-family units approved. If the total number of residential dwelling units changes significantly from the number presented to PRAB, PRAB will reserve the right to reconsider their recommendation.

17. If the land/money dedication requirement is reduced, because of changes in the number of residential units from the requirement at the time of PRAB review, and the developer is not in agreement with the land/tower dedication at the agreed upon cost, the PRAB will have the option to re-evaluate their recommendation, subject to City Council approval. Should the land/money dedication requirement increase as the development is reviewed in the Planning Review process, the PRAB recommendation will be re-evaluated or money-in-lieu will be accepted for any increase in the dedication requirement above the value of the approved land/money dedication.

18. If the cost to build the tower exceeds the amount required by the parkland dedication ordinance, the developers agree, and shall, pay any excess. The design and development of the tower shall meet the approval of Parks staff. Additionally, maintenance of the tower and the 0.11 acres of land are the responsibility of the City with the P.O.A. required by contract to pay a fee for maintenance. The contract shall be a non-amendable maintenance contract with an inflation clause.

19. Additionally, the developer will provide the following public access easements on the Final Plat:

    a. A trail corridor located near the western boundary of the site through the tree preservation area with the POA retaining ownership. The Developer shall work closely with the Trails Coordinator and Urban Forester to develop this connection.
    b. A public access easement for the Spanish Steps, which will lead from the Market Pavilion near the entrance to the neighborhood, up the hill through the commercial area of the neighborhood and terminate at Ruskin Tower.

c. A public access easement for the village green, the central green space of Ruskin Heights.

20. The Ruskin Tower design shall return to the Parks and Recreation Department for review and approval based on the concepts and criteria presented herein. The Ruskin Tower shall be a maximum of 45' in height as depicted in the project booklet.

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Tree Preservation Plan

21. Revise the tree preservation fencing and tree canopy numbers along the western most ingress/egress off of Mission Boulevard. There appears to be some canopy that could be preserved.

22. Lot 68 located on the east side of the project is unacceptable to the City Engineering Division for tree preservation/mitigation. With the proximity of the water and sewer line under this alley, the entire space to the eastern and southern property line must act as an easement. This change will not allow any canopy to be counted as preserved nor will it allow any of the trees planted in this area to be counted toward mitigation requirements.

23. Mitigation is required on this site. The applicant has requested and been approved to do a combination of on-site planting and money in lieu for the total 265 trees. With the comments of the previous condition, an additional 9 (2) inch caliper mitigation trees will be required. At the time of Final Plat a total number of on-site trees and money in lieu will be approved.

24. At the time of final plat a tree mitigation planting plan will be required for review and approval by the urban forester. All trees that can be planted before signature of final plat should be leaving only those on the individual lots to come with the development of the homes. The remainder of trees that can not fit on the site will be paid into the City's Tree Escrow Account.

25. A 3-year bond, letter of credit, or check in the amount of $250 per tree will be required before signature of final plat to ensure the maintenance and health of the trees planted on-site. Finding all trees healthy at the end of the 3 years the amount will be returned in full.

Landscape Plan

26. Future lots 2 and 3 will be required to go through large scale development at which time landscape requirements will be assessed. Landscape requirements for the remainder of the project (lot 65) will be assessed at time of development plans. Landscaping along the detention ponds and greenspace area to meet City Codes shall be installed with the development of those portions of the project.

27. A landscape plan stamped by a licensed landscape architect is required at time of

construction drawings.

28. **Planning Commission determination** of a waiver request of UDC §177.05 (B.3), to utilize the urban streetscape option with a 9-foot sidewalk width as opposed to the required 10 feet. *Staff recommends approval of this waiver, finding that adequate width is proposed a to provide accessibility, pedestrian safety and room for the tree to grow.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

Plat and Booklet Revisions

29. Revise the plat and booklet zoning criteria for all Planning Areas to require the building setbacks to be a minimum of 10' from all property lines exterior to the PZD boundary line.

General

30. **Planning Commission determination** of zoning criteria. *Staff is supportive of the zoning criteria presented, with the following exception: staff recommends a minimum building setback of 10' adjacent to any property line exterior to the overall 28.93-acre PZD boundary to provide a reasonable level of transition from adjacent properties. No alley or other form of development shall occur within 5' of a property line without the adjacent property owner's consent. The applicant has indicated compliance with this recommendation, though modifications to the booklet and plat are necessary.*

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

31. Large scale development review is required prior to development for Lots 2 and 3. Lot 65 will be required obtain large scale development and/or subdivision approval prior to development, pursuant to the process identified in the UDC. A final plat shall be processed and approved prior to issuance of any building permits.

32. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. Encroachment of structures or any portion of a structure shall comply with all applicable Building Codes unless otherwise and specifically approved by the City Council at the time of development.

33. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards.

34. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.

35. 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.

36. Due to the very large and complex nature of this project, a detailed review of all aspects of the site and landscape plans in each phase of construction shall take place prior to issuance of building permits. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

Standard Conditions of Approval

37. 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).

38. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.

39. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.

40. 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.

41. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.

42. 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.

43. 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. Final plat for this project that shall include all easements and 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:

☐ Tabled   X Forwarded to C.C. (recommendation for approval)   ☐ Denied

Motion: **Trumbo**

Second: **Myres**

Vote: **5-2-0 (commissioners Clark and Graves voting 'No')**

Meeting Date: **January 22, 2007**

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 R-PZD 06-2299 (Ruskin Heights)

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. This project was submitted under the Interim Future Land Use Plan Map, and recommendations were made prior to the City Council adopting the current Future Land Use Map. The Interim adopted as part of City Plan 2025 designated this site Residential. The Sector Map also adopted as part of City Plan 2025 does not designate this specific area as a growth area. The current Future Land Use designation of this site is also a Residential Neighborhood Area, which "promotes walkable, cyclist-friendly road designs with slow design speeds; utilize principles of traditional residential urban design to create compatible, livable and accessible neighborhoods; site new residential areas accessible to roadway, alternative transportation modes, community amenities, schools, infrastructure, and retail and commercial goods and services, etc." Rezoning this property to R-PZD 06-2299 for a traditional town form development with a majority of residential uses is consistent with the six major goals of the City Plan 2025 as discussed in *Table 4*. There are a number of waivers and variances from the City's UDC that are applied for, and required, in order to develop a traditional neighborhood development, whether on this site or another. Several other waivers are required because of the steep topography of the site.

The development proposes a maximum of 295 units and 58,500 square feet of non-residential space in a complete, compact, and connected community with meaningful open space. This development is different in use and density than most of the surrounding single-family lots in the immediate area. However, there is a mix of multi-family and single-family dwellings to the east, along with commercial and non-residential uses and zonings to the west and north. Additionally, the site is located near a major intersection with commercial services, and improvements to both Hwy 265 and Hwy 45 are anticipated in the near future.

Staff finds that the project is both different and compatible with the surrounding land uses and zoning, and that appropriate building setbacks (minimum 10 feet) have been provided adjacent to the surrounding single-family residences to provide a reasonable level of transition.

Table 4
Ruskin Heights - City Plan 2025 Compliance

City Plan 2025 Goals	Ruskin Heights Compliance With City Plan 2025	Compliance (Yes or No)
Goal 1: We will make appropriate infill and revitalization our highest priorities.	This project is an infill project in a well-developed area of Fayetteville. The largely under-developed property is surrounded by existing development and infrastructure. This infill development provides the City an opportunity to revitalize the existing infrastructure and street system in the immediate vicinity with contributions from the development.	Yes
Goal 2: We will discourage suburban sprawl.	By being an infill development, the project discourages suburban sprawl, and keeps greenfields green on the perimeter of the City. By being an infill project it is able to take advantage of proximity to a larger existing pool of potential employees, transit, and utility infrastructures, than a sprawling development.	Yes
Goal 3: We will make traditional town form the standard.	This project is designed in a traditional town form. This development would provide a variety of uses within a neighborhood creating the ability to live, work, shop, and have daily needs and services met within walking distance. The mix of uses proposed is adaptable for change over time.	Yes
Goal 4: We will grow a livable transportation network.	This project will provide an opportunity to improve the existing street system and sidewalks on Mission Boulevard and Greenview Drive. This project concentrates development near one of the busiest intersections in the City at the intersection of two state highways/principal arterials. This development would help define a node, or concentration of development in this vicinity of the City, helping towards the goal of public transit.	Yes
Goal 5: We will assemble an enduring green network.	This project provides a public trail in the eastern portion of the site, as well as a public viewing tower, and several other public gathering areas. While not all of the public space would be green, this project is sensitive to the topography of the site and consistent with the Hillside/Hilltop Overlay District. This project would be consistent with the intent of this policy to maintain community character, quality of life, and contribute to the economic success of the City.	Yes
Goal 6: We will create attainable housing.	The variety of lot sizes and residential products provided by this development would lead to a mixed-income neighborhood/community. Consistent with the intent of this goal, this project is not an isolated attainable housing project, but rather reflects a more traditional urban neighborhood with households of varying economic means.	Yes

(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. The applicant has responded to concerns voiced by the Subdivision Committee by pursuing commitments from the AHTD for improvements along Hwy 45.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: For the purposes of this finding, staff uses the definition of compatible from Webster's Dictionary*: "capable of living or performing in harmonious, agreeable, or friendly association with another or other[1]."*

The rezoning request, combined with the Master Development Plan, would allow a mix of uses and density over the site. The proposed zoning criteria in the eastern portion of the site would provide for a greenspace/detention pond, townhomes, and single-family detached residences. A minimum of 26 feet would be provided between this property line and the proposed structures. The 26 feet would be comprised of approximately 5 feet of greenspace, 16 feet paved alley, and 5 feet of greenspace. Along the southern and western property lines either single-family residential homes or a tree preservation area would be provided with a minimum 10-foot building setback, creating an appropriate transition with adjacent single-family and commercial development. The northern portion of this site would contain larger mixed use buildings facing Mission Boulevard and a mix of existing non-residential and residential uses across Mission Boulevard.

While the lots in this development are considerably smaller than the surrounding standard single-family lots, and the form of development is different, staff finds that this traditional neighborhood development, as designed, can exist together in harmony with the existing surrounding land uses, and is thus compatible. This development would provide non-residential services and public amenities that would be beneficial to the surrounding neighborhoods and the City as a whole. It would also provide adequate physical space and separation around its perimeter, concentrating the larger commercial development on

[1] 1995. Webster's II New College Dictionary. Houghton Mifflin Company. Boston.

Mission Boulevard, away from the existing single-family residences. Also see Staff Finding No. 1 discussing the project's compatibility with the surrounding land uses.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The 28.93-acre property is developed for rural residential use. The two main natural resources on the property include the steep topography and tree canopy. The majority of the site is steep and within the Hillside/Hilltop Overlay District, with a majority of the tree canopy on the perimeter property lines or old fence rows, and along the south and west portions of the property. The street and site plan layout generally follow the contours and natural landform of the site. This project would comply with the requirements of the Hillside/Hilltop Overlay District in terms of its development patterns. A tree preservation area is also provided in the western portion of the site. This project has incorporated the topography and some of the significant trees on the site as environmental design features of the project, rather than mass grading the property. The natural environment is suitable for the type of development proposed, with the plans that are sensitive to that environment, as proposed.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended land uses, a mix of residential, commercial, and civic, will impact the existing traffic conditions. Currently this development proposes three points of ingress and egress onto Mission Boulevard to the north, and one point of ingress/egress onto Greenview Drive to the west. As proposed, two points of ingress/egress onto Mission Boulevard would be constructed with the first 68 lots. The points of access onto Mission Boulevard have been reviewed in detail by Engineering and Planning staff and been found to be acceptable. The other points of access will need to be reviewed in detail at the time of development, to review alignment, etc., but have been reviewed and recommended in concept. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that the proposed development would not create traffic congestion or overburden the existing road network. Significant improvements are being provided by this development to the adjacent Mission Boulevard and Greenview Drive to help accommodate the additional traffic generated by this development. Mission Boulevard would be widened and improved to a three-lane section from Greenview Drive east to the existing turning lane near Crossover Road, a traffic signal would be installed at Lisa Lane, and Greenview Drive would be widened and improved to its Master Street Plan designation. Sidewalks would also be provided along Greenview Drive and Mission Boulevard adjacent to these street improvements. Staff finds that with the recommended street improvements this development will not create traffic congestion or burden the existing road network. Additionally, siting a higher density of residences near a commercial area and providing pedestrian improvements may encourage many to walk or bicycle to utilize those services in the area, thereby decreasing the use of the vehicular network.

(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 Ruskin Heights PZD provides for a different form of development than surrounding single family residences, multi-family residences, commercial, church, and school uses in the immediate vicinity. While these uses are mixed in comparison, most are not located or planned within a given area. This development is a traditional town form of development that integrates a variety of housing types and non-residential uses into one neighborhood, rather than separating the single-family, multi-family, and commercial uses as in the existing surrounding developed areas. This project provides appropriate transition between these mixes of uses adjacent to a principal arterial street and near a major intersection. The mix of uses proposed enhances the existing surrounding neighborhoods and transportation corridor. The transition in this development involves the careful use of townhouses and single family detached units adjacent to existing single family residences, with the most retail and more intense residential areas located in the northern portion of the site adjacent to Mission Boulevard. This development is a compact, complete development pattern, all connected with a system of large urban sidewalks, pedestrian walkways, and narrow streets. The architectural style of the development provides for well-articulated structures and a consistent and overriding theme. The variety of uses and structures prevent a visual monotony while maintaining a compatible architectural design throughout the site. The mix of uses and relatively high density encourages a balance of people living and working in the same area reducing daily vehicle trips that rely on the regional road network. Several public spaces are proposed

that will be a benefit to the community. Circulation is compact and connected, adequate parking has been provided, and the inclusion of landscaping/mitigation trees will create a healthy urban canopy. Also see Staff Findings No. 1 and No. 4.

(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 there are not large surface parking areas or other areas requiring screening facing streets. All structures are oriented toward the streets. Surface parking for the mixed use building will be internal and screened from the streets. The development proposes a tree preservation area in the southwestern portion of the site along with a trail. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are required.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a system of public streets, and

private alleys as described earlier in this report accessing Mission Boulevard and Greenview Drive. The dwellings face onto greenspaces or streets, and are generally accessed off of internal alleys, providing a hierarchy of circulation that encourage an efficient flow of traffic. Also see Staff Finding No. 6.

(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: Much of the parking for mixed use and residential areas is proposed to be on-street. At least one parking structure is planned for the mixed use area (PA-1). All parking lots will be to the interior of the mixed use and residential lots. Most of the residences will be provided with private parking, either in alley-facing garages or driveways. The amount of off-street parking provided does not meet Unified Development Code requirements. Planning Commission and City Council approval is required in order to allow on-street parking to count for required off-street parking spaces. Staff recommends in favor of the request finding that adequate parking on- and off- street is provided.

(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, six-foot sidewalks are to be constructed adjacent to Mission Boulevard and Greenview Drive along the property frontage and south to Viewpoint Drive, and east, the extent of the street improvements along Mission. Internal to the development, sidewalks are provided along both sides of the public streets. A public walkway, "The Spanish Step", will provide a public pedestrian connection from the mixed use commercial area up to the public park/Ruskin Tower. A public trail will also be provided in the southwestern portion of the site.

(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: A variety of waivers of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic and encourage pedestrian comfort and activity throughout the site. Staff recommends in favor of the waivers for street and alley design, with the revisions submitted for Planning Commission consideration.

(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 a plan that accomplishes more of the goals for tree preservation. 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 non-residential structures on the site include the mixed use buildings in PA-1, and the live/work townhouses in PA-2. Some of the live/work townhouses are proposed for development at this time and are being reviewed in detail for compliance with commercial design standards. Staff recommends in favor of commercial design standards for these structures as reflected in the conditions of approval. The mixed-use buildings will be reviewed in detail for compliance with commercial design standards at the time of large scale development. The design of Ruskin Tower will be required to be approved by Parks staff, and will also be required to be reviewed by the Planning Commission at the time of development, subject to Parks staff approval.

(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: This site is located within the Hillside/Hilltop Overlay District (HHOD), is very visible to surrounding areas, and provides scenic views from the property. The development has complied with the building height requirements of the HHOD and has limited the heights for all structures to 45 feet, with the exception of the mixed use buildings adjacent to Mission Boulevard, which is not within the HHOD boundary. With compliance of the HHOD height requirements, existing views of this property and from this property will be adequately preserved.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas.

The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety

and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025 as discussed in Staff Finding No. 1, 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 six primary goals of the City Plan 2025:

Residential Areas:

12.1.4.a Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods. (Goal 3)

12.1.4.c Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness. (Goal 4)

12.1.4.d Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances.

12.1.4.e Utilize more intense development patterns within the infill sector and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity. (Goal 1)

12.1.4.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services. (Goals 1g and 3)

12.1.4.g Encourage residential dwellings in appropriate specified Mixed Use Areas. (Goals 1 and 3)

12.1.4.h Encourage a development scale to maintain compatibility and proportionality between nonresidential development and adjacent residential areas. (Goal 3a)

12.1.4.i Utilize the Master Street Plan and incorporate bike lanes, parkways and landscaped medians to preserve the character of the City and enhance the utilization of alternative modes of transportation. (Goal 4)

12.1.4.j Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc. (Goal 3a)

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council, an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

(4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

(b) the densities allowed under the current zoning;

(c) the urban development goals and other policies of the city's General Plan;

(d) the topography and character of the natural environment; and

(e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is mixed in density and use, from large lot single family, to commercial and institutional uses, to multi-family residences. Although a majority of the surrounding uses are single family residential at a density of approximately four units per acre, density under the current zoning (RSF-4) is not appropriate for development of this site for a traditional neighborhood. The city's development goals and infrastructure for this area supports a higher density. Also see Staff Findings Nos. (E)(1), (E)(4), (E)(5), and (B)(1).

(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 with structures oriented to the street and minimal front setbacks. This project provides for a variety of building footprint types of unit, with a mixed unit type and mixed density. Due to the unique nature of this traditional neighborhood development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single and multi-family development in the surrounding area, and consistent with the height requirements of the HHOD.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area on this project is relatively high, given the high density, mix of commercial uses. The lot coverages are appropriate given the urban environment proposed.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 Interim Future Land Use Plan designates this site as a Residential Area. Rezoning this property to R-PZD 06-2299, with the associated Master Development Plan, allows this future land use to vary by integrating non-residential uses throughout the site, though the principal use on the property will remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced the number of guiding policies for Residential Areas this proposal meets, and the six major goals of City Plan 2025 as discussed in Staff Finding No. (E)(1). Rezoning the property will accommodate both the future land use plan for residential uses, and also allow for a variety of uses and housing types, sizes and development pattern, thus providing more choices 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 RSF-4, which allows for primarily residential use. The proposed mix of uses, residential density and site layout included with this re-zoning is more appropriate for this area than the existing zoning. Rezoning of this property as proposed is advisable.

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

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion, with the street improvements recommended

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists, and that the commercial uses proposed would create additional demand on public services. Staff finds, however, that the load created on public services is not an undesirable or

detrimental impact, with the improvements as recommended by staff for this project.

Engineering: **Public water is located adjacent to the site. There is an 8" waterline along Mission.. Water service will need to be extended through the property at the time of development. Off-site water improvements may be required to properly supply this development with adequate fire protection.**

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.

The site has access to Mission. Mission Blvd. is an unimproved 2 lane state highway in this location. Improvements to the adjacent streets will be evaluated at the time of development.

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

Police: **It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services. The Police Department states that without street improvements the rezoning would increase traffic danger and congestion on Mission Boulevard.**

Fire: **The subject property is located 1.6 miles from the Station No. 5 located at 833 Crossover Road with an expected response time of 4 minutes. When the new Station No. 5 is opened at Old Wire Road and Crossover, the response time is anticipated to stay approximately the same. No adverse impacts on call volume or response time are anticipated.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

    a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

    b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Fayetteville
ARKANSAS

PC Meeting of January 22, 2007

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: **January 17, 2007**

ITEM #: R-PZD 06-2299: Planned Zoning District (Ruskin Heights)

Applicable Requirements:

NA	Site Development & Parking Lot Standards
NA	I-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*
NA		**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*
N		**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** *Side and rear property lines (5' landscaped)* *Shade trees as described in street tree planting standards,* *Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)*
		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*
Y		**Urban Tree Wells-***urban streetscape only-10foot sidewalk*
Y		**Structural Soil-***if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan*
Y		**Timing of planting indicated on plans (subdivisions only)**
Y		**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. **Future lots 2 and 3 will be required to go through large scale development at which time landscape requirements will be assessed. Landscape requirements for the remained of the project (lot 65) will be assessed at time of development plans.**
2. **A landscape plan stamped by a licensed landscape architect is required at time of construction drawings.**
3. **To utilize the urban streetscape option, the sidewalk must be 10 feet wide with a minimum grate size of 4 x4. Deviation from this will require a waiver request. Please submit a request immediately to staff.**

Fayetteville ARKANSAS

PC Meeting of January 22, 2007

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: January 17, 2007

ITEM #: R-PZD 06-2299: Planned Zoning District (Ruskin Heights)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	11.06
square feet	505,303
Existing Tree Canopy	
acres	1.90
square feet	82,693
percent of site area	16%
Existing Tree Canopy Preserved	
acres	0.39
square feet	16,988.4
percent of total site area	3.36*
Percent Minimum Canopy Required	**16%**

** See Conditions of Approval*

FINDINGS:

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

- **These 11 acres are the only portion of the site as a whole being reviewed for Tree Preservation requirements. When the other**

parcels come through the development process they will be assessed and expected to meet the requirements of Chapter 167 Tree Preservation and Protection. This site has only 16% canopy cover. There are 6 signficant trees on the site with the species being a range of ash, hickory, and oak. Of the 6 identified significant trees, 4 will be preserved. The other canopy on the sit is a mix of species such as osage orange and hackberry. There is an old fence row along the east property line.

Whether the design incorporates the required tree preservation priorities

- **This design takes into consideration many of the tree preservation priorities while a few are still lacking.**

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

- **Environmental impact will occur on the site with the amount of disturbance and removal of impervious surfaces.**

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.

- **The applicant is attempting to save as much of the vegetation along the east and south property lines as possible. There is a proposed alley that will run adjacent to the property lines which may require tree removal. The applicant is however proposing to mitigation trees along these areas to replace anything that may be removed that would affect the neighbors adversely.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **A portion of the site does exist within the Hillside Hilltop Overlay District.**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of the lot does not reduce flexibility of design. This site does have significant grade changes.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of the trees was found to be poor, fair, and good.**

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

- **The cause for the majority of the removal of canopy on this site is due to the grading required. For the roads to be constructed and the possibility of future homes, there are a lot of grade and fill requirements.**

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

- **Utility easements on this site do not heavily affect the tree canopy. This is a very dense project resulting in the majority of canopy removed for infrastructure.**

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

- **This section of the development does not take into consideration the existing canopy or the topography.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required for this project. The applicant has requested to do a combination of on-site planting and money in lieu to be determined at final plat.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **This project has areas within the Hillside Hilltop Overlay District. The applicant is requesting development approval of the 11 acres located in the northeast corner of the site. The remainder of the project is requesting approval of the master development plan.**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions.**

Conditions of Approval:

1. **Revise the tree preservation fencing and tree canopy numbers along the western most ingress/egress off of Mission Boulevard. There appears to be some canopy that could be preserved.**
2. **Lot 68 located on the east side of the project is unacceptable to the City Engineering Division. With the proximity of the water and sewer line under this alley, the entire space to the eastern and southern property line must act as an easement. This change will not allow any canopy to be counted as preserved nor will it allow any of the trees planted in this area to be counted toward mitigation requirements.**

3. **Mitigation is required on this site. The applicant has requested and been approved to do a combination of on-site planting and money in lieu for the total 265 required trees. With the comments of the previous condition, an additional 2 (9) inch caliper mitigation trees will be required. At the time of Final Plat a total number of on-site trees and money in lieu will be approved.**
4. **At the time of final plat a tree mitigation planting plan will be required for review and approval by the urban forester. All trees that can be planted before signature of final plat should be leaving only those on the individual lots to come with the development of the homes.**
5. **A 3-year bond, letter of credit, or check in the amount of $250 per tree will be required before signature of final plat to ensure the maintenance and health of the trees planted on-site. Finding all trees healthy at the end of the 3 years the amount will be returned in full. The remainder of trees that can not fit on the site will be paid into the City's Tree Escrow Account.**

Fire Department Turning Radius Comment

From: Dale Riggins
To: Pate, Jeremy
Date: 12/20/06 2:05PM
Subject: Ruskin Heights

Jeremy,

Brian from Community by Designed talked with me this morning and said that you had some concerns about turning radiuses for our Ladder trucks in Ruskin Heights.

I have sat down with Brian several times and we have gone over his plans for that development. There are some turns that will be tight for our ladder trucks and one that the ladder truck will not be able to make. The turn is down a small street (Lot 65) that is very short and we pretty much treated it like a dead end. The ladder truck will be able to access these structures by pulling in from both directions if needed. They will have to back out but since this is a very short street I don't see a problem with them backing that short of a distance.

The engines should have no problems making any of the turns in the development. The plans show an Effective Inside Turning Radiuses of at least 25' and by looking at the plans the Ladders should be able to maneuver these corners.

If you have any questions please feel free to contact me.

Dale Riggins
Captain
IT/Planning
Fayetteville Fire Department
(479)444-3449 Office
(479)587-5251 Pager

(479)601-1155 Cell
driggins@ci.fayetteville.ar.us

CC: brian@communitybydesign.net

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 6, 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 Rupple 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.

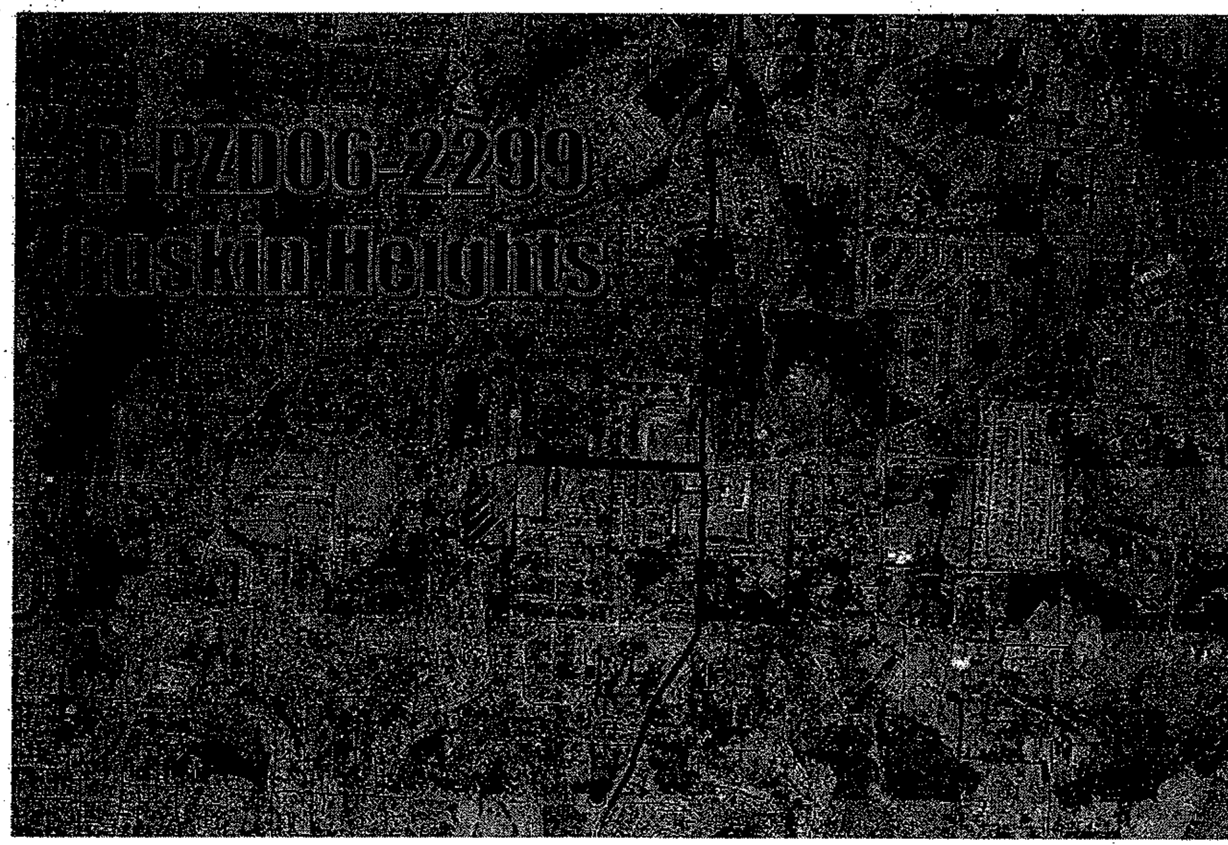
RZN 06-2366 (Wonacott)

These 21.91 acres is covered by Engine 7 at 835 Rupple 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


R-PZD06-2349
Westbrook Village


R-PZD06-2299
Ruskin Heights

December 1, 2006

Fayetteville Police Department

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).

In reference to **RZN 06-2366: (WONACOTT, 436):** Submitted by **Melissa Wonacott** for property located at **655 and 657 N. Genevieve.** The property contains **approximately 1.50 acres.** The property is zoned **R-A.** The request is to rezone the property to **RSF-4.**

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.

Sincerely,

Captain William Brown
Fayetteville Police Department

Fayetteville ARKANSAS

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner

FROM: Kay Curry, Park Planner

DATE: November 28, 2006

SUBJECT: Parks & Recreation Subdivision Committee Comments

****

Meeting Date: November 30, 2006
Item: PZD 06-2299 (Ruskin Heights, 370)
Park District: SE
Zoned: RSF-4
Billing Name & Address: Ruskin Heights LLC, 2013 East Mission Blvd.
Fayetteville, AR 72703

	Current Land Dedication Requirement	Money in Lieu
Single Family	____ @ .024 acre per unit = ____ acres	29 @ $960 per unit = $27,840
Multi Family	____ @ .017 acre per unit = ____ acres	28 @ $680 per unit = $19,040

COMMENTS:

- The money-in-lieu requirement for the proposed development at the time of Parks and Recreation Board recommendation was $259,200 with 185 single family units and 120 multi-family units. The developer is currently requesting approval for phases 1-3 with 29 single family residential units and 28 multi-family residential units. The money in lieu requirement for Phases 1- 3 is $46,880.

- Because the Park and Recreation Advisory Board's (PRAB) recommendation to build the tower can not be met in Phase I, money in lieu will be required and kept in the Park Land Dedication Fund account. The developer will be reimbursed for the cost of the tower up to $259,200 from the money collected when the PRAB recommendations are met. The Parkland Dedication Ordinance requires money received into the Park Land Dedication Fund to be expended within 3 years of the last date of the calendar year in which it was received. At the end of the second year following the collection of the fees, Park Staff will evaluate the project to assess the feasibility of the construction of the tower within the designated three year time frame of the Park Land Dedication Ordinance.

- Money in lieu will be based on the number of single and multi-family units approved. If the total number of residential units changes significantly from the number presented to PRAB, PRAB will reserve the right to reconsider their recommendation.

- If the land/money dedication requirement is reduced, because of changes in the number of residential units, from the requirement at the time of PRAB approval and the developer is not in agreement with the land/tower dedication at the agreed upon cost, the PRAB will have the option to re-evaluate their recommendation.

- Should the land/money dedication requirement increase as the Development goes through the City planning review process, then the PRAB recommendation will be re-evaluated or money-in-lieu will be accepted for any increase in the dedication requirement above the value of the approved land/money dedication.

- The PRAB reviewed this project on September 26, 2006 and recommended accepting the Ruskin Tower and surrounding land (.11acres) - a thirty foot by thirty foot viewing tower to be built at a cost of no less than $ 260,000. If the cost to build the tower exceeds this amount, the developers will pay any excess. The design and development of the tower will meet the approval of Park staff. Additionally, maintenance of the tower and the .11 acres of land are the responsibility of the City with the P.O.A. required by contract to pay a fee for maintenance. The contract shall be a non-amendable maintenance contract with an inflation clause. Additionally, the developer will provide the following permanent public access easements: 1) a trail corridor located near the western boundary of the site through the tree preservation area with the POA retaining ownership. The developer shall work closely with the Trails Coordinator and Urban Forester to develop this connection. 2) A public access easement for the Spanish Steps, which will lead from the Market Pavilion near the entrance to the neighborhood, up the hill through the commercial area of the neighborhood and terminate at Ruskin Tower. 3) A public access easement for the village green, the central green space of Ruskin Heights.

- If the full $259,200 is not used in the building of the tower the balance will revert back to Parks.

RUSKIN
HEIGHTS

Ward Davis
Ruskin Heights, LLC
2013 East Mission Boulevard
Fayetteville, AR 72703
November 16, 2006

Mr. Tim Conklin
Director of Planning
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Mr. Conklin:

I am writing to explain the zoning request of 465 residential units in the Ruskin Heights Neighborhood and to more closely align the zoning request to the current land plan. First and foremost, I want to reinforce that the current land plan, including the phases for which we are seeking development approval, includes a total of 295 residential units and 58,500 square feet of retail space. These amounts are less than the up to 360 residential units and 60,000 feet of retail presented at the charrette. While the current land plan has not changed measurably, one of the central philosophies of New Urbanism is providing flexibility for future uses. In this case, we wanted to have zoning that allowed for "granny flats" and a horizontal property regime in the more dense areas of the neighborhood. While we would not initially be selling more units, higher density zoning would allow future owners more flexibility with their properties.

Although the development approval submittal and the PZD zoning are two different items, we can see how the issue could be confused and have decided, therefore, to align our PZD zoning request with the 295 units in the current land plan. Our PZD submittal on November 22, 2006, will reflect these changes. We apologize for any confusion and hope this clarifies our objectives. As always, please feel free to call with any questions.

Sincerely,

Ward Davis

Ward Davis

December 4, 2006

Brian Teague
President
Community by Design, LLC
38 W. Trenton, Suite 201
Fayetteville, AR 72701

Mr. Jeremy Pate
Director of Current Planning
Planning Department
City of Fayetteville
City Administration Building
Fayetteville, AR 72701

Dear Mr. Pate:

I neglected to request two waiver requests in my previous waiver request letter of November 22, 2006. These requests pertain to the dedication of Hwy 45/Mission Blvd. as well as to sidewalks within the proposed neighborhood.

HWY 45/Mission Blvd. Dedication

Normal requirements of the Master Street Plan would require a development such as the Ruskin Heights Neighborhood to dedicate enough land to allow for the widening of Hwy 45/Mission Blvd to a 110 ft. right of way suitable for four lanes of traffic divided by a median/turn lane. In this instance, however, said dedication is difficult because there is an existing 16.5 ft. easement granted to Southwestern Bell within the cross section that would be required to be dedicated for a principal arterial of this type. This situation is further complicated by the fact that this easement houses the largest and most expensive fiber optic line in the state of Arkansas, contained with a concrete duct run. Moving this line would be very expensive and could likely be required if the right of way is dedicated in its place.

Because of this hardship, we are asking for a waiver from the normal dedication of right of way for a principal arterial, and are suggesting the following compromise: The current 16.5 ft. easement falls at the perimeter of what would be the 55 foot half (that half which is on the side of the center line of the Ruskin Heights Neighborhood) of the principal arterial right of way dedication (see Figure 1). This part of the right of way is typically reserved for green space, utilities easements and sidewalks. Rather than dedicating the 55 ft. normally required, we propose to leave the current 40 ft. right of way in place (which can house, in the future, half of the median, two lanes of traffic, and part of the green space which would normally fall within the typically required 55 ft. right of way. Under this scenario, the last 15 ft. reserved for utilities, green space, and sidewalks would not be dedicated, but instead would be granted a dedicated public access easement. The Southwestern Bell utility easement would remain in this area as well as crossing over onto the property of Ruskin Heights. Additionally, Ruskin Heights, LLC would build an eight foot sidewalk in the location in which the city sidewalk would otherwise be built given a typical 55 foot dedication.

This compromise would give all parties involved what they want without the possibility of having to move the most expensive fiber optic line in the state. Future widening of the road would be possible along exactly the lines prescribed by the Master Street Plan, and a sidewalk to serve the area would be built early. A detailed cross section showing the existing, required, and proposed plans is attached (Figure 1).

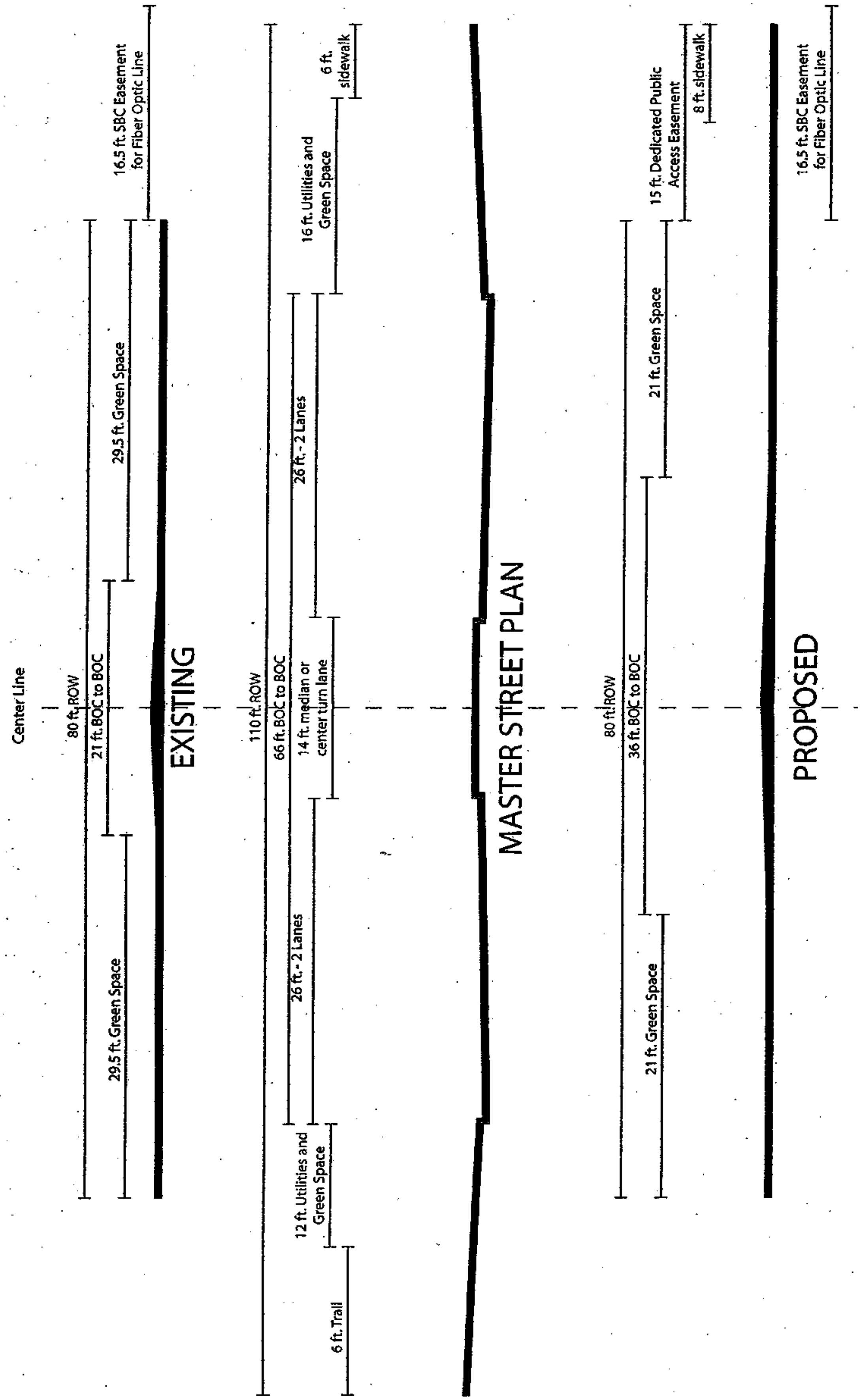
Sidewalks – Urban Streetscape Option

The urban streetscape option for tree planting requires sidewalks to be 10 ft. wide with a 4 ft. by 4 ft. tree grate. As not all of our sidewalks are 10 ft. wide, we are requesting a waiver from this rule. We will work with the urban forester to design sidewalks and grates to accommodate the urban streetscape option even though they may not be the typically required width.

I look forward to your response. Thank you for your time in considering this matter. If I can be of any assistance, or if you have questions or comments, please do not hesitate to contact me.

Sincerely,

Brian Teague
President
Community by Design



(Hwy 45/Mission Blvd. at Ruskin Heights - Looking East)

November 22, 2006

Brian Teague
President
Community by Design, LLC
38 W. Trenton, Suite 201
Fayetteville, AR 72701

Mr. Jeremy Pate
Director of Current Planning
Planning Department
City of Fayetteville
City Administration Building
Fayetteville, AR 72701

Dear Mr. Pate:

Because Traditional Neighborhood Design is somewhat different than typical subdivision design of the past several decades, city codes are often not robust enough to allow all design features in neighborhoods of this type. Additionally, because Ruskin Heights is so hilly and we ant to impact the site's natural beauty as minimally as possible, we are requesting a few waivers for sections of the site for which we are asking for development approval. While mostly minor, these requests are extremely important to the design, as much of the feel of the neighborhood will depend upon them.

Streets

The streets in Ruskin Heights are designed according to principles of the Smart Code and according to recommendations of the Institute of Transportation Engineers. As such, they differ from typical street cross sections used in Fayetteville. Details of these cross sections can be found on pages three and four of this book. In general, this waiver request is for variances, both in cross sectional area and in curb return radii, from typical street sections found in the Fayetteville Master Street Plan and the Unified Development Code.

The street cross sections in Ruskin Heights are designed for traffic calming. The designs utilize street widths and street width variation as well as on street parking and freedom of movement restrictions to make drivers uncomfortable at speeds higher than around 15 mph. This type of design is essential for calming traffic for this type of neighborhood design, as slower traffic encourages more pedestrian activity. Further, small street cross sectional widths combined with tighter than normal curb return radii (much like existing streets in the Fayetteville Historic District) combine to make automobile/pedestrian accidents far less likely and, when they do occur, far less deadly. Reducing street widths and curb return radii in the manner suggested by the design of

Ruskin Heights can change pedestrian crossing times at intersections from ten seconds to just three seconds. Combined with the fact that traffic will be moving more slowly through intersections, this design is far safer for pedestrians, especially children, crossing the street.

Due to the differences described above, the designers are requesting a waiver from requirements of the Master Street Plan. The Fayetteville Fire Department and Solid Waste Department have been consulted about changes of this type in the past and has approved this type of design as being adequate to facilitate their fire equipment. They have been consulted specifically about this design as well. Meetings have also been held between the designers and Fayetteville's engineering department to discuss these designs. The engineering department expressed general approval of the concept.

Retaining Walls

The Fayetteville UDC requires retaining walls to be set back at least two feet from the sidewalk right of way. Due to the nature of the site and the inherent challenges associated with hillside development, we are asking for a waiver of this requirement so that retaining walls can be located directly back of the right of way line. This allowance will ensure that building placements can be made where they make the most sense for the landscape, rather than in spaces defined by arbitrary geo-political boundaries. This change is also necessary to attain the aesthetic feel the designers are attempting to capture on the site.

Vertical curve K values

The steep inclines on site create somewhat significant grading challenges. Because we are attempting to impact the natural landscape as little as possible, a waiver is requested to use alternate vertical K values for street and alley designs on site. Granting this small change in the allowance of Vertical K values will allow us to reduce the overall grading on site. The changes requested are no more extensive than those which currently exist at other neighborhoods in Fayetteville, most notably on Mt. Sequoyah.

Horizontal Curves

Fayetteville streets, designed in accord with the Unified Development Code, are generally designed for speeds of 25 MPH. We would like to change the horizontal curve radii to be appropriate for 15 MPH curves, in line with provisions set forth by ITE and Smart Code. This change would require a waiver from the requirements of the Master Street Plan and UDC.

Additionally, Ruskin Heights is located on the side of a hill. Large portions of the site are located within the hillside overlay district for Fayetteville. Unfortunately, due to these difficult terrain features, building roads on site without making significant alterations to the landscape and in the process removing large numbers of trees will be difficult. Part of the difficulty of designing on site is caused by the 150 ft. horizontal curve radius imposed by the City of Fayetteville Master Street Plan. This large of a radius is very difficult to design for on this particular site, and its reduction or removal would greatly facilitate the design of a neighborhood which would impact the natural environment far less.

Because of these factors, we are asking for a waiver of the 150 ft. minimum curve radius for horizontal curves. Because of other factors on site, like street designs and 15 mph speed limits, a reduction in horizontal curve radii should not negatively impact the safety of drivers. Initial conversations about the design of the site including these reduced radii between the designers and the Fayetteville Fire Department indicate that the proposed horizontal curve radii will not impact F.F.D.'s ability to move equipment through the neighborhood. Horizontal curves less than 150 feet in radius exist in several analogous area of Fayetteville like Mt.□Sequoyah and other more hilly areas of town.

4% max grade within 100 ft. of an intersection

Fayetteville typically does not allow grades greater than 4% within 100 ft. of an intersection. Because Ruskin Heights is located on such a steep site, a waiver from this requirement is requested. Following this requirement would make the site exceptionally difficult to build on and would require design changes which would detrimentally impact the natural beauty of the site far more than we wish. Horizontal grades of greater than 4% exist in many areas of the city because of the nature of the landscape on which Fayetteville is built. Everything reasonably possible has been done to set grades to meet this requirement, but doing so while maintaining the integrity of the site and design has proved impossible.

50% compact parking

Fayetteville parking requirements state that no more than 35% of parking spaces may be compact. Given a changing energy market, and a move toward smaller cars, we are requesting a waiver to allow up to 50% of the parking spaces in the neighborhood to be compact spaces.

I look forward to your response. Thank you for your time in considering this matter. If I can be of any assistance, or if you have questions or comments, please do not hesitate to contact me.

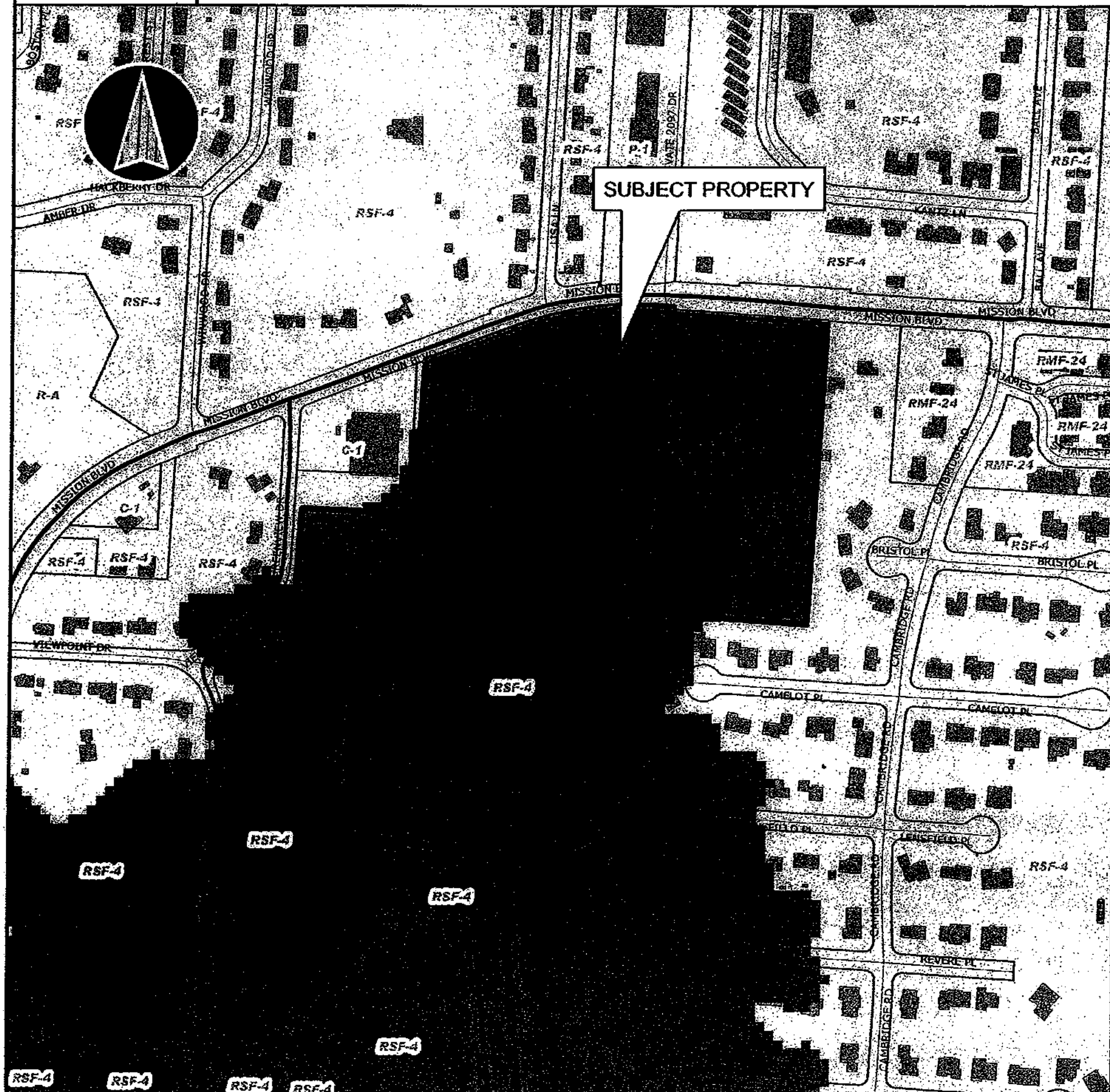
Sincerely,

Brian Teague
President
Community by Design

RPZD06-2299

Close Up View

RUSKIN HEIGHTS



Overview

Legend

Hillside-Hilltop Overlay District
RPZD06-2299
vector.GDB.Footprint_2004
Overlay District
Fayetteville
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Outside City

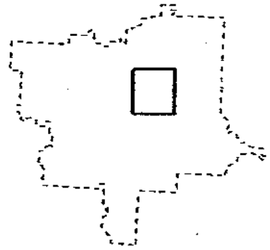
0 162.5 325 650 975 1,300 Feet

RPZD06-2299

One Mile View

RUSKIN HEIGHTS

Overview



Legend

Subject Property

RPZD06-2299

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF FEBRUARY 20, 2007

FROM: ALDERMAN NANCY ALLEN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §161.21 (G) Height Regulations Of Main Street Center And §161.22 (G) Height Regulations Of Downtown General Of The Unified Development Code By Limiting The Height Of New Development To Three Stories Or 45 Feet, Whichever Is Less

APPROVED FOR AGENDA:

Nancy Allen

Nancy Allen
Alderman

Feb 6, 2007
Date

Kit Williams
City Attorney (as to form)

Feb 6, 07
Date

ORDINANCE NO. ______

AN ORDINANCE TO AMEND §161.21 (G) HEIGHT REGULATIONS OF MAIN STREET CENTER AND §161.22 (G) HEIGHT REGULATIONS OF DOWNTOWN GENERAL OF THE UNIFIED DEVELOPMENT CODE BY LIMITING THE HEIGHT OF NEW DEVELOPMENT TO THREE STORIES OR 45 FEET, WHICHEVER IS LESS

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 161.21 (G) and §161.22 (G) of the Unified Development Code and enacts replacement §161.21 (G) and §161.22 (G) as shown below:

> "***§161.21 (G)*** *Height regulations*. Maximum height is three (3) stories or 45 feet whichever is less.
>
> "***§161.22 (G)*** *Height regulations*. Maximum height is three (3) stories or 45 feet whichever is less."

PASSED and **APPROVED** this 20th day of February, 2007.

APPROVED: ATTEST:

By: ______________________________ By: ______________________________

DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer