

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 20, 2007**

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

Fayetteville Public Library – The Big Read

Nominating Committee Report – APPROVED WITH THE EXCEPTION OF THE PLANNING COMMISSION.

Mayor's appointment of Fayetteville Public Library Board of Trustees - APPROVED.

Confirmation of the Advertising & Promotion Commission appointment - APPROVED.

Planning Commission nomination – THIS ITEM WAS TABLED TO A SPECIAL CITY COUNCIL MEETING ON MARCH 27, 2007.

A. CONSENT:

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

THIS ITEM WAS PULLED FROM THE CONSENT AGENDA.

- 2. CEMS Ambulance Services for 2007:** A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 46-07.

3. **Arkoma Playgrounds and Supply, Bid # 07-22:** A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 47-07.

4. **A. Camp Equipment, Bid # 07-21:** A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 48-07.

5. **Northwest Arkansas Diversity Council Membership Fee:** A resolution to authorize the City to join the Northwest Arkansas Diversity Council and pay the \$500.00 membership fee for services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 49-07.

B. UNFINISHED BUSINESS:

1. **VAC 06-2364 (Cruz Bay):** An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. *This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4993.

2. **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 appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 50-07.

3. **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 ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4994.

4. **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, and to repeal § 156.02 (B)(6).

This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.

THIS ITEM FAILED.

5. **Farmington De-annexation:** An ordinance concurring with Farmington Ordinance No. 2007-1, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

THIS ITEM FAILED.

C. NEW BUSINESS:

1. **SWEPCO Public Service Commission Hearing:** A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 51-07.

2. **Power Secure, Inc. Bid Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 4995.

3. **ANX 06-2288 (Broyles):** An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.

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

4. **R-PZD 06-2281 (Holcomb Heights):** An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision: containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

5. **ADM 07-2477, BioBased:** A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.

THIS ITEM WAS TABLED TO THE APRIL 3, 2007 CITY COUNCIL MEETING.

6. **Amend Chapter 92 – Animal Ordinance:** An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.

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

- 7. Amend Chapter 51 – Sewer Volume Based Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.

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

- 8. Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.**

NO ACTION TAKEN ON THIS ITEM.

- 9. Forrest F. Brooks Revocable Trust Land Purchase:** A resolution to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust located north (and below) the Lake Lucille Spillway for \$495,000.00 and to sell 1.89 acres to the United Presbyterian Church for \$68,000.00 and to sell the development rights of the remainder to the Fayetteville Natural Heritage Association and Neighbors for \$179,500.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 52-07.

D. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 12:25 A.M.

Adjourned @ 12:25 AM

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

Subject: Nominating Committee Report					
Motion To:		Approve all but the Planning Commissioners			
Motion By:		Cook			
Seconded:		Lucas			
Approve all but Planning Commissioners	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

City Council Meeting March 20, 2007

Subject: Jayeterville Public Library Board					
Motion To:		Approve			Appointments
Motion By:		Cook			
Seconded:		Ferrell			
<u>Approved</u>	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

7-0

Subject: AEP Commission Appointment					
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Ferrell			
<u>Approved</u>	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

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City Council Meeting March 20, 2007

Subject: Planning Commission Nominations					
Motion To:		Motion to Reappoint	Clark & Myers	& new appointment	
Motion By:		Lucas	of Sean Trumbo		
Seconded:		Allen			
No VOTE WAS TAKEN.	Rhoads	Absent			
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Mayor Coody				

Subject: Planning Commission Nominations					
Motion To:		Table appointment of Planning Commissioners to			
Motion By:		Gray		Tuesday	
Seconded:				March 27, 2007	
This item was tabled to 3/27/07	Rhoads	Absent		Special City	
	Ferrell	Y		Council Meeting	
	Lucas	N			
	Jordan	Y			
	Gray	Y			
	Thiel	Y			
	Cook	Y			
	Allen	N			
	Mayor Coody				

5-2 to Table

City Council Meeting March 20, 2007

Subject: Consent					
Motion To:		Approve	with 3/6/07 minutes removed.		
Motion By:		Jordan			
Seconded:		Lucas			
<u>Consent</u> passed 3/6/07 minutes removed	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				
Res. 46-07 to 49-07-0					

Subject: VAC 06-2364 CRUZ Bay.					
Motion To:		2nd read		Amend	
Motion By:		Jordan		to current ordinance.	
Seconded:		Cook		Gray	
B.I. Unfinished Business	Rhoads	absent		Ferrell	
	Ferrell	✓		absent	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		✓	
	Mayor Coody				
7-0			7-0		

City Council Meeting March 20, 2007

Subject: VAC 06-2364 Cruz Bay					
Motion To:		3rd read	Pass		
Motion By:					
Seconded:					
B.1. Unfinished Business <u>Passed</u> 4993	Rhoads	absent	absent		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Mayor Coody				

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Subject: Wedington Circle Appeal					
Motion To:		Grant appeal that has curb instead of T deny appeal in relation to making it a public Street			
Motion By:		Jordan			
Seconded:		Lucas			instead of private
B.2. Unfinished Business Res. 50-07	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

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City Council Meeting March 20, 2007

Subject: R-P20 06-2299 Ruskia Height.					
Motion To:		3rd read	Pass		
Motion By:		Gray			
Seconded:		Thiel			
C.3. Unfinished Business <u>Passed</u> 4994	Rhoads	Absent			
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Mayor Coody				

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Subject: Amend 161.21 & 161.22 Height Regulations					
Motion To:		2nd read.	3rd read	Pass	
Motion By:		Gray	Cook		
Seconded:		Ferrell	Allen		
C.4, Unfinished Business <u>Failed</u>	Rhoads	Absent	Absent	absent	
	Ferrell	✓	✓	N	
	Lucas	✓	✓	Y	
	Jordan	✓	✓	Y	
	Gray	✓	✓	N	
	Thiel	✓	✓	N	
	Cook	✓	✓	Y	
	Allen	✓	✓	Y	
	Mayor Coody				

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7-0

4-3 (failed) need 5 votes to pass

Adjourned @ 12:25 AM

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

Subject: Nominating Committee Report					
Motion To:		Approve all but the	Planning Commissioners		
Motion By:		Cook			
Seconded:		Lucas			
Approve all but Planning Commissioners	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

City Council Meeting March 20, 2007

Subject: Jayeterville Public Library Board					
Motion To:		Approve			Appointments
Motion By:		Cook			
Seconded:		Ferrell			
<u>Approved</u>	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

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Subject: A E P Commission Appointment					
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Ferrell			
<u>Approved</u>	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

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City Council Meeting March 20, 2007

Subject: Planning Commission Nominations					
Motion To:		Motion to Reappoint	Clark & Myers & new appointment		
Motion By:		Lucas	of Sean Trumbo		
Seconded:		Allen			
No VOTE WAS TAKEN.	Rhoads	Absent			
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Mayor Coody				

Subject: Planning Commission Nominations					
Motion To:		Table appointment of Planning Commissioners to			
Motion By:		Gray		Tuesday	
Seconded:				March 27, 2007	
This item was tabled to 3/27/07	Rhoads	Absent		Special City	
	Ferrell	Y		Council Meeting	
	Lucas	N			
	Jordan	Y			
	Gray	Y			
	Thiel	Y			
	Cook	Y			
	Allen	N			
	Mayor Coody				

5-2 to Table

City Council Meeting March 20, 2007

Subject: Consent					
Motion To:		Approve	with 3/6/07 minutes removed.		
Motion By:		Jordan			
Seconded:		Lucas			
<u>Consent</u> <u>passed</u> <u>3/6/07</u> <u>minutes</u> <u>removed</u>	Rhoads	absent			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

Res. 46-07 to 49-07-0

Subject: VAC 06-2364 CRUZ Bay.					
Motion To:		2nd read		Amend	
Motion By:		Jordan		to current ordinance.	
Seconded:		Cook		Gray	
B.I. Unfinished Business	Rhoads	absent		absent	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Jordan	✓		✓	
	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		✓	
	Mayor Coody				

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City Council Meeting March 20, 2007

Subject: VAC 06-2364 Cruz Bay					
Motion To:		3rd read	Pass		
Motion By:					
Seconded:					
B.1. Unfinished Business <u>Passed</u> 4993	Rhoads	absent	absent		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Mayor Coody				

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Subject: Wedington Circle Appeal					
Motion To:		Grant appeal that has curb instead of T deny appeal in relation to making it a public Street			
Motion By:		Jordan			
Seconded:		Lucas			
B.2. Unfinished Business Res. 5007	Rhoads	absent			instead of private
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

7-0

City Council Meeting March 20, 2007

Subject: R-P20 06-2299 Ruskin Height.					
Motion To:		3rd read	Pass		
Motion By:		Gray			
Seconded:		Thiel			
C.3. Unfinished Business <u>Passed</u> 4994	Rhoads	Absent			
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Mayor Coody				

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7-0

Subject: Amend 161.21 & 161.22 Height Regulations					
Motion To:		2nd read.	3rd read	Pass	
Motion By:		Gray	Cook		
Seconded:		Ferrell	Allen		
C.4, Unfinished Business <u>Failed</u>	Rhoads	Absent	Absent	absent	
	Ferrell	✓	✓	N	
	Lucas	✓	✓	Y	
	Jordan	✓	✓	Y	
	Gray	✓	✓	N	
	Thiel	✓	✓	N	
	Cook	✓	✓	Y	
	Allen	✓	✓	Y	
	Mayor Coody				

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7-0

4-3 (failed) need 5 votes to pass

City Council Meeting March 20, 2007

Subject: Jarmington De-Annexation					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Ferrell		
B.S. Unfinished Business failed	Rhoads	Absent	absent	Absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	N	
	Jordan	✓	✓	N	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Allen	✓	✓	N	
	Mayor Coody				

7-0

7-0

3-4 failed

Subject: SWEPco Public Service Commission Hearing					
Motion To:		Withdraw Western route SWEPco Should have notified us sooner			
Motion By:		Gray			
Seconded:		Thiel			
C.I. New Business passed Res. 51-07	Rhoads	Absent			
	Ferrell	N			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

6-1

City Council Meeting March 20, 2007

Subject: Power Secure, Inc. Bid Waiver					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Cook	Ferrell		
C.2. New Business <u>Passed</u> 4995	Rhoads	Absent	absent	Absent	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

Subject: ANY 06-2288 (Broyles)					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Ferrell			
C.3. New Business Left on the Second Reading	Rhoads	Absent	Absent	Absent	
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

7-0

City Council Meeting March 20, 2007

Subject: R-PZD 06-2281 (Holcomb Heights)					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C. 4. New Business Left on the Second Reading	Rhoads	Absent			
	Ferrell	Absent during the vote			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

6-0

Subject: ADM 07-2477 Bio Based					
Motion To:		Table until April 3, 2007			
Motion By:					
Seconded:					
C. 5. New Business This resolution was Tabled until 4-3-07	Rhoads	Absent			
	Ferrell	Absent during the vote.			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Mayor Coody				

6-0

City Council Meeting March 20, 2007

Subject: <i>Amend Chapter 92- Animal Ordinance</i>					
Motion To:					
Motion By:					
Seconded:					
<i>C. 6. New Business Left on the first Reading</i>	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Mayor Coody				

Subject: <i>Amend Chapter 51- Sewer Volume Based Rates</i>					
Motion To:					
Motion By:					
Seconded:					
<i>C. 7. New Business Left on the first Reading</i>	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Mayor Coody				

City Council Meeting March 20, 2007

Subject: <i>Announcement of a Public Hearing</i>					
Motion To:		<i>Public Hearing was Announced.</i>			
Motion By:					
Seconded:					
<i>C. 8. New Business No Action Needed.</i>	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Mayor Coody				

Subject: <i>Forrest F. Brooks Revocable Trust Land</i>					
Motion To:		<i>Amendment</i>		<i>Pass</i>	<i>Purchase</i>
Motion By:		<i>Gray</i>		<i>Gray</i>	
Seconded:		<i>Cook</i>		<i>Cook</i>	
<i>C. 9. New Business <u>Passed</u> 52-07 </i>	Rhoads	<i>absent</i>		<i>absent</i>	
	Ferrell	<i>✓</i>		<i>✓</i>	
	Lucas	<i>✓</i>		<i>✓</i>	
	Jordan	<i>✓</i>		<i>✓</i>	
	Gray	<i>✓</i>		<i>✓</i>	
	Thiel	<i>✓</i>		<i>✓</i>	
	Cook	<i>✓</i>		<i>✓</i>	
	Allen	<i>✓</i>		<i>✓</i>	
	Mayor Coody				

7-0

7-0

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
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Ward 4 Position 1 – Shirley Lucas
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**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 20, 2007**

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**Call to Order
Roll Call
Pledge of Allegiance**

Fayetteville Public Library – The Big Read

Nominating Committee Report

Mayor's appointment of Fayetteville Public Library Board of Trustees.

Confirmation of the Advertising & Promotion Commission appointment.

A. CONSENT:

- 1. Approval of the March 6, 2007 City Council meeting minutes.**
- 2. CEMS Ambulance Services for 2007:** A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.
- 3. Arkoma Playgrounds and Supply, Bid # 07-22:** A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.

4. **A. Camp Equipment, Bid # 07-21:** A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.
5. **Northwest Arkansas Diversity Council Membership Fee:** A resolution to authorize the City to join the Northwest Arkansas Diversity Council and pay the \$500.00 membership fee for services.

B. UNFINISHED BUSINESS:

1. **VAC 06-2364 (Cruz Bay):** An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. ***This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.***
2. **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 appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.***
3. **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 ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.***
4. **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, and to repeal § 156.02 (B)(6). ***This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.***
5. **Farmington De-annexation:**

C. NEW BUSINESS:

1. **SWEPSCO Public Service Commission Hearing:** A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPSCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.
2. **Power Secure, Inc. Bid Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.

3. **ANX 06-2288 (Broyles):** An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.
4. **R-PZD 06-2281 (Holcomb Heights):** An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision: containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
5. **ADM 07-2477, BioBased:** A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.
6. **Amend Chapter 92 – Animal Ordinance:** An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.
7. **Amend Chapter 51 – Sewer Volume Based Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.
8. **Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.**
9. **Forrest F. Brooks Revocable Trust Land Purchase:** A resolution to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust located north (and below) the Lake Lucille Spillway for \$495,000.00 and to sell 1.89 acres to the United Presbyterian Church for \$68,000.00 and to sell the development rights of the remainder to the Fayetteville Natural Heritage Association and Neighbors for \$179,500.00.

D. INFORMATIONAL:

City Council Tour: None

Added at Agenda Session
ALDERMAN AGENDA REQUEST 3/13/07
Consent

A. 5
NWA Diversity Council
Membership Fee
Page 1 of 9

FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM:
ALDERMAN ROBERT RHOADS

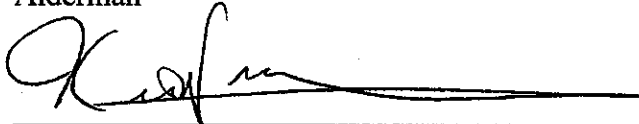
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Authorize The City To Join The Northwest Arkansas Diversity Council And Pay The \$500.00 Membership Fee For Services

APPROVED FOR AGENDA:


Robert Rhoads
Alderman

3/13/07
Date


Kit Williams
City Attorney (as to form)

3/13/07
Date

RESOLUTION NO. _____

**A RESOLUTION TO AUTHORIZE THE CITY TO JOIN
THE NORTHWEST ARKANSAS DIVERSITY COUNCIL
AND PAY THE \$500.00 MEMBERSHIP FEE FOR SERVICES**

WHEREAS, as a part of the City's Equal Employment Opportunity Program required by federal grants for the Fayetteville Police Department and other City Departments, efforts for recruiting diversity candidates for city jobs are required; and

WHEREAS, contacts through the Northwest Arkansas Diversity Council can assist the City of Fayetteville diversity efforts.

**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 authorizes the Mayor to sign any documents needed for the City of Fayetteville's membership in the Northwest Arkansas Diversity Council and authorizes the expenditure of \$500.00 for such membership and all membership benefits of the Northwest Arkansas Diversity Council.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

Tracy Taylor

From: Tracy Taylor
Sent: Tuesday, February 27, 2007 3:16 PM
To: 'mayor@ci.fayetteville.ar.us'; 'ward1_pos1@ci.fayetteville.ar.us'; 'bthiel@cox.net'; 'ward2_pos1@ci.fayetteville.ar.us'; 'ngallen@earthlink.net'; 'ward3_pos2@ci.fayetteville.ar.us'; 'kwilliams@ci.fayetteville.ar.us'; 'ward4_pos1@ci.fayetteville.ar.us'; 'ljordan7@hotmail.com'
Cc: Robert K. Rhoads
Subject: Northwest Arkansas Diversity Council - sent on behalf of Alderman Robert K. Rhoads

Mayor, Council Members, and Attorney Williams:

I would like to propose that the City Council join this organization (see internet link below) and certainly can explain why probably in person better than through an e-mail but perhaps you all can peruse this website and if there is some interest maybe Attorney Williams would be kind enough to tell me about how I can go about getting this to a vote.

We would qualify according to the Director, Arthur Matthews, much like a non-profit organization and therefore we would only have to pay \$500.00 to belong versus a corporation membership costing at least ten times that amount. If we join we would be the first city to join. We could join the University as a non-corporate member. Again if you look at the website you will see who all belongs and you will also see why it would be good for us. I am also proposing that my law firm join as well. Northwest Arkansas has a large table and we should make sure there is a seat for everybody.

<http://www.nwadc.org/join-nwadc.aspx>

-Robert Rhoads

Tracy Taylor
Assistant to Robert K. Rhoads
Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
75 N. East Avenue, Suite 402
Fayetteville, AR 72701
Telephone: 479-973-5200
Facsimile: 479-973-0520

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Making Northwest Arkansas Inclusive and Welcoming to All People

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Join NWADC

The Northwest Arkansas Diversity Council is open for membership!

To become a member, please complete the NWADC Membership Form below and mail to:

NWADC

4100 Corporate Dr
Suite 410
Springdale, AR
72762

»  [Click here for the NWADC Membership Form](#)

Member Login:

Password:

LOGIN

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Mission and Guiding Principles

The mission of the Northwest Arkansas Diversity Council is:

To help shape Northwest Arkansas into a "model community" that is inclusive and welcoming to all people.

The guiding principles are driven by a desire to exponentially elevate the awareness and skill sets of business, community and other stakeholders around diversity and inclusion. These principles are morally, spiritually and business driven and make up the core and fabric of the work that will be designed, developed, implemented and evaluated by the board of directors and staff of the NWADC. The underlying principle is immersed in the concept of "what is in the best interest of the aforementioned stakeholders as it relates to diversity and inclusion."

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Why a Northwest Arkansas Diversity Council?

The Northwest Arkansas Diversity Council was formed in response to the following opportunities:

1. The challenge of attracting, staffing and retaining our diverse talent in the region.
2. The opportunity to leverage our diversity and strengthen our competitive advantage within our respective companies.
3. The opportunity to grow and sustain our economic prosperity.
4. The absence of a strategic, organized and centralized leadership source aimed at leading the transformation of our diverse community into an inclusive community.
5. The growing ethnic and socioeconomic diversity in the region.
6. The continued overall population growth in the region.
7. The creation of an incubator and clearinghouse for benchmarking in diversity and inclusion practices
8. The spearheading of a forum for workshops, seminars, conferences and retreats around the critical issue of diversity and inclusion

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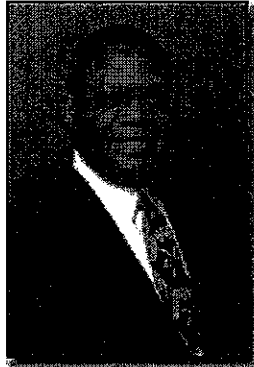
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Statement from the Chairperson



Shawn Coker, newly elected chair of the council and the vice president of Diversity Business Practices at Tyson Foods Inc. said, "I am pleased that we are spearheading the work that we have collectively committed to do for the community and all stakeholders in Northwest Arkansas."

"On behalf of the officers of the council, we would like to thank all the founding partners of the NWADC for their role thus far, and remain extraordinarily excited about the future of the Northwest Arkansas Diversity Council. It is our belief that Northwest Arkansas is rapidly becoming a model community where all people can thrive and succeed."

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Membership Benefits

Ten Reasons Why Joining NWADC is a Competitive Advantage

1. Access to annual research on perceived strengths, weaknesses, opportunities and threats of the Northwest Arkansas region.
2. Partnerships with other area companies representing several industries aimed at impacting the region's ability to attract and retain diverse talent. The NWADC will create the cohesive, unified and magnified effort required to meet the enormous diversity and inclusion challenges that our companies and that the Northwest Arkansas region faces.
3. Access to data sets on our region's diversity, diversity trends and the implications of these datasets on our talent pipeline.
4. Access to a roundtable of professionals representing a diversity of expertise to share best practices and to learn from each other.
5. Professional growth and networking opportunities that will provide exponential progress toward our goals.
6. Access to a centralized website with research findings, case studies and other resources to improve our human-capital initiatives.
7. Collaborative forums on a variety of topics related to diversity and inclusion that are focused and facilitated by subject matter experts to educate and equip NWADC members, i.e. how to best engage and leverage organizational diversity, effective outreach and marketing strategies, realizing our business case for diversity and inclusion, etc.
8. Access to innovative products and services for our respective companies including, but not be limited to, the following: educational videos, learning curriculums, newsletters, podcasts, webcasts, training events, etc.
9. Access to an empowering platform for strategic change.
10. Exposure to a web based "power" learning environment that can provide web casts, pod casts, presentations, panel discussions, theatrical/dramatic presentations, keynote speeches, fishbowl demonstrations and case studies in diversity and inclusion.

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Founding Members

- Arvest Bank
- Cox Communications
- Harps
- P&G
- SVI
- Tyson Foods, Inc.
- United Way
- University of Arkansas
- Wal-Mart

Member Login:**Password:****LOGIN**

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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: March 14, 2007
Subject: Cruz Bay alley vacation (VAC 06-2364) Amendments

Based on the City Attorney's comments at the March 06, 2007 City Council meeting and a subsequent memo that was issued, the letter that was submitted to staff objecting to the alley vacation as presented for Cruz Bay is "fatal" to the application for a vacation request. The applicant originally proposed vacating unconstructed alley right-of-way on their property only, completing survey and legal description information. Adjoining property owners were notified, and one property owner to the north (Klinger) objected to the alley vacation, stating "if the alley is to be vacated, it should be so from Archibald Yell south to 5th Street. We would not object to a full block vacation but do object to section by section." The applicant has since submitted a new legal description and exhibit for consideration, which incorporates the entire alley right-of-way from Archibald Yell south to 5th Street.

Staff recommends the City Council amend the requested vacation ordinance and vacate this entire alley right-of-way with the exhibits as attached hereto.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 06-2364 SUBMITTED BY MANDY BUNCH FOR PROPERTY LOCATED NORTH OF 5TH STREET AND SOUTH OF ARCHIBALD YELL, BETWEEN SOUTH SCHOOL AVENUE AND SOUTH LOCUST AVENUE, VACATING THE 12' ALLEY ON THE SUBJECT PROPERTY.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted alley is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described platted alley:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. Any relocation of existing utilities shall be at the owner/developer's expense.
2. Utility easements to be granted along the north and west sides of the subject property per comments from Southwestern Electric Power Company.
3. The existing storm drain pipe and open ditch within the alley shall be centered within a 20-foot drainage easement on the subject property, unless the pipe is relocated at the owner/developer's expense. Relocation of the storm drain pipe and dedication of easement thereon shall be with the approval of the City Engineer.

PASSED and **APPROVED** this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"
VAC 06-2364

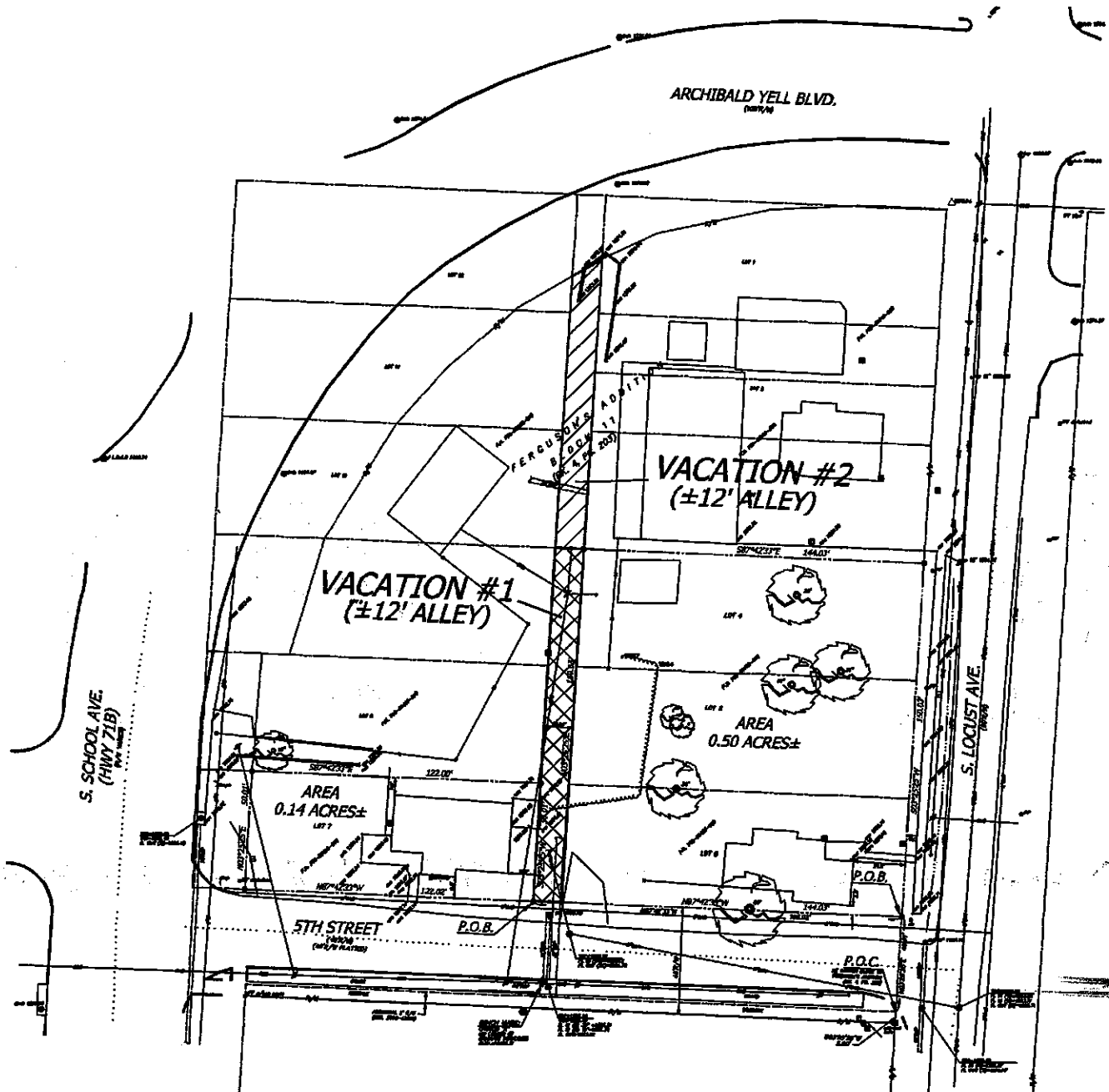


EXHIBIT "B"
VAC 06-2364

SURVEY DESCRIPTION OF 12' ALLEY TO BE VACATED:

DESCRIPTION #1:

A TRACT OF LAND BEING A PART OF BLOCK 11 OF THE FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE AS RECORDED IN PLAT BOOK 4 AT PAGE 203. SAID TRACT OF LAND BEING A PART OF THE SE1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 10 OF SAID FERGUSON'S ADDITION, A CHISELED HOLE IN CONCRETE BEARS S03°25'25"W 5.00 FEET; THENCE N03°25'25"E 40.01 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 11 BEING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF W. FIFTH STREET (45'R/W) AND THE WEST RIGHT-OF-WAY LINE OF S. LOCUST AVENUE (60'R/W); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°42'33"W 144.03 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF SAID BLOCK 11 AND THE POINT OF BEGINNING; THENCE CONTINUING N87°42'33"W 12.00 FEET TO THE SOUTHEAST CORNER OF LOT 7 OF SAID BLOCK 11; THENCE N03°25'25"E 150.03 FEET TO THE NORTHEAST CORNER OF LOT 9 OF SAID BLOCK 11; THENCE S87°42'33"E 12.00 FEET TO THE NORTHWEST CORNER OF LOT 4 OF SAID BLOCK 11; THENCE S03°25'25"W 150.03 FEET TO THE POINT OF BEGINNING, CONTAINING 1,800 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

DESCRIPTION #2:

A TWELVE (12) FOOT WIDE PLATTED ALLEY DESCRIBED AS CENTERED ALONG THE COMMON PROPERTY LINES OF LOTS 1, 2, 3, 10, 11 AND 12 OF BLOCK 11 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

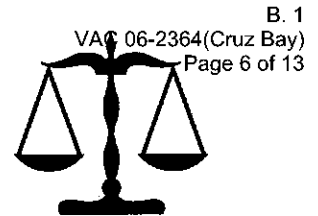
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

CC: **Jeremy Pate, Director of Current Planning**

FROM: **Kit Williams, City Attorney**

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

DATE: **March 7, 2007**

RE: **Vacations of streets and alleys**

I am sorry that I did not see that an abutting property owner had not only failed to consent in writing to the proposed vacation of a portion of the alley abutting his property, but actually objected. This lack of written consent by an abutting property owner is fatal to a vacation request.

"The Supreme Court held that because of the adverse effect, the appellants were abutting property owners whose written consent was **required** before the alley could be closed" Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3^d 369, 372 (2000). (emphasis added)

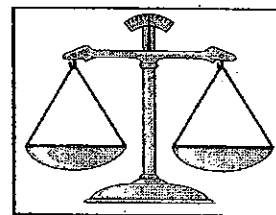
Attached is a copy of my two page memo of May 3, 2005 to you and the Planning Commission about the limitation on the City's power to vacate alleys and streets. Also attached is my five page (more in depth) memo to Tim Conklin (then City Planner) of February 6, 2003, concerning legal restrictions on alley and street vacations.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: City Council
Planning Commissioners

FROM: Kit Williams, City Attorney

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

DATE: May 3, 2005

RE: Vacation of streets, alleys and easements

The City of Fayetteville is often asked to vacate a platted, but not built street or alley or an unused utility easement. The City Council has the power "to vacate ... such portions thereof as **may not ... be required for corporate purposes**" A.C.A. §14-54-104 (emphasis added).

There is another more specific statute for vacating streets and alleys that have been dedicated to the City by platting a subdivision, if such street or alley has not "been actually used by the public as a street or alley for a period of five (5) years" A.C.A. §14-301-301 (b).

Neither of these statutory powers to vacate are mandatory upon the City Council, but only give the City Council that "power to vacate and abandon" streets, alleys, easements, etc.

The power to vacate is limited to the extent that abutting owners object to their loss of "right of ingress or egress across the property being vacated" Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3rd 851, 856 (2001).

"We have held that the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his

property and in which he has a right of property as fully as in the lot itself. We have also noted that this property right is not diminished merely because the property owner has alternative means of ingress and egress.” Id. at 857 (citations omitted).

Thus, we need to ensure that each abutting property owner has consented to the street or alley vacation. I believe our Planning Division ensures such consent has been obtained before submitting any vacation request to you.

Once all abutting owners have consented, **the issues for the City Council and Planning Commission are whether the platted street or alley has been actually used by the public during the last five years and whether the street, alley, or easement is “required for corporate purposes”** A.C.A. §14-54-104.

If an owner of a large tract of undeveloped, platted land wishes to vacate dedicated streets and alleys (which have never been built or used) in order to reconfigure and replat his property (which would require appropriate new access and easements because of our UDC), there would seem to be no corporate purpose possible to refuse the vacation requests. However, if an alley is shared with an abutting property owner who objects to the vacation of that alley, I do not believe the City can vacate and abandon that alley or even half of the alley.

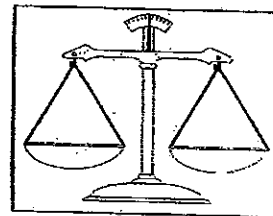
“The Supreme Court held that because of the adverse effect, the appellants were abutting property owners whose written consent was **required** before the alley could be closed” Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3rd 369, 372 (2000). (emphasis added).

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Tim Conklin, Planning Department

FROM: Kit Williams, City Attorney

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

DATE: February 6, 2003

RE: Vacation of dedicated streets and alleys

As you know, the legislature has provided two statutes which both refer to a city's power to "vacate" streets and alleys. The one you have uniformly used is A.C.A. §14-54-104 Additional powers of cities of the first class. This statute provides power "to vacate or lease out such portions thereof as may not for the time being be required for corporate purposes" No notice or consent of abutting owners is required or even mentioned.

The other statute is A.C.A. §14-301-301 et seq. Power and authority to vacate. (Copies of both statutes are attached.)

In a recent, unpublished case decided by the Arkansas Court of Appeal, Bateman v. City of Paragould, 2000 WL 17832 (Ark. App. 2000), the Court of Appeals upheld the Chancellor's decision that "a city of the first class could only abandon a dedicated easement by following methods set forth in A.C.A. §14-301-301 (1997)." (emphasis added) The Court of Appeals specifically held:

"The Arkansas General Assembly has set out the procedure for vacating or abandoning an easement in cases such as the one now before us. See Ark.

Code Ann. §14-301-301. That procedure is binding on appellants, the City of Paragould, and the courts. Absent compliance with **that procedure** whereby the town council vacates or abandons the street, we cannot hold that appellants' arguments on appeal warrant reversal." (emphasis added)

Unpublished opinions are not controlling precedent in later cases. Other published decisions have affirmed vacation of streets pursuant to A.C.A. §14-54-104 (2) as we have done. Thus, there is not a crystal clear resolution of what we must do.

The Supreme Court on June 28, 2001, reversed a trial judge who had upheld a city ordinance based upon A.C.A. §14-54-104 (2) to vacate an unpaved segment of street. Although not stating that cities could not use this statute to vacate streets, the Supreme Court stated:

"We note that nothing in this statute provides that a right of ingress or egress across the property being vacated can be extinguished or taken without compensation." Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3rd 851, 856 (2001).

Monticello had vacated one end of an unpaved city street returning it to its abutting owners. Plaintiff Wright was an abutting owner along the street past where it had been vacated. Wright sued for an injunction and for a constitutional taking of her interest in the street. The local judge ruled against her, but the Supreme Court reversed.

"The legislature granted the City the authority to abandon or vacate roads or streets. However, the City exceeded that authority when it enacted ordinance number 700 for the purpose of extinguishing appellant's right of ingress and egress through the vacated street." Id. at 857.

The case really did not turn on whether the city could use A.C.A. §14-54-104 (2) which was quoted by the Court and implicitly sanctioned as a manner to vacate a street. The main issue was the takings issue which the court ruled in favor of the upstreet, abutting owner. Unless we use A.C.A. §14-301-301 and specifically §14-301-303 which requires "written consent of the owners of all lots abutting the street or alley, or the portion thereof, to be vacated," we could face a takings claim in which the City would have to pay non-consenting, abutting owners damages.

"(A)ppellant, as an abutting landowner with a property right of ingress and egress, has an independent right to use Browning Road as a means of accessing her property. We have held that the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself. *Flake v. Thompson, Inc.* 249 Ark. 713 460 S.W. 2d 789 (1970). We have also noted that this property right is not diminished merely because the property owner has alternative means of ingress and egress." Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3rd 851, 857.

The Arkansas Court of Appeals has held:

"A city's governing board cannot give away a city's streets without the consent of abutting owners or without statutory authority; any attempt to do so is ultra vires. *Freeze v. Jones*, 260 Ark. 193, 539 S.W. 2d 425 (1976)." Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3rd 369, 372 (2000).

"A conveyance to the only abutting owner is not prohibited. *Barbee, v. Carpenter*, 223 Ark. 660, 267 S.W. 2d 768. Nor is a vacation of a street for the benefit of the abutting owner if the street is not needed for corporate purposes." *Freeze v. Jones*, 260 Ark. 193, 539 S.W. 2d 425, 429 (1976).

The Supreme Court's specific reference to "the street is not needed for corporate purposes" harkens back to the language of A.C.A. §14-54-104 (2) so that statute appears still somewhat available for vacation of alleys. However, a literal reading of A.C.A. §14-301-301 speaks in all-inclusive terms. "In all cases where the owner of property ... shall have dedicated ... by platting the property ..., the city or town council shall have the power to vacate and abandon the street or alley, or any portion thereof, by proceeding in the manner set forth in this subchapter." (emphasis added)

CONCLUSION

I believe it will be better in the future to use the procedures outlined in A.C.A. §14-301-301 et. seq. when a property owner seeks a vacation of a platted street or alley. This procedure (by requiring consent of all abutting owners) should protect the City from any takings challenges and potential damages. I would not only follow A.C.A. §14-301-301, but continue to require utility companies to consent and include a finding in the ordinance that the street or alley is not needed for corporate purposes (so we get the benefit of A.C.A. §14-54-104 (2) if we are ever legally challenged).

One final caution, the Arkansas Supreme Court in the past has pointed out that certain challengers of street vacation did not "own property abutting the portions of the streets being closed " *Kemp v. Simmons*, 244 Ark. 1052, 428 S.W. 2d 59, 64 (1968).

"(N)one of the appellants were abutting landowners to the closed portion of Kemp Road" Id. at 65

More recently, the Supreme Court has acknowledged that an owner up the road that was being closed was "an abutting landowner with a property right of ingress and egress." Wright v. City of Monticello, *supra*.

The Court has shown a willingness to extend the definition (and legal protection) of "abutting owners" beyond that portion of the street or alley being vacated.

"In that case, the appellants' property did not actually touch the portion of the alley the city board had closed, but the closing of a part of the alley adversely affected the use of their property. The supreme court held that, because of this adverse effect, the appellants were abutting property owners whose written consent was required before the alley could be closed" Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3rd 369, 372 (2000).

In Holliman, the alley was only narrowed by vacating half its width to the abutting owner. The Supreme Court reversed the summary judgment for the City (Quitman) by stating that an owner's ingress and egress does NOT have to be blocked before the owner must consent to a vacation. The key issue was the extent of adverse affect the vacation would inflict upon the owner's property. Adverse effect justified making an owner an "abutting owner" whose written consent to the vacation was required.



THE CITY OF FAYETTEVILLE, ARKANSAS

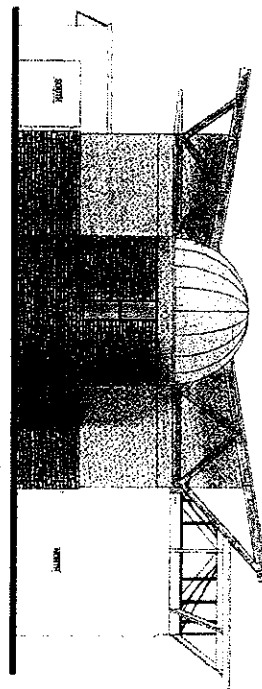
TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director
DATE: March 1, 2007
SUBJECT: Building Height Information Around the Square

Please find attached survey information concerning building heights around the square. This issue was brought up at the last City Council meeting. Please call me if you have any questions or need additional information.

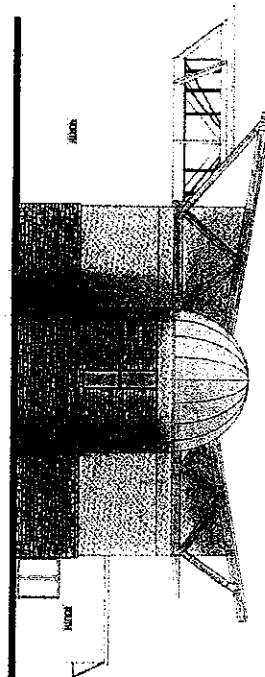
Handed out at Agenda Session
B.4 Amend 161.21 & 161.22
Height Regulations
Page 1 of 2



Agenda Session 3/13/07 Bio-Based



EAST BUILDING ELEVATION

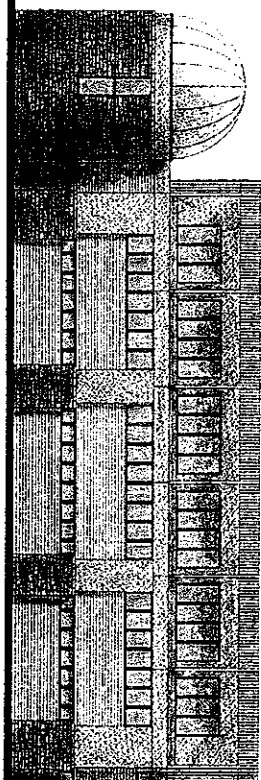


WEST BUILDING ELEVATION

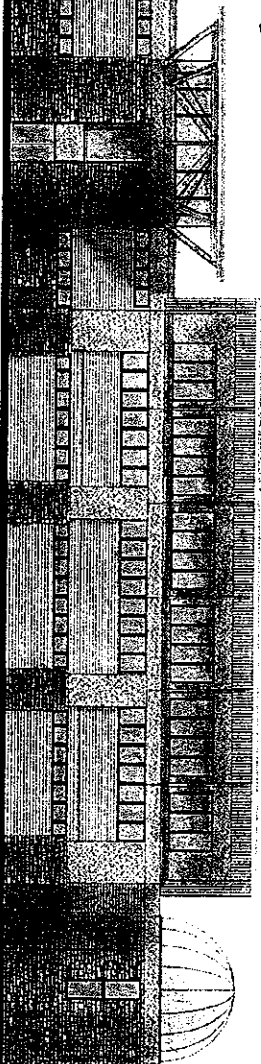
**PLANNING
COMMISSION
APPROVED**
6/15/06
(1000)

FINISH SCHEDULE

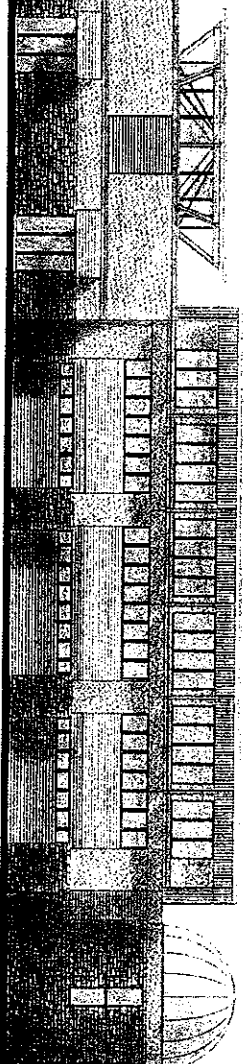
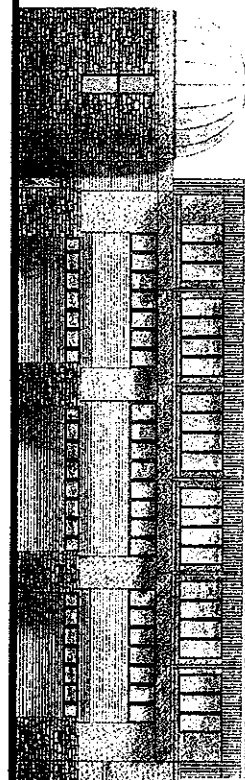
100	100	100
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NORTH BUILDING ELEVATION

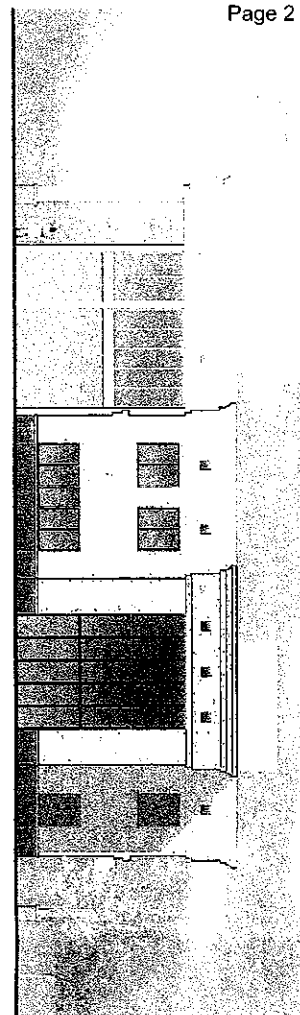


SOUTH BUILDING ELEVATION



BIOBASED SYSTEMS
FAYETTEVILLE, ARKANSAS

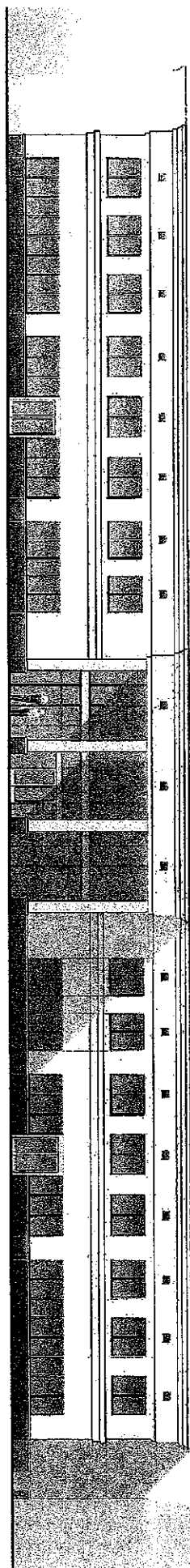
DEFOUR



WEST ELEVATION

EXTERIOR FINISH MATERIALS

1. RED BRICK BASE AND INSETS
2. PRE-FINISHED METAL SILLS, CORNICE CAP AND PARAPET CAP
3. EIFS WITH SANDBLAST TEXTURE
4. LOW-E INSULATED GLASS IN ANODIZED ALUMINUM FRAMES
5. ALUMINUM CLAD COLUMNS AND ENTRY FRAMING



NORTH ELEVATION

BIOBASED CORPORATE HEADQUARTERS

BIOBASED
1478 OAK SPRINGS ROAD
FAYETTEVILLE, ARKANSAS 72703
FEBRUARY 1, 2007

3-1-07 (Proposed building elevations)

MOBLEY ARCHITECTS, INC.
2715 NO. BUSINESS DR., STE. 202
FAYETTEVILLE, AR 72703
(479) 251-0800

AREA

ALDERMAN AGENDA REQUEST

New Business (Last)

FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM:

ALDERMAN KYLE COOK

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

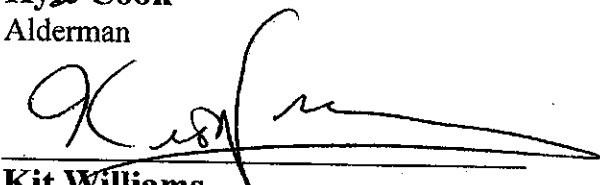
A Resolution To Purchase 13.75 Acres From The Forrest F. Brooks Revocable Trust Located North (And Below) The Lake Lucille Spillway For \$495,000.00 And To Sell 1.89 Acres To The United Presbyterian Church For \$68,000.00 And To Sell The Development Rights Of The Remainder To The Fayetteville Natural Heritage Association And Neighbors For \$179,500.00

APPROVED FOR AGENDA:



Kyle Cook
Alderman

3/13/07
Date



Kit Williams
City Attorney (as to form)

3-13-07
Date

RESOLUTION NO. _____

A RESOLUTION TO PURCHASE 13.75 ACRES FROM THE FORREST F. BROOKS REVOCABLE TRUST LOCATED NORTH (AND BELOW) THE LAKE LUCILLE SPILLWAY FOR \$495,000.00 AND TO SELL 1.89 ACRES TO THE UNITED PRESBYTERIAN CHURCH FOR \$68,000.00 AND TO SELL THE DEVELOPMENT RIGHTS OF THE REMAINDER TO THE FAYETTEVILLE NATURAL HERITAGE ASSOCIATION AND NEIGHBORS FOR \$179,500.00

WHEREAS, the City may exercise an option to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust in the amount of \$495,000.00 by March 31, 2007; and

WHEREAS, neighbors, the Fayetteville Natural Heritage Association and the United Presbyterian Church have agreed to purchase a portion of the property or development rights from the City for a total of \$247,500.00; and

WHEREAS, this property has been highly rated for preservation by the Fayetteville Natural Heritage Association, has access for public trails, and has good natural habitat for wildlife.

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 agrees to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust for \$495,000.00 if the neighbors and Fayetteville Natural Heritage Association purchase development rights from the City (similar to Sequoyah Woods development rights) for \$179,500.00 and the United Presbyterian church purchases 1.89 acres from the City for \$68,000.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Coody to sign any documents necessary to effectuate this purchase and subsequent sale of 1.89 acres to the United Presbyterian Church and the development rights to the Fayetteville Natural Heritage Association and contributing neighbors.

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

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA SMITH, City Clerk

To: Mayor/City Council
From: Kyle Cook, Ward 2 Position 1
Date: March 13, 2007
Subject: Acquisition of Brooks-Hummel Property

RECOMMENDATION: The City Council approve acquisition of the Brooks-Hummel property in the amount of \$247,500.00 to preserve as green space.

BACKGROUND: The Brooks-Hummel property located just below the Lake Lucille spillway (see attached map) became available for purchase last fall. Since that time, FNHA, neighbors, and concerned citizens have secured a purchase option for the 13.75 acres until March 31, 2007 in order to allow time to raise funds, and to date, half the purchase price has been raised. I recommend the City of Fayetteville partner with the neighbors and purchase this land as an installment to the city's enduring green network.

I believe the citizens support land preservation based on their comments from both the 2003 and 2005 citizen surveys.

"Buying land to preserve open or green space"

The citizens declare they are very supportive (41%) and supportive (35%) of the City acquiring land to preserve open or green spaces (Table 47). Twelve percent are neither supportive nor unsupportive while the remaining 12 percent (9 percent unsupportive and 3 percent very unsupportive) expressing disapproval of the City acquiring land to preserve open or green spaces. Fayetteville residents' current level of support (76%) for the city buying land to preserve open or greenspace is slightly higher than that of residents of Washington and Benton Counties in 2000 (74%) and also exceeds the state average of 64 percent.³⁶ This level of support has also increased since 2003, when 69 percent of residents asserted they were very supportive (35%) or supportive (34%) of acquiring land to preserve open or greenspace."

Also, the recently adopted City Plan 2025 states in Goal 5 that we will assemble an enduring green network. "One of Fayetteville's overwhelming differences from other cities is the character and quality of the environmental setting. As such, nurturing this setting is of economic benefit to the city, as a quality environment confers value and attracts residents who all get to share in the common amenity." Continuing in Goal 5, action item two states we will "Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners."

With that said, I urge the City Council to act upon this opportunity to partner with FNHA and the neighbors to acquire this magnificent tract of land in the heart of our city for the enjoyment of our future generations.

Brooks-Hummel Nature Reserve Project (First Part of "Enduring Green Network"?)

The Property

- **Central Location (13.75 acres)**
- **Ecological Diversity**
 - + **Top Ward 2 Aquatic & Second Terrestrial Ranking**
 - + **Sublet Creek and Grassy Areas Vital for Wildlife**
- **Good Public Access (Hillcrest & United Presbyterian Church)**
- **Proposed E-W Trail Could Cross**

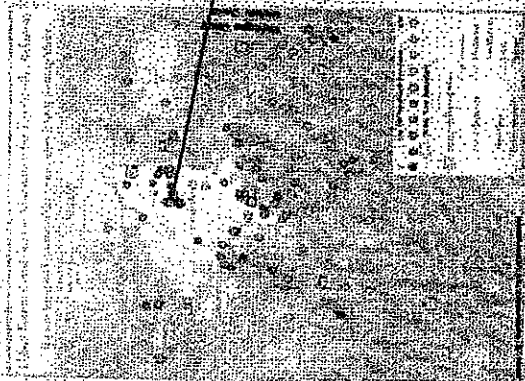
The Proposal

- **FNHA Holds Option to Purchase for \$495k**
 - + **Extended to March 31, 2007**
- **Neighbors/FNHA Have "Raised" \$247.5k from 148 Donors**

Cash	\$143.8k	
Pledges	35.7k	(29.7k Identified, 6k from FNHA)
Sale	<u>68.0k</u>	(1.89 Acres to UPC)
	\$247.5k	

- **Propose City Accept Option and Purchase Property**
 - + **50% Private Funds**
 - + **50% Public Funds**

Conservation Assessment Result



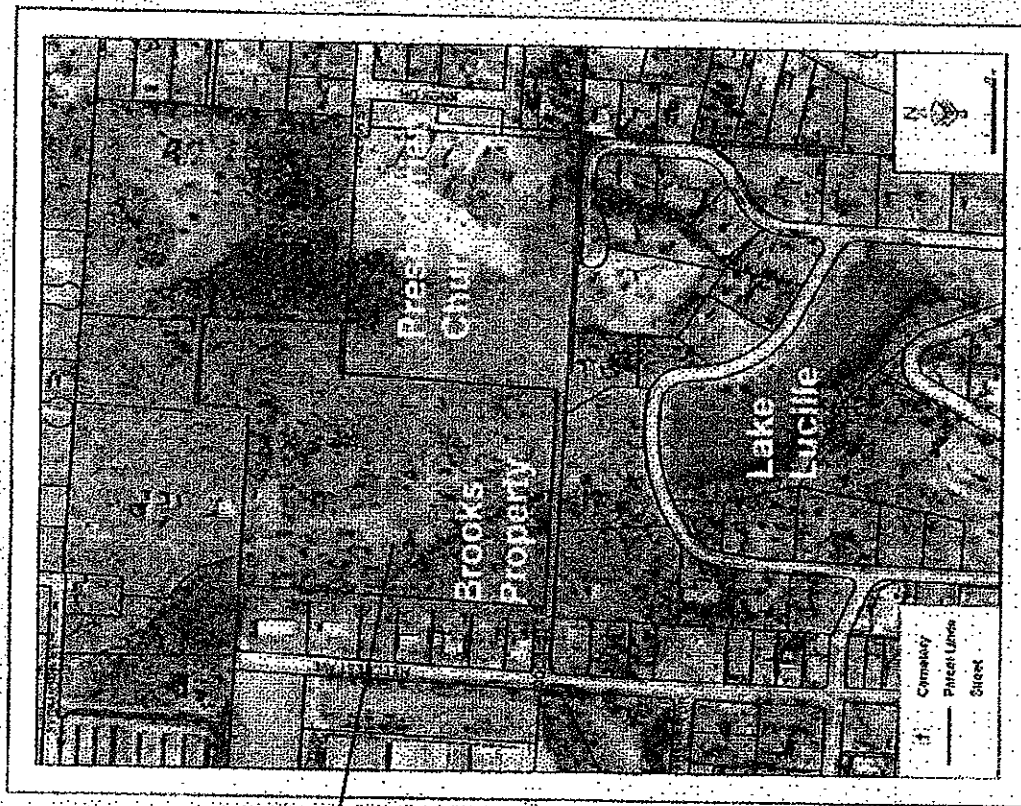
The Fayetteville Natural Heritage Association recently completed a study grant funded by the Arkansas Forestry Commission's Urban Forestry Program and the U.S. Forest Service that mapped valuable natural areas. Of all the city properties studied, the Brooks-Hummel property was one of the most worthy of conservation because of its unparalleled natural qualities.



P.O. Box 3635
Fayetteville, AR 72702-3635

973-2963
288-9111

Brooks-Hummel Nature Reserve Project



Local property owners have worked with FNHA to obtain a purchase option that expires February 28, 2007. When acquired, the property will be turned over to the city as a natural Park area. Significant pledges have already been raised, but your support is needed. Time is of the essence. The flyer with this display explains how you can help.

URBAN FOREST CONSERVATION ASSESSMENT

1/4

Site conservation worksheet

Site O

Ward 2 Rank: Terrestrial 2 and 4, Aquatic 1 and 2

This worksheet is to be used for 'on the ground' assessment of ranked parcels in the GIS study produced by The Nature Conservancy Highlands Office and the Fayetteville Natural Heritage Association. This project is supported in part by the Arkansas Forestry Commission's Urban Forestry Program and the U.S. Forest Service.

Date June 2, 2006

Crew hours and minutes 11AM-1PM

Site type (terrestrial or aquatic) location and/or name and aspect

Two properties are shown as aquatic and one adjoining property is terrestrial. Creek corridor and side sloping sites

Assessor(s) Crone/Rollett

Forest type This site is made up of several major forest types which are a pine grove and property adjacent to an ephemeral stream with hickory and hackberry. The other properties contain the major stream corridor and adjacent forest vegetation which is broken by annually mowed grassy areas along the length of the stream.

Forest stage: Old growth _____, Secondary Growth ☒ Relative size of majority of canopy trees: up to 6" _____ medium 6-12 ☒ Large 12" and above _____
Size and species of specimen trees 40" white oak and 24" ash

Stratification (Primary, secondary, herb/shrub layers)

Well defined ☒ Somewhat defined ☒ Poorly defined ☒

Primary canopy density: somewhat open _____ somewhat closed ☒ closed ☒

Major primary canopy species One property has a Pine grove, hickory, hackberry grove. Other properties have sycamore and hackberry in creek bottom with ash species on the side-slopes that changes to a mixture of ash, hickory, and oak further up-slope

Major secondary canopy species-pine grove has little understory except for pine saplings. The hickory/hackberry parts of the site exhibit blackberry and grasses where open to the sun, but otherwise saplings primarily the same as the primary species.

The other properties exhibit lush flood plane vegetation that is impenetrable immediately adjacent to the creek with understory similar to canopy species

Major herb/shrub species One site exhibits vinea near disturbed sites such as the cemetery near the Wheeler Road access point. Where light is bright blackberry and lonicera species flourish. Wild rose and wild grape are also evident indicating site disturbance. The other properties exhibit thick undergrowth adjacent the creek but the grassy meadows parallel the creek and make the site totally accessible. Indian current, mayapple, and lonicera shrub were major herb/shrub species.

2/4

The diversity of natural features on the parcel allows a glimpse of the varied ecosystems of the region. Yes x No _____ or has some other notable attributes
Notable variety of species and a number of good specimen hackberries and sycamores. A number of hickory and ash species were noted!

Unique site features-In addition to a number of good specimen trees such as a 6' dbh sycamore, the sites exhibit a number of vegetation types in a relatively small area. Paths appear to have been created by the public in several places.

Ease of access for walking and hiking are described as: good in most instances though the major creek corridor is not accessible due to heavy undergrowth in places

Visual quality of vegetation setting : low _____ medium _____ high x
(Mature primary canopy trees of one or two major species with open under-story providing strong visual penetration or savannah type)

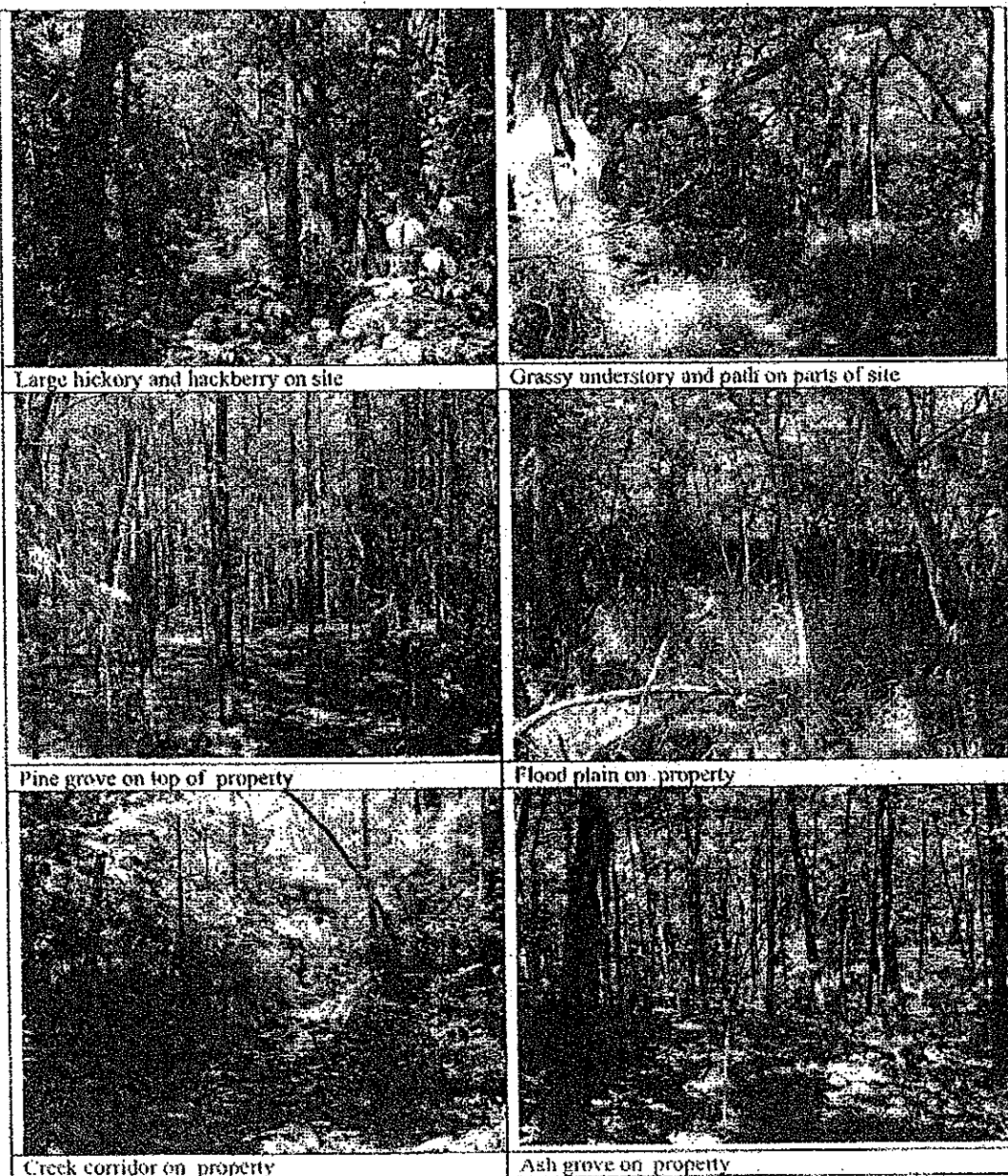
Additional notes and pictures: One site is for sale, and a major effort is underway to conserve it, because it is highly ranked in the city and ward 2. The stream bed is the outflow from Lake Lucille dam. This is an urban natural resource with a variety of site types. Parcels have good access through Lake Lucille, Sycamore Road and Wheeler Road. A major stream corridor is bordered by open mowed grassy areas and wooded slopes. There are both lowland and upland woods. Walking and hiking is good, and there are a variety of views.



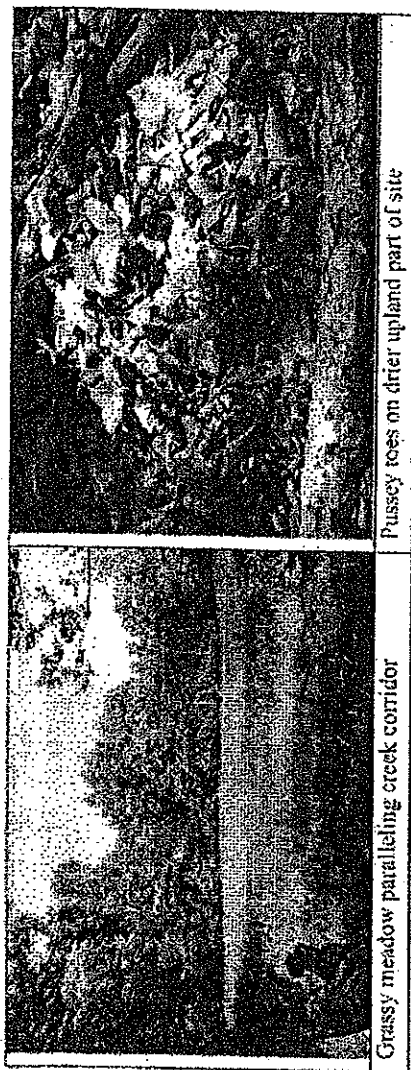
Large oaks on improved part of property

Ephemeral stream on top of property

3/4



A/A



Pussey toes on drier upland part of site

Grassy meadow paralleling creek corridor

~ STEPHEN LANCASTER

1/2

LETTER —

Bettie Lu Lancaster
1271 Lakeridge Drive
Fayetteville, AR 72703
(479) 521-4069
Kyle,

I hope this email address still works. My mom asked me to convince you that the city should help buy the Brooks property. There are good reasons why it should be preserved rather than opened for development (aside from the fact that it adjoins my mom's place and she'd hate to have a subdivision next door!). Of course, I'm writing as your trusted friend, but I also have my qualifications: I have a Ph.D. in Hydrology from MIT, and I'm an Assistant Professor of Geology at Oregon State Univ. Rivers and headwater streams are my specialty--mainly the physics of them, but I've picked up a lot of forest and aquatic ecology from my ecologist collaborators here and from my own ecological work back in 1992 with David Mott at the Buffalo National River. I also teach a course that focuses on river restoration.

For me, the property primarily serves as vital habitat for diverse wildlife. The Brooks (Mrs. Hummel's parents) used to operate a family farm on the site but haven't done so for, oh, probably 30 years, so much of the property is covered by a 30-year-old stand of naturally regenerated native oak-hickory complex. This forest is quite varied on the property, from mostly scrub-oak on some dry ridges to riparian forest along Sublet Creek. There is also still some grassland which provides forage for deer. The habitat quality of the property is enhanced further by two things. First, the grassy "gaps" in the forest (mostly near the creek) provide the kinds of transitional zones so favorable to species diversity. Second, the Brooks property, the common Lake Lucille property, Hugh Kincaid's property, the Presbyterian church property, and my mom's (Lancaster) property comprise a contiguous block of roadless 30-40-year old oak-hickory forest including riparian, wetland, midslope, and ridge-capping habitats. In addition, the property is literally a stone's throw from the undeveloped land on the north side of Ash St. That forest (as of a 2001 aerial photo) continues all the way to Township. While the Brooks property forms a substantial preserve on its own, were it eventually combined with some combination of easements and purchases to maintain the status quo, the property could be the kernel of a substantial "greenway" that is already utilized by all the wildlife that has undoubtedly fled from loss of habitat to development north of Township and east of Mission Blvd (and anywhere else nearby). Check out this area in TerraServer or Google Earth. It's a substantial forested block!

The property likely plays an important role in the water quality of Sublet Creek. Water from streams draining the developed areas (and undeveloped parts of Mt. Sequoyah) upstream of Lake Lucille is "filtered" in the wetlands below the dam and the robust riparian zones on the Brooks property. That riparian zone also provides shade and shelter for aquatic species. Also, there are several small, essentially pristine ephemeral streams that drain the forested slopes on the Brooks property and flow into Sublet Creek. The reach of Sublet Creek through the Brooks property might be the best aquatic habitat of Fayetteville's streams within the Illinois River's watershed. (After Sublet Creek

Page 3 of 3
2/2

leaves the Brooks property, it flows along the backs of the commercial properties on the east side of College Ave. north of Ash. Last I saw, that reach was pretty grimy and incised--your typical urban stream. The creek eventually crosses College and joins Scull Creek, and its water eventually makes its way to the Illinois River.)

The property also has significant historical value due to the presence of the "Skelton Cemetery," which contains graves from ca. 1900 and is dominated by the Skelton family plot, which includes some children's graves. There is already a primitive trail to this site (but I don't know from where, because I last found my way to the cemetery with my son, Corbin, from my mom's place). The children's graves especially are a touching reminder of how much modern medicine has changed our lives.

In summary, it's a pretty cool place with high-value terrestrial and aquatic habitats and a significant historical site, and I've enjoyed exploring it, well, pretty much my whole life. You should give it--and the adjacent undeveloped areas--an explore yourself if you haven't already so that you can appreciate what's at stake. Bill Kincaid might also have some interesting insights, as he and I used to play there as kids.

I hope you and Jennifer are both well!

Best regards,
Stephen

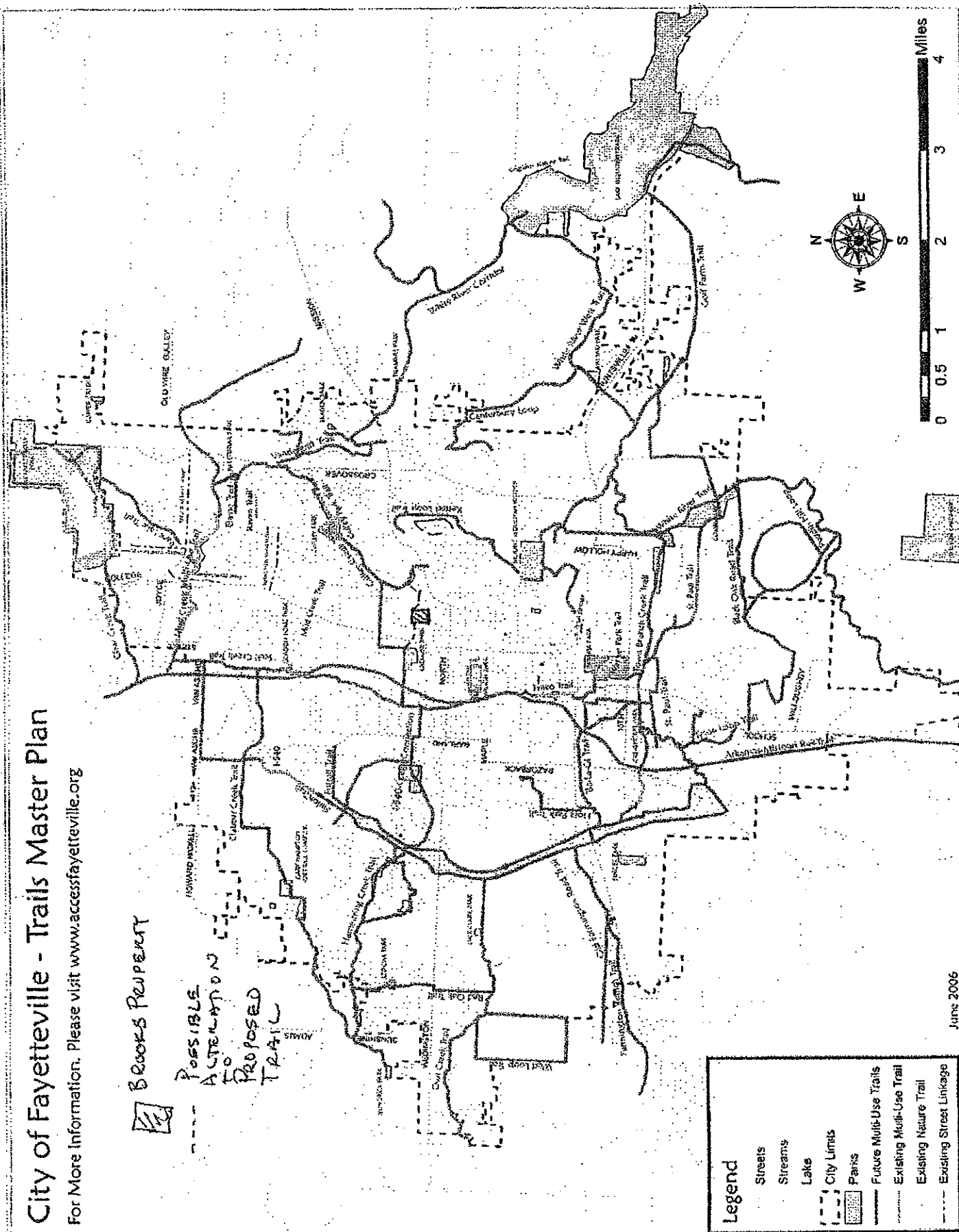
Stephen Lancaster, Asst. Prof., Dept. Geosciences, Oregon State Univ.
104 Wilkinson Hall, Corvallis, OR 97331-5506
(541) 737-9258 (off.); (541) 737-1200 (fax)
Stephen.Lancaster@geo.oregonstate.edu
URL: <http://www.geo.oregonstate.edu/~lancasts>

City of Fayetteville - Trails Master Plan

For More Information, Please visit www.accessfayetteville.org

Brooks Repealty

POSSIBLE
 ALTERNATION
 PROPOSED
 TRAIL



June 2006

Brooks Hummel Nature Preserve Fund Raising Activity

Anne England	1357 Edgehill Dr., 72703-2015
Amy L Wilson	1833 E Applebury, 72701-2439
Shagbark Development Co	PO Box 3103, 70702-3103
Paige & Mary Bess Mulholland	3917 E Caston, 72701
Jerry & Harriet Jansma	900 Lighton Trail, 72701
John King	590 E. Village Dr., 72703
Steven Skattebo	2103 Loren Circle, 72701-3039
Bill & Missy Kincaid	933 Pembroke Rd, 72701
David & Shay Hopper	1224 N Hillcrest, 72703
Johnnie & Peggy Qualls	309 Oakwood, 72703
Bryan Steel	1110 Lakefront Drive, 72703
Susan R Cone	1110 Lakefront Drive, 72703
Candy Clark & Teddy Cardwell	PO Box 1482, 72702-1482
Shelby Rogers	PO Box 4464, 72702-4464
Heather Daniel	PO Box 4041, 72702-4041
David & Carol Albert	PO Box 277, Goshen, 72735
Christopher & Lesa Moyer	1435 Meadowcliff Dr, 72703
Helen Duran & Bob Sanders	4234 Trough Springs Rd, 72703
Janice Ryan	424 North Willow, 72701
Cyrus & Martha Sutherland	1928 Haskell Heights, 72701
John & Tamara Gilmour	PO Box 1109, 72702-1109
Ruth Francis	6770 E Hahndo Lane, 72701-0285
Judith Kilpatrick	1255 W. Lakeridge, 72703-2031
Jay & Joyce Hale	285 W Cleburn St, 72701
Dorothy Neely	PO Box 1231, 72702-1231
Michael & Darcy Hansen	1235 Edgehill Dr., 72703
Marilyn Cochran	1331 Edgehill Dr., 72703
Alice Hampton	1108 E Lakeridge Dr, 72703
L Russert-Kraemer	PO Box 631, 72702-0631
Nancy & Nate Allen	PO Box 3105, 72702-3105
Bob & Natalie Pomeroy	1229 W Lakeridge Dr., 72701
Jeff Jackson	1414 N Hillcrest, 72703
Stephen Chism & Andrea Cantrell	540 E. Lakeridge, 72703, 72703
Tetsundo Sekiguchi - Ted & Chico	1333 Edgehill, 72703
Frank & Elizabeth Fickle	1160 E Lakefront Dr., 72703
Gina & Wayne Hudec	1230 W Lakeridge Dr, 72703
John Erod	1140 W Lakefront Dr, 72703
David & Missy Pledger	1348 Edgehill, 72703
Bill & Sabra Martin	1391 Edgehill, 72703
Rick & Laura McNair	1650 Wheeler, 72703
Lauryl & Tim Hynes	500 E North Street, 72701
Bettie Lu Lancaster	127 Lakeridge Dr., 72703
James & Lynne Spellman	1219 W. Lakeridge Dr., 72703
Hugh & Brenda Kincaid	520 Lakeridge Dr., 72703
David Hyatt & Nedra Forrest	PO Box 3103, 70702-3103
Stephen & Bonnie Turner	1532 Hillcrest, 72703
Betty Lahiri	530 Lakeridge, 72703
Robert & Susan Walsh	406 E North St., 72701
Frank & Suzanne Doughty	884 N Skyline Dr., 72701-4514
Dick & Jackie Kellogg	725 Dogwood Lane, 72701
Tom & Mary Lynn Kennedy	520 N Willow Ave., 72701
Lowell & Kathy Grisham	310 N Washington, 72701
David O. Shepherd	1547 Lunsford Ave, 72701
Marcia Rachel	2223 Plumarosa, 72701
David Hunter & K. Mueller	833 Bryan Lane, 72701

Brooks Hummel Nature Preserve Fund Raising Activity

Susan Regan	308 E. Spring Street, 72701
Betty Solis	147 Cydnee, 72703
John Van & Rosemary Brahana	882 N. Lewis Lane, 72701
Candace Whiffield	835 Pembroke, 72701
Johnny & Susan Adkins	1322 Southern Heights, 72701-4469
Art Fry	1923 Joyce #323, 72703
Nancy McCartney	1638 W. Maple St, 72701
Buddy & Susan Chadick	423 E. Spring St., 72701
Libby Wheeler	1635 W. Shadowridge, 72701
Julie Preddy	3030 N. Quail Creek Dr., 72703
Jimmy & Jeanie Hill	422 W. Cleburn, 72701
Paul & Maxine LeBlanc	2842 Stanton Ave, 72703
Bill & Margie McKenzie	2411 Gentle Oaks Ln, 72703
Robert & Mary Alguire	1235 N Hillcrest Ave., 72703
Herschel & Barbara Sandefur	1651 W. Cleveland St., 72701
Jeff & Sarah Mitchell	1143 W. Lakeridge, 72703
Mike & Martha Ward	432 Hawthorn St., 72701
Robert A. Jordan	280 W. Ila St., 72701
Barbara Dillon	126 W Ila Street, 72701
Bob Brewer & Jonna Hussey	517 Lytton, 72701
Martha Malley	872 N. Lewis Lane, 72701
Luke & Janet Parsch	467 Rockcliff Rd, 72701-3607
Chaim Goodman-Strauss & Kendall Curren	524 W. Prospect St., 72701
Karen Rollet-Crocker	951 N Pembroke Rd, 72701-2522
Steve & Sally Harms	4470 E Bridgewater Ln, 72703-4611
Norma Hoffrichter	1130 E Lakeridge, 72703
David & Marsha Crittenden	1408 Elmwood Dr., 72703-3002
Martha Agee	1000 Crest Dr., 72701-2312
Ozark Headwaters Grp. of Sierra Club	J.Hale, treas., 285 W Cleburn, 72701
Sue E. Schultze	2632 Bent Trail, Springdale, 72762
James Keenan	PO Box 9600, Fayetteville, 72703
Ron & M-E Anderson	1423 E Ridgeway Drive, 72701
Liz & Les Howick	1823 E. Elkhorn Circle, 72703
Dennis & Linda Collins	387 Assembly Dr., 72701
Carolyn B Madison	PO Box 8601, 72703-0011
John & Shawana Thorup	2314 Thistle Dr., 72704
Wanda Belzung	1923 Joyce Blvd, #255, 72703-5398
Craig & Becky Parker	1707 N Wheeler Ave., 72703
Suzanne Macrae	517 Fallin, 72701-3632
Nancy Reed Koetter	3076 N Dorchester Drive, 72703
Dede Peters	306 E Baxter Lane, 72701
Kathy Thompson	793 E Lighton Trail, 72701
Gene Fry	1923 E Joyce Blvd #323, 72703
First United Presbyterian Church	695 Calvin St., 72703
Ozark Natural Foods	1554 N College, 72703, 521-7558
Pre-option	Money paid to Brooks family
Bob Caulk	790 Missouri Way, 72701, 973-2968
Duane Wollien	821 Applebury Dr., 72701, 521-7203
Wall Eilers	2044 Archer Drive, 72701, 582-0784
David Chance	Springdale AR, 72764
Henry Turner & Megan Chapman	545 E Prospect, 72701, 582-2171
Sami Kopelman	432 N Assembly Dr., 72701, 251-7395
Rita Caver	304 W Cleburn, 72701, 582-0450
Richard & Susie Jones	957 Tanglebriar, 72701-0219, 521-0219
John Barcroft	2819 Prince William Dr., 72703-3993

Brooks Hummel Nature Preserve Fund Raising Activity

Nadine Chenault	PO Box 9358, 72703, 521-1809
Friends of Sami Kopelman; BD gift contr	2591 Oak View Dr., Springdale, 72762
Russell Meller & Susan Hankins	2261 E Meandering Way, 72701
Don Tyson (c/o Robin Wages)	PO Box 2020, S'dale, 72765, 290-7039
Bill Harrison	3 Mt. Nord, 72701
John & Kay DuVal	1131 Eastwood, 72701
Sharon Wilson	1805 N Fox Hunter, WC 75, 72701
Chaim Goodman-Strauss/K. Curlee	524 W Prospect, 72701, 443-5151
Carl Circo	412 N Assembly, 72701, 442-7110
Pete & Margo Heinzelmann	1737 Applebury Drive, 72701, 521-8973
Jim Lindsey	
Penguin Ed's BBQ, Diane & Ed Knight	230 S. East St., 72701, 521-3663
Holly Bryan (from Sue & Buddy Chadick	423 E Spring Street, 72701, 443-0865
Jura & Lisa Margulis	578 Rockcliff Rd., 72701, 443-0242
Heather Blair	5202 Dorchester #3, Chicago, IL 60615
Dr. Diana Gonzales Worthen	16700 Doolittle Rd, Springdale, 72764
Arden Blair	9515 Red Rain, Columbia, MD, 20146
Mike & Angela Martin Crowley	3953 Thistle Lane, Ft. Worth, TX, 76109
Jean Gordon	2510 Hidden Valley Dr., LR, AR, 72212
Barbara Tyson	2694 Randal Pl., 72703,
Kim Agee	1561 Rhonda, 72703,
Martha Agee	1000 Crest Dr., 72701
Steven Skattebo	2103 Loren Circle, 72701-3039, 251-9442
Victoria Bransford McClendon	146 Prospect St., 72701
Sonya Yates	2 W Mt Nord, 72701, 521-0143
Brian Fry (thru Art Fry)	1923 E Joyce #323, 72703
Louisa Jong	2684 Stanton Ave., 72703, 443-4294
Mark & Diane Simmons	410 W Central, Siloam Spr., 72761
Eve Agee	1029 N. Eastwood Dr., 72701, 444-0059
Don Pitts	2790 So. Thompson, S'dale, 72764, 872-3812
Uncle Sam's Safari customers	1494 No. College Ave, 72701, 521-7779
Susan Jenkins	40 E. Elm St., 72703, 521-1255
Suzanne MacRae	517 Fallin, 72701
Nancy Maier	951 Missouri Way, 72701, 521-5678
Lynda Coon	1336 N Hillcrest, 72703-1924, 571-1067
Bud & Suzanne Edwards	578 N Rockcliff Rd., 72701-3808
Trisha & Boyd Logan	1426 Hillcrest Ave, 72703, 521-1443

2005 Survey of Citizens of Fayetteville, Arkansas
Report of Findings
Conducted by the Survey Research Center, University of Arkansas
December 2005

Buying land to preserve open or green space

The citizens declare they are very supportive (41%) and supportive (35%) of the City acquiring land to preserve open or green spaces (Table 47). Twelve percent are neither supportive nor unsupportive while the remaining 12 percent (9 percent unsupportive and 3 percent very unsupportive) expressing disapproval of the City acquiring land to preserve open or green spaces.

Fayetteville residents' current level of support (76%) for the city buying land to preserve open or greenspace is slightly higher than that of residents of Washington and Benton Counties in 2000 (74%) and also exceeds the state average of 64 percent.³⁶ This level of support has also increased since 2003, when 69 percent of residents asserted they were very supportive (35%) or supportive (34%) of acquiring land to preserve open or greenspace.

Limiting funding for development to only certain areas of the city

In 2005, citizens were told that cities sometimes focus on specific areas of the city that need more development and then were asked how supportive they are of providing incentives to encourage development temporarily in specific areas of the city. In 2003, the question was

stated, "How supportive or unsupportive are you for limiting funding for development to only certain areas of the City?"

In 2005, 67 percent are either very supportive (18%) or supportive (49%), while 12 percent are unsupportive (9%) or very unsupportive (3%) of providing incentives to encourage development temporarily in specific areas of the city. The remaining 21 percent of the citizenry are neither supportive nor unsupportive. Differences due to question wording cannot be measured, but if Fayetteville's citizens interpreted the questions similarly, in 2005 they appear to be more supportive of temporarily targeting certain areas of the city for development than they were in 2003 when about 51 percent of Fayetteville residents were supportive (40%) or very supportive (11%) of limiting funding for development of only certain areas of the city. The level of support for focused development espoused by Fayetteville's residents in either 2005 or 2003 far exceeds the 36 percent of Arkansans, in general, and the 42 percent of Benton and Washington County residents who advocated funding only growth-targeted areas of the state in 2000.³⁷ Again, the comparisons are limited by the equality of the questions (Table 47).

³⁶ University of Arkansas at Little Rock Institute of Government. (2000). *Growth in Arkansas*. Little Rock Arkansas, pp. 9-10.

³⁷ University of Arkansas at Little Rock Institute of Government. (2000). *Growth in Arkansas*. Little Rock Arkansas, pp. 9-10.

Goal 5: We will assemble an enduring green network.

The natural environment, and connections with the environment, is part of what makes Fayetteville special. Residents treasure the quality of life associated with living in a place that offers magnificent views and a variety of recreational opportunities. The natural environment of Fayetteville needs to be properly preserved and enhanced. The City of Fayetteville community needs to increase efforts to protect the natural landscape, increase parks and trails, and preserve long views across open green spaces.

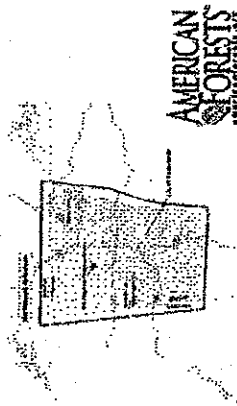
A green network helps maintain the community character and quality of life that makes Fayetteville the great city that it is today, and contributes to the economic success and stability of the City. Fayetteville must compete with other cities in the region for population, jobs, and retail sales. It has a number of assets unavailable to the other cities including the University of Arkansas, the Walton Arts Center, Dickson Street, and an intact city core area that is improving and strengthening. One of Fayetteville's overwhelming differences from other cities is the character and quality of the environmental setting. As such, nurturing this setting is of economic benefit to the city, as a quality environment confers value and attracts residents who all get to share in the common amenity. If the City chooses unregulated development that strips away the natural setting or reserves pieces of it for only a select few, it will lose one of its advantages in the regional economic competition. Since this environment is one of the advantages that distinguish Fayetteville from other cities, it can be an important factor in marketing the unique quality of life to future residents and employers.

September 2003 Urban Ecosystem Analysis Benton and Washington Counties, Arkansas

Calculating the Value of Nature

Report Contents

- 2-3 Project Overview and Major Findings
- 4-8 Regional Ecosystem Analysis
- 4-8 Fayetteville Ecosystem Analysis
- 9 Strengthening Development Knowledge
- 10 Recommendations Initiative
- 11 About The Urban Ecosystem Analysis



Submitted to the URBAN Ecosystem



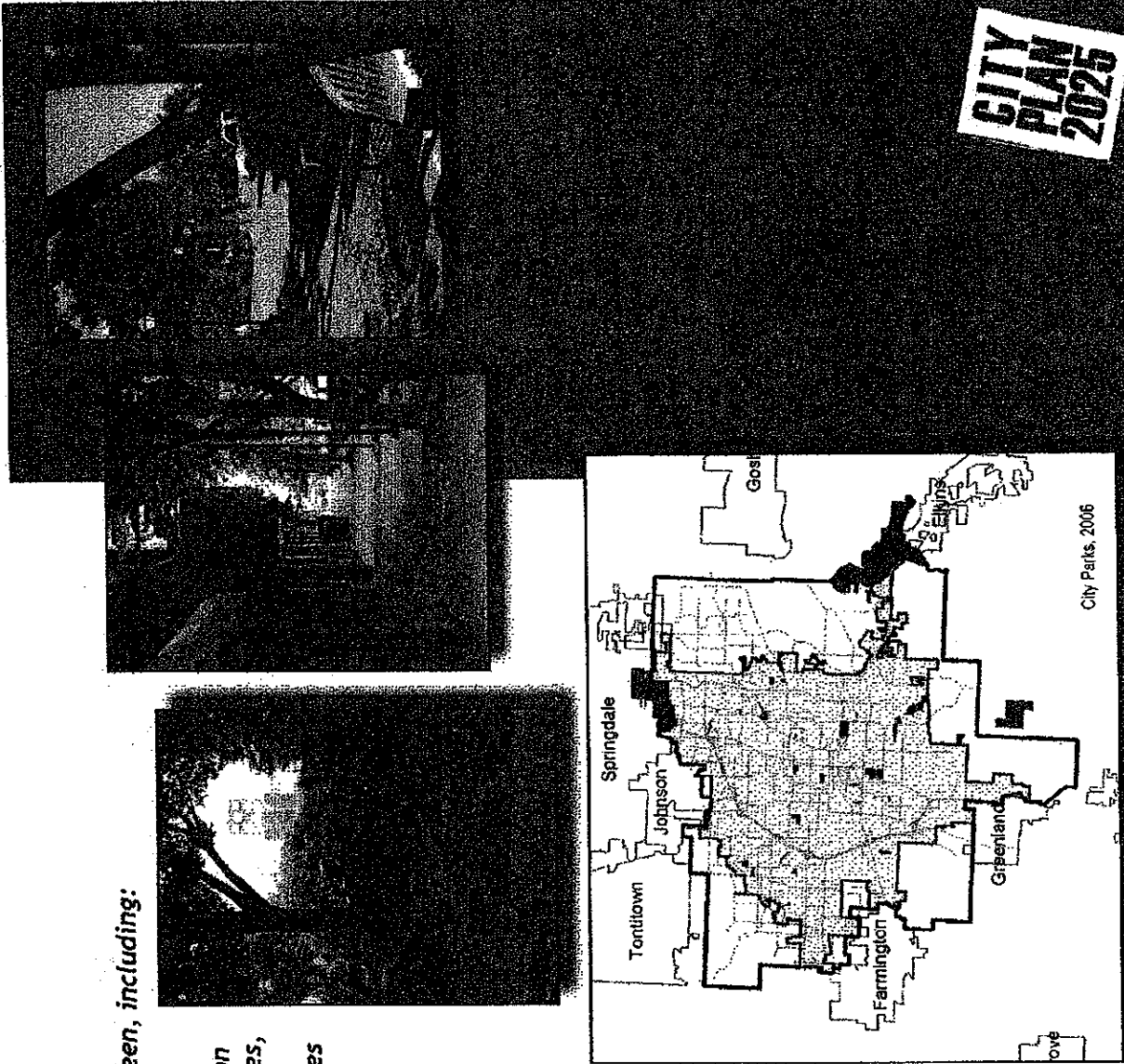
CITY
PLAN
2025

Objectives:

a. Vigilantly nurture a continuum of green, including:

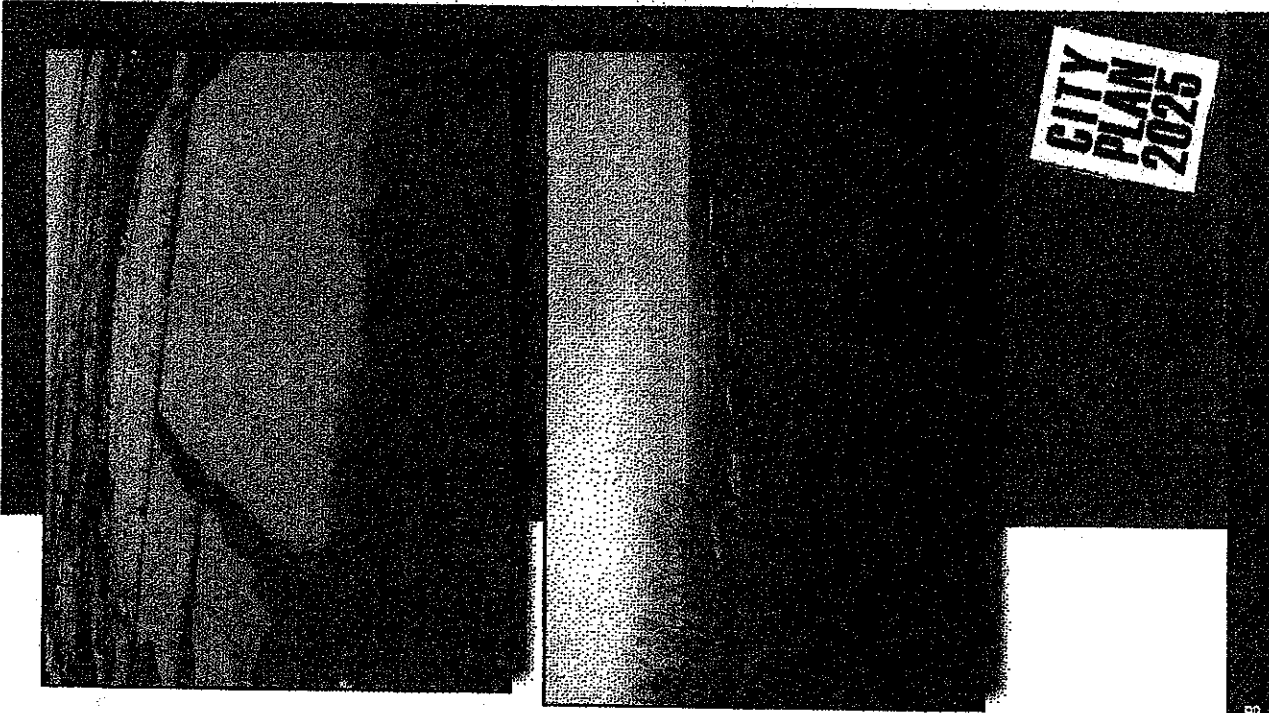
1. tree-lined streets
2. canopy restoration and protection
3. small neighborhood parks, squares, commons & greenbelts
4. major parks & recreation facilities
5. greenways & trails
6. large-scale preserves for preserving hillsides, protecting natural habitats & water quality, and scenic vistas

b. Accelerate public acquisition of open space and parks



c. Promote widespread deployment of conservation easements,
transfer of development rights, & cluster development

d. Maximize City influence over development & preservation in
outlying unincorporated areas



Goal 5: We will assemble an enduring green network.

Action I: Continue to utilize the 10-Year Parks Plan and the Alternative Transportation and Trails Plan.

Action II: Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners.

*Action III: Develop a transfer of development program.
(See TDR, Action Steps Goal II.)*

Action IV: Annex key locations within the Planning Area and provide a land use plan that reflects the principles in City Plan 2025.



Action I: Continue to utilize the 10-Year Parks Plan and the Alternative Transportation and Trails Plan.

Action II: Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners.

Action III: Develop a transfer of development program. (See TDR, Action Steps Goal II.)

Action IV: Annex key locations within the Planning Area and provide a land use plan that reflects the principles in City Plan 2025.

In order to ensure that large annexations initiated by the City Council reflect the goals in City Plan 2025, a land use plan should be generated by staff and property owners in the proposed annexation area before a special election. Developing a land use plan would provide Fayetteville residents and residents of the unincorporated area with concrete information about the effects of annexation and intended development. Promoting a balance of residential and commercial growth by requiring traditional neighborhood development also ensures that the vehicle miles generated from new development will be minimized.



Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
March 20, 2007**

A meeting of the Fayetteville City Council will be held on March 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

Fayetteville Public Library – The Big Read

Nominating Committee Report

Mayor's appointment of Fayetteville Public Library Board of Trustees.

Confirmation of the Advertising & Promotion Commission appointment.

A. CONSENT:

- 1. Approval of the March 6, 2007 City Council meeting minutes.**
- 2. CEMS Ambulance Services for 2007:** A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.
- 3. Arkoma Playgrounds and Supply, Bid # 07-22:** A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.

4. **A. Camp Equipment, Bid # 07-21:** A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.
5. **Northwest Arkansas Diversity Council Membership Fee:** A resolution to authorize the City to join the Northwest Arkansas Diversity Council and pay the \$500.00 membership fee for services.

B. UNFINISHED BUSINESS:

1. **VAC 06-2364 (Cruz Bay):** An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. ***This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.***
2. **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 appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.***
3. **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 ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.***
4. **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, and to repeal § 156.02 (B)(6). ***This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.***
5. **Farmington De-annexation:** An ordinance concurring with Farmington Ordinance No. 2007-1, providing for the voluntary detachment of certain lands from the City of Fayetteville, and attaching said lands to the City of Farmington.

C. NEW BUSINESS:

1. **SWEPKO Public Service Commission Hearing:** A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPKO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.
2. **Power Secure, Inc. Bid Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side

Wastewater Treatment Plant and the Hamestring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.

3. **ANX 06-2288 (Broyles):** An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.
4. **R-PZD 06-2281 (Holcomb Heights):** An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision: containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
5. **ADM 07-2477, BioBased:** A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.
6. **Amend Chapter 92 – Animal Ordinance:** An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.
7. **Amend Chapter 51 – Sewer Volume Based Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.
8. **Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.**
9. **Forrest F. Brooks Revocable Trust Land Purchase:** A resolution to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust located north (and below) the Lake Lucille Spillway for \$495,000.00 and to sell 1.89 acres to the United Presbyterian Church for \$68,000.00 and to sell the development rights of the remainder to the Fayetteville Natural Heritage Association and Neighbors for \$179,500.00.

D. INFORMATIONAL:

City Council Tour: None

Added at Agenda Session
ALDERMAN AGENDA REQUEST 3/13/07
Consent

A. 5
NWA Diversity Council
Membership Fee
Page 1 of 9

FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM:
ALDERMAN ROBERT RHOADS

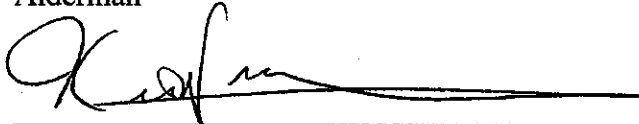
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Authorize The City To Join The Northwest Arkansas Diversity Council And Pay The \$500.00 Membership Fee For Services

APPROVED FOR AGENDA:


Robert Rhoads
Alderman

3/13/07
Date


Kit Williams
City Attorney (as to form)

3/13/07
Date

RESOLUTION NO. _____

**A RESOLUTION TO AUTHORIZE THE CITY TO JOIN
THE NORTHWEST ARKANSAS DIVERSITY COUNCIL
AND PAY THE \$500.00 MEMBERSHIP FEE FOR SERVICES**

WHEREAS, as a part of the City's Equal Employment Opportunity Program required by federal grants for the Fayetteville Police Department and other City Departments, efforts for recruiting diversity candidates for city jobs are required; and

WHEREAS, contacts through the Northwest Arkansas Diversity Council can assist the City of Fayetteville diversity efforts.

**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 authorizes the Mayor to sign any documents needed for the City of Fayetteville's membership in the Northwest Arkansas Diversity Council and authorizes the expenditure of \$500.00 for such membership and all membership benefits of the Northwest Arkansas Diversity Council.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

Tracy Taylor

From: Tracy Taylor
Sent: Tuesday, February 27, 2007 3:16 PM
To: 'mayor@ci.fayetteville.ar.us'; 'ward1_pos1@ci.fayetteville.ar.us'; 'bthiel@cox.net'; 'ward2_pos1@ci.fayetteville.ar.us'; 'ngallen@earthlink.net'; 'ward3_pos2@ci.fayetteville.ar.us'; 'kwilliams@ci.fayetteville.ar.us'; 'ward4_pos1@ci.fayetteville.ar.us'; 'ljordan7@hotmail.com'
Cc: Robert K. Rhoads
Subject: Northwest Arkansas Diversity Council - sent on behalf of Alderman Robert K. Rhoads

Mayor, Council Members, and Attorney Williams:

I would like to propose that the City Council join this organization (see internet link below) and certainly can explain why probably in person better than through an e-mail but perhaps you all can peruse this website and if there is some interest maybe Attorney Williams would be kind enough to tell me about how I can go about getting this to a vote.

We would qualify according to the Director, Arthur Matthews, much like a non-profit organization and therefore we would only have to pay \$500.00 to belong versus a corporation membership costing at least ten times that amount. If we join we would be the first city to join. We could join the University as a non-corporate member. Again if you look at the website you will see who all belongs and you will also see why it would be good for us. I am also proposing that my law firm join as well. Northwest Arkansas has a large table and we should make sure there is a seat for everybody.

<http://www.nwadc.org/join-nwadc.aspx>

-Robert Rhoads

Tracy Taylor
Assistant to Robert K. Rhoads
Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
75 N. East Avenue, Suite 402
Fayetteville, AR 72701
Telephone: 479-973-5200
Facsimile: 479-973-0520

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Making Northwest Arkansas Inclusive and Welcoming to All People

[Our Mission](#)[Why NWADC?](#)[From the Chairperson](#)[Member Benefits](#)[Join NWADC](#)[Upcoming Events](#)[In the News](#)[Diversity Dialogue](#)[Research](#)[Founding Members](#)[FAQ](#)[Contact Us](#)

Join NWADC

The Northwest Arkansas Diversity Council is open for membership!

To become a member, please complete the NWADC Membership Form below and mail to:

NWADC

4100 Corporate Dr
Suite 410
Springdale, AR
72762

»  [Click here for the NWADC Membership Form](#)

Member Login:

Password:

LOGIN

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Mission and Guiding Principles

The mission of the Northwest Arkansas Diversity Council is:

To help shape Northwest Arkansas into a "model community" that is inclusive and welcoming to all people.

The guiding principles are driven by a desire to exponentially elevate the awareness and skill sets of business, community and other stakeholders around diversity and inclusion. These principles are morally, spiritually and business driven and make up the core and fabric of the work that will be designed, developed, implemented and evaluated by the board of directors and staff of the NWADC. The underlying principle is immersed in the concept of "what is in the best interest of the aforementioned stakeholders as it relates to diversity and inclusion."

Member Login:

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Why a Northwest Arkansas Diversity Council?

The Northwest Arkansas Diversity Council was formed in response to the following opportunities:

1. The challenge of attracting, staffing and retaining our diverse talent in the region.
2. The opportunity to leverage our diversity and strengthen our competitive advantage within our respective companies.
3. The opportunity to grow and sustain our economic prosperity.
4. The absence of a strategic, organized and centralized leadership source aimed at leading the transformation of our diverse community into an inclusive community.
5. The growing ethnic and socioeconomic diversity in the region.
6. The continued overall population growth in the region.
7. The creation of an incubator and clearinghouse for benchmarking in diversity and inclusion practices
8. The spearheading of a forum for workshops, seminars, conferences and retreats around the critical issue of diversity and inclusion

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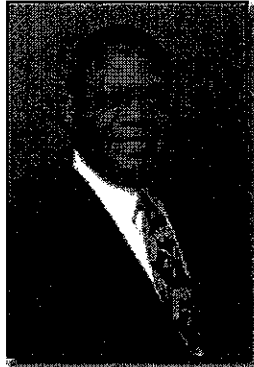
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Statement from the Chairperson



Shawn Coker, newly elected chair of the council and the vice president of Diversity Business Practices at Tyson Foods Inc. said, "I am pleased that we are spearheading the work that we have collectively committed to do for the community and all stakeholders in Northwest Arkansas."

"On behalf of the officers of the council, we would like to thank all the founding partners of the NWADC for their role thus far, and remain extraordinarily excited about the future of the Northwest Arkansas Diversity Council. It is our belief that Northwest Arkansas is rapidly becoming a model community where all people can thrive and succeed."

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Membership Benefits

Ten Reasons Why Joining NWADC is a Competitive Advantage

1. Access to annual research on perceived strengths, weaknesses, opportunities and threats of the Northwest Arkansas region.
2. Partnerships with other area companies representing several industries aimed at impacting the region's ability to attract and retain diverse talent. The NWADC will create the cohesive, unified and magnified effort required to meet the enormous diversity and inclusion challenges that our companies and that the Northwest Arkansas region faces.
3. Access to data sets on our region's diversity, diversity trends and the implications of these datasets on our talent pipeline.
4. Access to a roundtable of professionals representing a diversity of expertise to share best practices and to learn from each other.
5. Professional growth and networking opportunities that will provide exponential progress toward our goals.
6. Access to a centralized website with research findings, case studies and other resources to improve our human-capital initiatives.
7. Collaborative forums on a variety of topics related to diversity and inclusion that are focused and facilitated by subject matter experts to educate and equip NWADC members, i.e. how to best engage and leverage organizational diversity, effective outreach and marketing strategies, realizing our business case for diversity and inclusion, etc.
8. Access to innovative products and services for our respective companies including, but not be limited to, the following: educational videos, learning curriculums, newsletters, podcasts, webcasts, training events, etc.
9. Access to an empowering platform for strategic change.
10. Exposure to a web based "power" learning environment that can provide web casts, pod casts, presentations, panel discussions, theatrical/dramatic presentations, keynote speeches, fishbowl demonstrations and case studies in diversity and inclusion.

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Founding Members

- Arvest Bank
- Cox Communications
- Harps
- P&G
- SVI
- Tyson Foods, Inc.
- United Way
- University of Arkansas
- Wal-Mart

Member Login:**Password:****LOGIN**

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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: March 14, 2007
Subject: Cruz Bay alley vacation (VAC 06-2364) Amendments

Based on the City Attorney's comments at the March 06, 2007 City Council meeting and a subsequent memo that was issued, the letter that was submitted to staff objecting to the alley vacation as presented for Cruz Bay is "fatal" to the application for a vacation request. The applicant originally proposed vacating unconstructed alley right-of-way on their property only, completing survey and legal description information. Adjoining property owners were notified, and one property owner to the north (Klinger) objected to the alley vacation, stating "if the alley is to be vacated, it should be so from Archibald Yell south to 5th Street. We would not object to a full block vacation but do object to section by section." The applicant has since submitted a new legal description and exhibit for consideration, which incorporates the entire alley right-of-way from Archibald Yell south to 5th Street.

Staff recommends the City Council amend the requested vacation ordinance and vacate this entire alley right-of-way with the exhibits as attached hereto.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 06-2364 SUBMITTED BY MANDY BUNCH FOR PROPERTY LOCATED NORTH OF 5TH STREET AND SOUTH OF ARCHIBALD YELL, BETWEEN SOUTH SCHOOL AVENUE AND SOUTH LOCUST AVENUE, VACATING THE 12' ALLEY ON THE SUBJECT PROPERTY.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted alley is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described platted alley:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. Any relocation of existing utilities shall be at the owner/developer's expense.
2. Utility easements to be granted along the north and west sides of the subject property per comments from Southwestern Electric Power Company.
3. The existing storm drain pipe and open ditch within the alley shall be centered within a 20-foot drainage easement on the subject property, unless the pipe is relocated at the owner/developer's expense. Relocation of the storm drain pipe and dedication of easement thereon shall be with the approval of the City Engineer.

PASSED and **APPROVED** this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"
VAC 06-2364

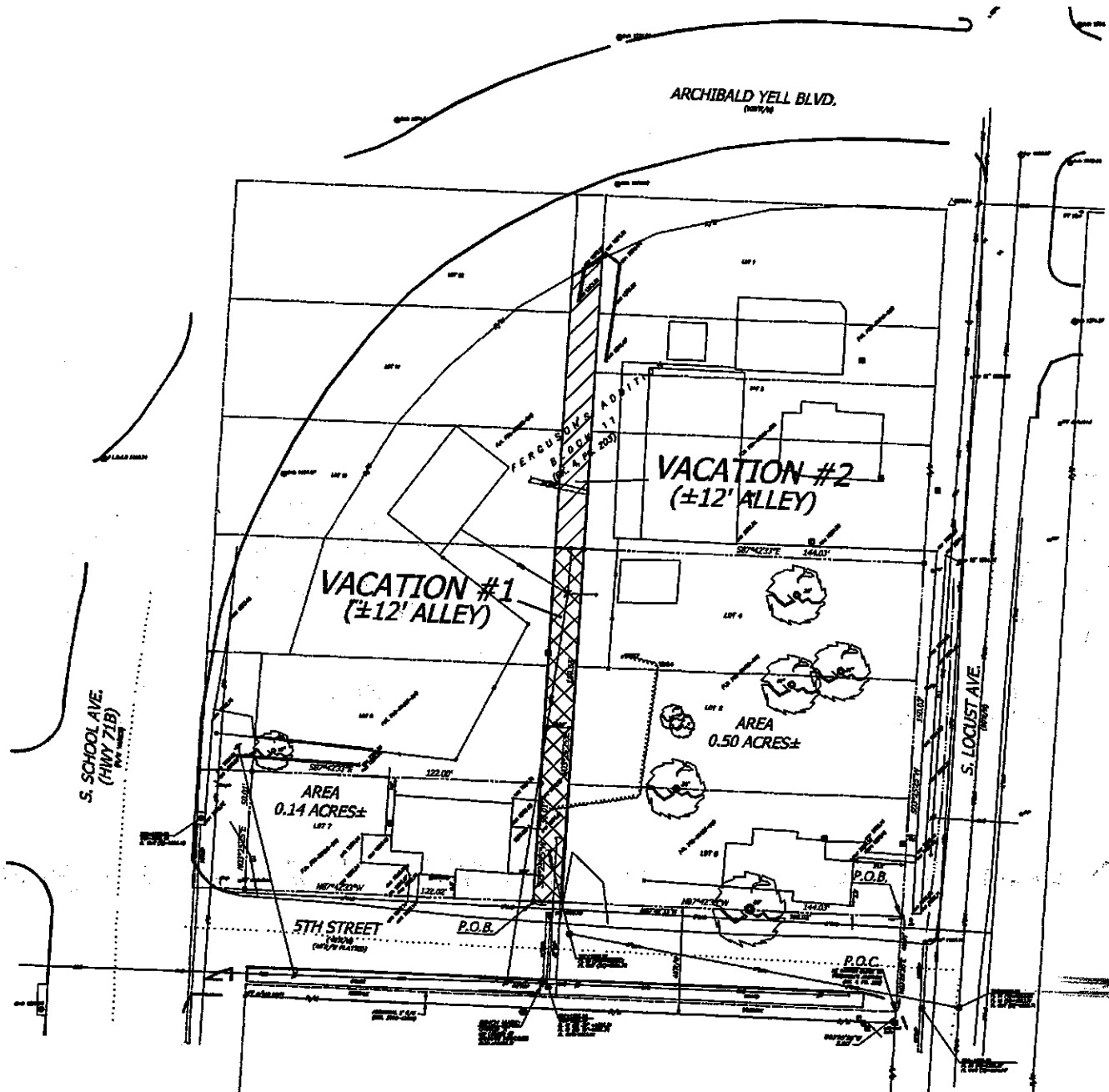


EXHIBIT "B"
VAC 06-2364

SURVEY DESCRIPTION OF 12' ALLEY TO BE VACATED:

DESCRIPTION #1:

A TRACT OF LAND BEING A PART OF BLOCK 11 OF THE FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE AS RECORDED IN PLAT BOOK 4 AT PAGE 203. SAID TRACT OF LAND BEING A PART OF THE SE1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 10 OF SAID FERGUSON'S ADDITION, A CHISELED HOLE IN CONCRETE BEARS S03°25'25"W 5.00 FEET; THENCE N03°25'25"E 40.01 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 11 BEING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF W. FIFTH STREET (45'R/W) AND THE WEST RIGHT-OF-WAY LINE OF S. LOCUST AVENUE (60'R/W); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°42'33"W 144.03 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF SAID BLOCK 11 AND THE POINT OF BEGINNING; THENCE CONTINUING N87°42'33"W 12.00 FEET TO THE SOUTHEAST CORNER OF LOT 7 OF SAID BLOCK 11; THENCE N03°25'25"E 150.03 FEET TO THE NORTHEAST CORNER OF LOT 9 OF SAID BLOCK 11; THENCE S87°42'33"E 12.00 FEET TO THE NORTHWEST CORNER OF LOT 4 OF SAID BLOCK 11; THENCE S03°25'25"W 150.03 FEET TO THE POINT OF BEGINNING, CONTAINING 1,800 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

DESCRIPTION #2:

A TWELVE (12) FOOT WIDE PLATTED ALLEY DESCRIBED AS CENTERED ALONG THE COMMON PROPERTY LINES OF LOTS 1, 2, 3, 10, 11 AND 12 OF BLOCK 11 OF FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS.

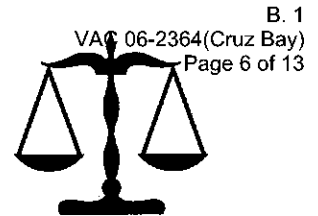
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

CC: **Jeremy Pate, Director of Current Planning**

FROM: **Kit Williams, City Attorney**

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

DATE: **March 7, 2007**

RE: **Vacations of streets and alleys**

I am sorry that I did not see that an abutting property owner had not only failed to consent in writing to the proposed vacation of a portion of the alley abutting his property, but actually objected. This lack of written consent by an abutting property owner is fatal to a vacation request.

"The Supreme Court held that because of the adverse effect, the appellants were abutting property owners whose written consent was **required** before the alley could be closed" Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3^d 369, 372 (2000). (emphasis added)

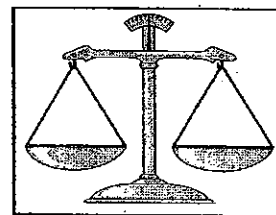
Attached is a copy of my two page memo of May 3, 2005 to you and the Planning Commission about the limitation on the City's power to vacate alleys and streets. Also attached is my five page (more in depth) memo to Tim Conklin (then City Planner) of February 6, 2003, concerning legal restrictions on alley and street vacations.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: City Council
Planning Commissioners

FROM: Kit Williams, City Attorney

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

DATE: May 3, 2005

RE: Vacation of streets, alleys and easements

The City of Fayetteville is often asked to vacate a platted, but not built street or alley or an unused utility easement. The City Council has the power "to vacate ... such portions thereof as **may not ... be required for corporate purposes**" A.C.A. §14-54-104 (emphasis added).

There is another more specific statute for vacating streets and alleys that have been dedicated to the City by platting a subdivision, if such street or alley has not "been actually used by the public as a street or alley for a period of five (5) years" A.C.A. §14-301-301 (b).

Neither of these statutory powers to vacate are mandatory upon the City Council, but only give the City Council that "power to vacate and abandon" streets, alleys, easements, etc.

The power to vacate is limited to the extent that abutting owners object to their loss of "right of ingress or egress across the property being vacated" Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3rd 851, 856 (2001).

"We have held that the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his

property and in which he has a right of property as fully as in the lot itself. We have also noted that this property right is not diminished merely because the property owner has alternative means of ingress and egress.” Id. at 857 (citations omitted).

Thus, we need to ensure that each abutting property owner has consented to the street or alley vacation. I believe our Planning Division ensures such consent has been obtained before submitting any vacation request to you.

Once all abutting owners have consented, **the issues for the City Council and Planning Commission are whether the platted street or alley has been actually used by the public during the last five years and whether the street, alley, or easement is “required for corporate purposes”** A.C.A. §14-54-104.

If an owner of a large tract of undeveloped, platted land wishes to vacate dedicated streets and alleys (which have never been built or used) in order to reconfigure and replat his property (which would require appropriate new access and easements because of our UDC), there would seem to be no corporate purpose possible to refuse the vacation requests. However, if an alley is shared with an abutting property owner who objects to the vacation of that alley, I do not believe the City can vacate and abandon that alley or even half of the alley.

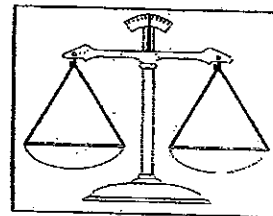
“The Supreme Court held that because of the adverse effect, the appellants were abutting property owners whose written consent was **required** before the alley could be closed” Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3rd 369, 372 (2000). (emphasis added).

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Tim Conklin, Planning Department

FROM: Kit Williams, City Attorney

A handwritten signature, likely of Kit Williams, written in dark ink. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

DATE: February 6, 2003

RE: Vacation of dedicated streets and alleys

As you know, the legislature has provided two statutes which both refer to a city's power to "vacate" streets and alleys. The one you have uniformly used is A.C.A. §14-54-104 Additional powers of cities of the first class. This statute provides power "to vacate or lease out such portions thereof as may not for the time being be required for corporate purposes" No notice or consent of abutting owners is required or even mentioned.

The other statute is A.C.A. §14-301-301 et seq. Power and authority to vacate. (Copies of both statutes are attached.)

In a recent, unpublished case decided by the Arkansas Court of Appeal, Bateman v. City of Paragould, 2000 WL 17832 (Ark. App. 2000), the Court of Appeals upheld the Chancellor's decision that "a city of the first class could only abandon a dedicated easement by following methods set forth in A.C.A. §14-301-301 (1997)." (emphasis added) The Court of Appeals specifically held:

"The Arkansas General Assembly has set out the procedure for vacating or abandoning an easement in cases such as the one now before us. See Ark.

Code Ann. §14-301-301. That procedure is binding on appellants, the City of Paragould, and the courts. Absent compliance with **that procedure** whereby the town council vacates or abandons the street, we cannot hold that appellants' arguments on appeal warrant reversal." (emphasis added)

Unpublished opinions are not controlling precedent in later cases. Other published decisions have affirmed vacation of streets pursuant to A.C.A. §14-54-104 (2) as we have done. Thus, there is not a crystal clear resolution of what we must do.

The Supreme Court on June 28, 2001, reversed a trial judge who had upheld a city ordinance based upon A.C.A. §14-54-104 (2) to vacate an unpaved segment of street. Although not stating that cities could not use this statute to vacate streets, the Supreme Court stated:

"We note that nothing in this statute provides that a right of ingress or egress across the property being vacated can be extinguished or taken without compensation." Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3rd 851, 856 (2001).

Monticello had vacated one end of an unpaved city street returning it to its abutting owners. Plaintiff Wright was an abutting owner along the street past where it had been vacated. Wright sued for an injunction and for a constitutional taking of her interest in the street. The local judge ruled against her, but the Supreme Court reversed.

"The legislature granted the City the authority to abandon or vacate roads or streets. However, the City exceeded that authority when it enacted ordinance number 700 for the purpose of extinguishing appellant's right of ingress and egress through the vacated street." Id. at 857.

The case really did not turn on whether the city could use A.C.A. §14-54-104 (2) which was quoted by the Court and implicitly sanctioned as a manner to vacate a street. The main issue was the takings issue which the court ruled in favor of the upstreet, abutting owner. Unless we use A.C.A. §14-301-301 and specifically §14-301-303 which requires "written consent of the owners of all lots abutting the street or alley, or the portion thereof, to be vacated," we could face a takings claim in which the City would have to pay non-consenting, abutting owners damages.

"(A)ppellant, as an abutting landowner with a property right of ingress and egress, has an independent right to use Browning Road as a means of accessing her property. We have held that the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress which attaches to his property and in which he has a right of property as fully as in the lot itself. *Flake v. Thompson, Inc.* 249 Ark. 713 460 S.W. 2d 789 (1970). We have also noted that this property right is not diminished merely because the property owner has alternative means of ingress and egress." Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3rd 851, 857.

The Arkansas Court of Appeals has held:

"A city's governing board cannot give away a city's streets without the consent of abutting owners or without statutory authority; any attempt to do so is ultra vires. *Freeze v. Jones*, 260 Ark. 193, 539 S.W. 2d 425 (1976)." Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3rd 369, 372 (2000).

"A conveyance to the only abutting owner is not prohibited. *Barbee, v. Carpenter*, 223 Ark. 660, 267 S.W. 2d 768. Nor is a vacation of a street for the benefit of the abutting owner if the street is not needed for corporate purposes." *Freeze v. Jones*, 260 Ark. 193, 539 S.W. 2d 425, 429 (1976).

The Supreme Court's specific reference to "the street is not needed for corporate purposes" harkens back to the language of A.C.A. §14-54-104 (2) so that statute appears still somewhat available for vacation of alleys. However, a literal reading of A.C.A. §14-301-301 speaks in all-inclusive terms. "In all cases where the owner of property ... shall have dedicated ... by platting the property ..., the city or town council shall have the power to vacate and abandon the street or alley, or any portion thereof, by proceeding in the manner set forth in this subchapter." (emphasis added)

CONCLUSION

I believe it will be better in the future to use the procedures outlined in A.C.A. §14-301-301 et. seq. when a property owner seeks a vacation of a platted street or alley. This procedure (by requiring consent of all abutting owners) should protect the City from any takings challenges and potential damages. I would not only follow A.C.A. §14-301-301, but continue to require utility companies to consent and include a finding in the ordinance that the street or alley is not needed for corporate purposes (so we get the benefit of A.C.A. §14-54-104 (2) if we are ever legally challenged).

One final caution, the Arkansas Supreme Court in the past has pointed out that certain challengers of street vacation did not "own property abutting the portions of the streets being closed " *Kemp v. Simmons*, 244 Ark. 1052, 428 S.W. 2d 59, 64 (1968).

"(N)one of the appellants were abutting landowners to the closed portion of Kemp Road" Id. at 65

More recently, the Supreme Court has acknowledged that an owner up the road that was being closed was "an abutting landowner with a property right of ingress and egress." Wright v. City of Monticello, *supra*.

The Court has shown a willingness to extend the definition (and legal protection) of "abutting owners" beyond that portion of the street or alley being vacated.

"In that case, the appellants' property did not actually touch the portion of the alley the city board had closed, but the closing of a part of the alley adversely affected the use of their property. The supreme court held that, because of this adverse effect, the appellants were abutting property owners whose written consent was required before the alley could be closed" Holliman v. Liles, 72 Ark. App. 169, 35 S.W. 3rd 369, 372 (2000).

In Holliman, the alley was only narrowed by vacating half its width to the abutting owner. The Supreme Court reversed the summary judgment for the City (Quitman) by stating that an owner's ingress and egress does NOT have to be blocked before the owner must consent to a vacation. The key issue was the extent of adverse affect the vacation would inflict upon the owner's property. Adverse effect justified making an owner an "abutting owner" whose written consent to the vacation was required.



THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director
DATE: March 1, 2007
SUBJECT: Building Height Information Around the Square

Please find attached survey information concerning building heights around the square. This issue was brought up at the last City Council meeting. Please call me if you have any questions or need additional information.

Handed out at Agenda Session
B.4 Amend 161.21 & 161.22
Height Regulations
Page 1 of 2

**DOWNTOWN FAYETTEVILLE
EXISTING BUILDING HEIGHT**

B.4

Height Regulations

3/20/07

Fayetteville Economic Development Council

RESOLUTION

WHEREAS the Fayetteville Economic Development Council is a duly organized body specifically designed to serve as the single point of contact for economic development in Fayetteville with a stated mission of: "Bring new money and investment into the local economy by helping existing companies grow, creating new companies, and recruiting compatible new businesses, thus creating new jobs, increasing the per capita income and expendable income. This new wealth grows the property tax base for schools and sales tax base for the city.

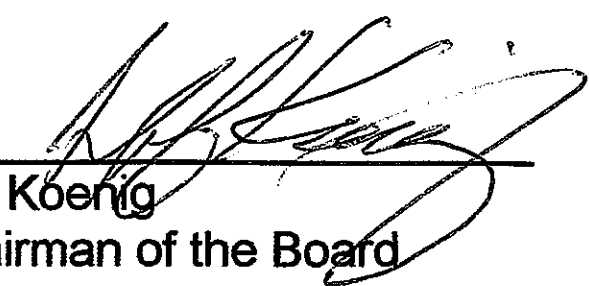
WHEREAS the City of Fayetteville with the assistance of a professional consulting team conducted charettes and received public input from Fayetteville citizens before adopting a Downtown Master Plan that recommended building heights, later adopted by the Fayetteville City Council after two years of planning and extensive public input, and

WHEREAS a long range and stable community development plan of this type is the foundation for both controlling desired development and providing a predictable investment environment which encourages investment and builds the Fayetteville tax base, and

WHEREAS the ordinance to amend Height Regulations currently before the Fayetteville City Council would further reduce the heights of buildings in downtown Fayetteville and would run contrary to the recommendations approved in the Downtown Master Plan, potentially decrease the tax base, significantly decrease the predictability of the approval process, and therefore increase the financial risk of investors.

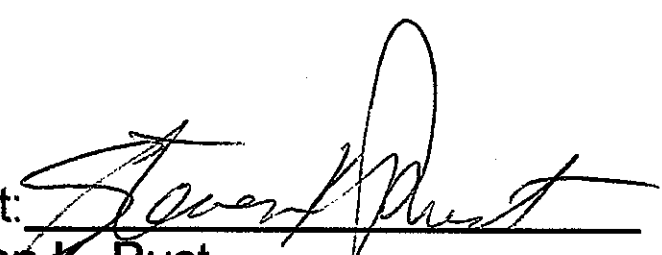
NOW THEREFORE BE IT RESOLVED that the Board of Directors of the Fayetteville Economic Development Council go on record as opposing any ordinance or efforts by the City Council to further restrict building heights in the Downtown Master Plan in Fayetteville, Arkansas.

Passed and approved this 5th day of March, 2007

By: 

Jeff Koenig

Chairman of the Board

Attest: 

Steven K. Rust

President/CEO

ORDINANCE NO. _____

AN ORDINANCE CONCURRING WITH FARMINGTON
ORDINANCE NO. 2007-1, PROVIDING FOR THE
VOLUNTARY DETACHMENT OF CERTAIN LANDS
FROM THE CITY OF FAYETTEVILLE, AND ATTACHING
SAID LANDS TO THE CITY OF FARMINGTON

WHEREAS, five property owners (Weeks, Anderson, Larsen, Woody and Dorman) petitioned the Farmington City Council to be annexed into Farmington if the Fayetteville City Council agreed to detach their property described in Exhibit "A" from Fayetteville; and

WHEREAS, Farmington passed Ordinance 2007-1 on January 8, 2007 which states that if the Fayetteville City Council votes "for the proposed detachment and annexation ordinance, then a *prima facie* case for detachment and annexation (of the property described in Exhibit A) shall be established"; and

WHEREAS, the Fayetteville City Council held a public hearing on this subject as required by A.C.A. §14-40-201 on March 6, 2007.

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 concurs with Farmington Ordinance No. 2007-1 providing for the simultaneous detachment from Fayetteville and annexation into Farmington of that property described in Exhibit "A".

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

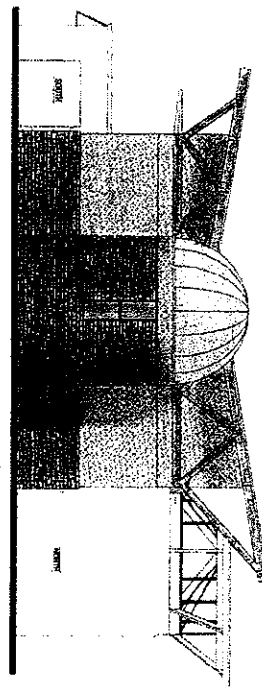
APPROVED:

ATTEST:

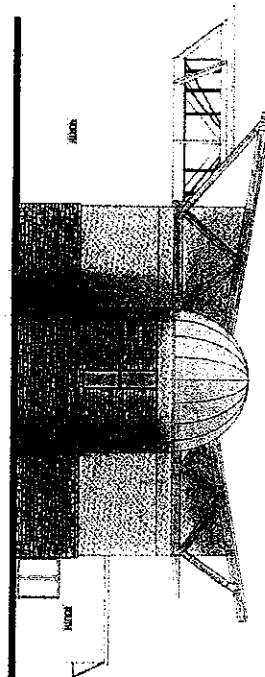
By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk

Agenda Series 3/13/07 Bio-Based



EAST BUILDING ELEVATION

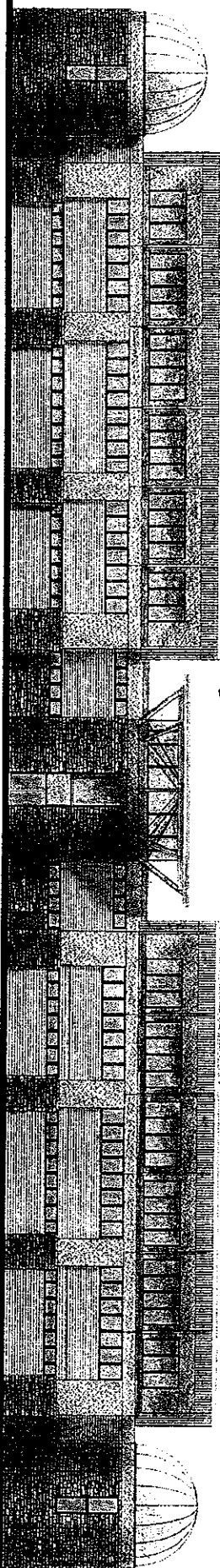


WEST BUILDING ELEVATION

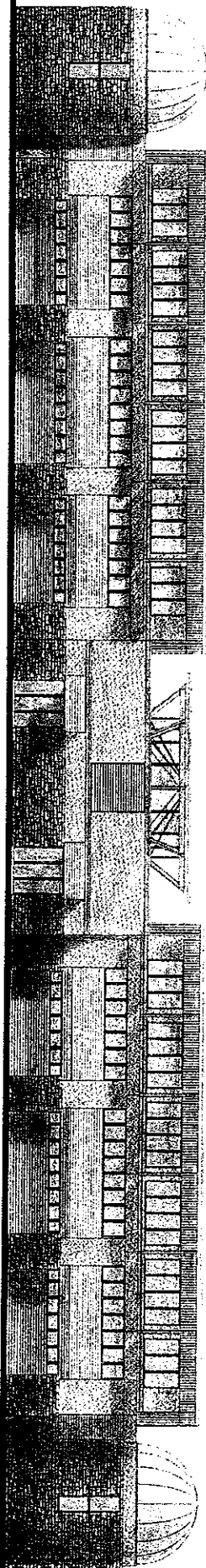
**PLANNING
COMMISSION
APPROVED**
6/15/06
(1000)

FINISH SCHEDULE

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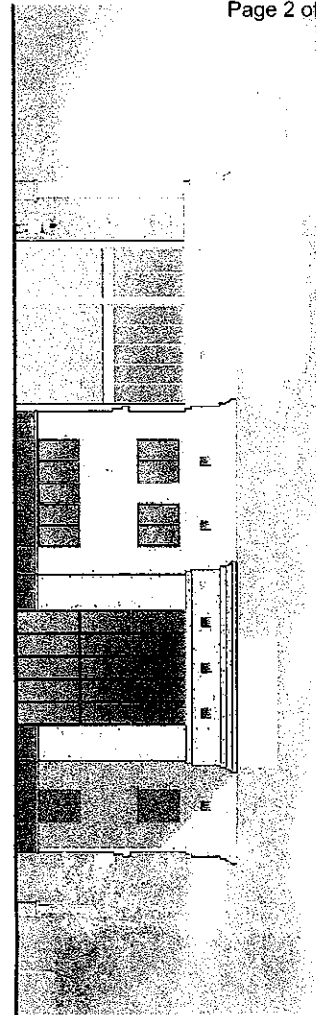
NORTH BUILDING ELEVATION



SOUTH BUILDING ELEVATION

BIOBASED SYSTEMS
FAYETTEVILLE, ARKANSAS

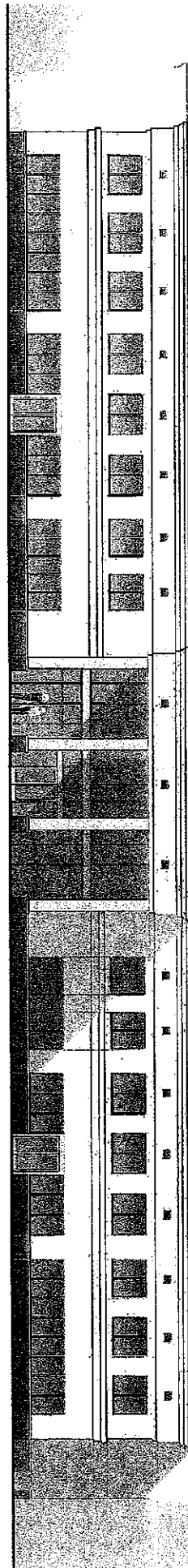
DEFOUR



WEST ELEVATION

EXTERIOR FINISH MATERIALS

1. RED BRICK BASE AND INSETS
2. PRE-FINISHED METAL SILLS, CORNICE CAP AND PARAPET CAP
3. EIFS WITH SANDBLAST TEXTURE
4. LOW-E INSULATED GLASS IN ANODIZED ALUMINUM FRAMES
5. ALUMINUM CLAD COLUMNS AND ENTRY FRAMING



NORTH ELEVATION

BIOBASED CORPORATE HEADQUARTERS

BIOBASED
1478 OAK SPRINGS ROAD
FAVETTSVILLE, ARKANSAS 72703
FEBRUARY 1, 2007

3-1-07 (Proposed building elevations)

MOBLEY ARCHITECTS, INC.
2715 MO. BUSINESS DR., STE. 202
FAVETTSVILLE, AR 72703
(479) 251-0800

AREA

Rate Study
March 20, 2007
City Council Meeting

City of Fayetteville, Arkansas

Accountants' Report on Application of
Agreed-Upon Procedures

March 7, 2007



City of Fayetteville, Arkansas

Accountants' Report on Application of Agreed-Upon Procedures

March 7, 2007



City of Fayetteville, Arkansas
March 7, 2007

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Exhibit II

 Schedule of Debt Service Requirements.....7

Exhibit III

 Schedule of Forecasted Net Revenues and Debt Service Requirements.....8



Independent Accountants' Report on Application of Agreed-Upon Procedures

City Council
Honorable Dan Coody, Mayor
City of Fayetteville, Arkansas
Fayetteville, Arkansas

We have performed the procedures enumerated in the attachment to this report, which were agreed to by the management of the City of Fayetteville, Arkansas (the City) solely to assist you in evaluating the Water and Sewer Fund's Estimated Excess of Forecasted Net Revenues Over Debt Service Requirements (Exhibit III) based on the assumption that utility usage and operation and maintenance expenses for the year ending December 31, 2007, will be the same as fiscal year 2006 and that 2007 sewer rates for certain non-wholesale customers outside the city limits will be reduced. The management of the City is responsible for the forecasted revenues, the debt service requirements and compliance with debt service requirements. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of the parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attachment to this report for the purpose for which this report has been requested or for any other purpose.

The findings obtained, if any, are described in the attachment to this report.

We were not engaged to, and did not, conduct an examination, the objective of which would be the expression of an opinion on the specified items described above. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the specified parties listed above and is not intended to be and should not be used by anyone other than these specified parties.

March 7, 2007

BKD, LLP

City of Fayetteville, Arkansas

Engagement Findings

March 7, 2007

Presented in this section are all our findings from performing the procedures described in the “Engagement Scope and Procedures” section of this report. Except as described in the remainder of this report section, no exceptions resulted from performance of the procedures.

None

City of Fayetteville, Arkansas

Engagement Scope and Procedures

Date of Procedures: March 7, 2007

The Water and Sewer System Refunding Revenue Bonds Series 2002A and 2002B and the Series 2004 bond indentures contain requirements as follows:

Rate Covenant

The City covenants that the rates for System services will never be reduced while any of the Bonds are Outstanding unless there is obtained from a Qualified Accountant a certificate to the effect that Net Revenues, with the reduced rates, in the current Fiscal Year will be at least equal to (i) 125% of the average Annual Debt Service on all Bonds, Series 1999 Bonds and Subordinate Obligations, (ii) the amount, if any, to make required deposits to the Debt Service Reserve Fund and any debt service reserve funds with respect to the Series 1999 Bonds and Subordinate Obligations, and (iii) the amount, if any, needed to make required deposits to the Renewal and Replacement Fund.

The term “*net revenues*” is defined by the bond indentures as “revenues less operation and maintenance expenses. Revenues include all fees, tolls, rates, rentals, charges levied and collected in connection with, and all other income and receipts of whatever kind or character derived by the City from, the operation of the System. Operation and maintenance expenses include all ordinary and necessary expenses of operation, repair, maintenance, and insuring of the System under generally accepted accounting principles. Such term includes the cost of purchased water and payments to all taxing authorities, but does not include debt service and depreciation expense.

Debt Service Reserve

From the proceeds of sale of each series of Bonds issued pursuant to the Indenture, there shall be deposited into the Debt Service Reserve Fund an amount which, together with the amounts then on deposit therein, will be equal to 50% of the aggregate maximum Annual Debt Service on all Outstanding Bonds in any Fiscal Year thereafter (the “Reserve Requirement”).

If the amount in the Debt Service Reserve Fund is ever reduced below the Reserve Requirement, it shall be reimbursed to the Reserve Requirement through monthly payments, beginning not later than the fifth business day preceding the fifteenth day of the month immediately following the month in which the Debt Service Reserve Fund was reduced below the Reserve Requirement, and continuing not later than the fifth business day preceding the fifteenth day of each month thereafter until such reimbursement shall have been accomplished, from any funds in the Revenue Fund (after making the required deposits into the Operation and Maintenance Fund, into the Bond Fund and into the bond fund and debt service reserve fund with respect to the Series 1999 Bonds, as provided in the Indenture), in an amount equal to 1/12 of the Reserve Requirement, such surplus shall be deposited into the Bond Fund.

Renewal and Replacement Fund - (Series 2002 Bonds only)

After making the required payments into the Operation and Maintenance Fund, into the bond fund and debt service reserve fund with respect to the Series 1999 Bonds, into the Bond Fund and the Debt Service Reserve Fund, and into the bond funds and debt service reserve funds with respect to any Subordinate Obligations, there shall be paid from the Revenue Fund into the Renewal and

Replacement Fund no later than the fifth business day preceding the fifteenth day of each month while any of the Bonds are Outstanding, an amount sufficient to cause the amount on deposit therein to equal \$300,000 or such greater amount as the City may determine from time to time as appropriate, provided that the amount to be deposited in any month need not exceed 1/12 of the amount then required to be on deposit therein. The moneys in the Renewal and Replacement Fund shall be used solely for the purpose of paying the costs of necessary repairs or replacements due to depreciation of the System and not paid for with moneys in the Operating and Maintenance Fund and costs of damage caused to the System by unforeseen catastrophes.

The procedures performed in accordance with the foregoing requirements of the Water and Sewer System Refunding Revenue Bonds Series 2002A and 2002B (2002 Bonds) and the Water and Sewer System Refunding Revenue Bonds Series 2004 (2004 Bonds) are as follows:

1. Obtain the following schedules from the City:
 - a. Unaudited Statement of Revenues, Expenses, and Changes in Fund Balance for the Year Ended December 31, 2006, for the Water and Sewer Fund.
 - b. Unaudited Schedule of Changes to Sewer Rates for the Year Ended December 31, 2006.
 - c. Unaudited Schedule of Forecasted Revenues and Operation and Maintenance Expenses for the Year Ending December 31, 2007, for the Water and Sewer Fund.
2. Clerically test the schedules obtained in step 1. above.
3. Compare the schedule obtained in step 1b. above to supporting documentation provided by the City.
4. Recalculate the revised amount for the Sewer Service revenue as presented on the schedule obtained in step 1b. above.
5. Recalculate Net Revenues as defined by the bond indentures and as presented on Exhibit I to the schedule obtained in step 1c. above, and determine that the amounts are in agreement.
6. Obtain the City's calculation of the average Annual Debt Service for the 2002 Bonds and 2004 Bonds.
7. Recompute the average Annual Debt Service for the 2002 Bonds and 2004 Bonds by performing the following:
 - a. Divide total debt service requirements by the number of years to maturity.
 - b. Multiply the amount calculated in step 7a. by 1.25.
 - c. Determine that the amounts are in agreement with the City's calculation.
8. Obtain the City's calculation of the amount, if any, needed to make the required deposit to the Debt Service Reserve Fund.
9. Recompute the amount, if any, needed to make the required deposit to the Debt Service Reserve Fund by performing the following:

- a. Multiply the aggregate maximum annual debt service of said bonds times 50% to calculate the required minimum debt service fund balance.
 - b. Recalculate the deficit, if any, of the balance in the Debt Service Reserve Fund as of December 31, 2006.
 - c. Determine that the deposit amount agrees to the City's calculation.
10. Obtain the City's calculation of the amount, if any, needed to make the required deposit to the Renewal and Replacement Fund.
11. Recompute the amount, if any, needed to make the required deposits to the Renewal and Replacement Fund by performing the following:
 - a. Recalculate the deficit, if any, of the balance in the Renewal and Replacement Fund as of December 31, 2006.
 - b. Determine that the deposit amount agrees to the City's calculation.
12. Determine that net revenues, as forecasted by the City, will be at least equal to (i) 125% of the Average Annual Debt Service on all Series 2002 and 2004 Bonds after taking the Net Revenues as defined by the bond indentures and as presented on Exhibit I, less (ii) the amount, if any, needed to make required deposits to the Debt Service Reserve Fund and (iii) the amount, if any, needed to make the required deposits to the Renewal and Replacement Fund.

City of Fayetteville, Arkansas
Water and Sewer Fund
Schedule of Forecasted Revenues and Operation and Maintenance Expenses
Year Ending December 31, 2007

Forecasted Revenues

Water service	\$ 12,795,566
Sewer service ⁽¹⁾	12,628,839
Interest income	803,734
Intergovernmental	999,367
Other	<u>1,085,581</u>

Total revenues 28,313,087

Forecasted Operation and Maintenance Expenses

Personnel services	4,002,795
Materials and supplies	1,387,069
Contract services and charges	15,118,771
Maintenance	<u>158,076</u>

Total operating expenses 20,666,711

Forecasted Net Revenues \$ 7,646,376

Notes to Schedule**Note (A) Assumptions**

Revenues and operation and maintenance expenses for 2007 were forecasted by the City based upon the assumption that the amounts would be equivalent to the 2006 reported amounts with the following exception:

⁽¹⁾ Sewer service revenues for 2007 were forecasted by the City based upon 2006 data adjusted by the difference between the old and new rates charged for service to non-wholesale customers outside of the city limits of Fayetteville, AR, times the number of gallons sold to those customers in 2006.

Note (B) New Sewer Rates

On March 1, 2007, the City proposed an amendment to the sewer service agreement with all non-wholesale customers outside of the city limits of Fayetteville, AR, which would decrease the amount charged to the entities from \$7.16 per 1,000 gallons to \$4.66 per 1,000 per gallons used, effective May 1, 2007.

City of Fayetteville, Arkansas
Water & Sewer Fund
Schedule of Debt Service Requirements
Year Ending December 31, 2007

Water and Sewer Revenue Bonds						
Year	Series 2002A			Series 2002B		
	Principal	Interest	Total	Principal	Interest	Total
2002	\$ 85,000	\$ 26,503	\$ 111,503	\$ 605,000	\$ 82,532	\$ 687,532
2003	410,000	45,020	455,020	25,000	273,588	298,588
2004	420,000	80,405	500,405	25,000	273,000	298,000
2005	430,000	67,805	497,805	30,000	272,250	302,250
2006	445,000	53,400	498,400	30,000	271,246	301,246
2007	460,000	37,380	497,380	35,000	270,166	305,166
2008	480,000	19,440	499,440	35,000	268,800	303,800
2009	-	-	-	535,000	267,382	802,382
2010	-	-	-	555,000	245,180	800,180
2011	-	-	-	580,000	221,313	801,313
2012	-	-	-	605,000	195,505	800,505
2013	-	-	-	635,000	167,978	802,978
2014	-	-	-	660,000	138,450	798,450
2015	-	-	-	695,000	107,100	802,100
2016	-	-	-	725,000	73,392	798,392
2017	-	-	-	765,000	37,868	802,868
Total	\$ <u>2,730,000</u>	\$ <u>329,953</u>	\$ <u>3,059,953</u>	\$ <u>6,540,000</u>	\$ <u>3,165,750</u>	\$ <u>9,705,750</u>

Required Deposits

Debt Service Reserve Fund

Fund balance, December 31, 2006	\$ 1,188,053
Less: aggregate maximum annual debt service x 50%	<u>1,188,053</u>
Required deposit to the debt service reserve fund	\$ <u>0</u>

Renewal and Replacement Fund

Fund balance, December 31, 2006	\$ 300,000
Less: minimum balance requirement	<u>300,000</u>
Required deposit to the renewal and replacement fund	\$ <u>0</u>

Exhibit II

Series 2004			Total		
Principal	Interest	Total	Principal	Interest	Total
\$ -	\$ -	\$ -	\$ 690,000	\$ 109,035	\$ 799,035
-	-	-	435,000	318,608	753,608
130,000	1,300	131,300	575,000	354,705	929,705
585,000	189,145	774,145	1,045,000	529,200	1,574,200
595,000	174,520	769,520	1,070,000	499,166	1,569,166
615,000	159,645	774,645	1,110,000	467,191	1,577,191
635,000	141,195	776,195	1,150,000	429,435	1,579,435
655,000	122,145	777,145	1,190,000	389,527	1,579,527
670,000	103,805	773,805	1,225,000	348,985	1,573,985
690,000	83,370	773,370	1,270,000	304,683	1,574,683
1,515,000	60,600	1,575,600	2,120,000	256,105	2,376,105
-	-	-	635,000	167,978	802,978
-	-	-	660,000	138,450	798,450
-	-	-	695,000	107,100	802,100
-	-	-	725,000	73,392	798,392
-	-	-	765,000	37,868	802,868
<u>\$ 6,090,000</u>	<u>\$ 1,035,725</u>	<u>\$ 7,125,725</u>	<u>\$ 15,360,000</u>	<u>\$ 4,531,428</u>	<u>\$ 19,891,428</u>

Number of Years to Maturity

16

Aggregate Average Annual Debt Service

\$ 1,243,214

Aggregate Average Annual Debt Service x 125%

\$ 1,554,018

Aggregate Maximum Annual Debt Service

\$ 2,376,105

City of Fayetteville, Arkansas
Water & Sewer Fund
Schedule of Forecasted Net Revenues and Debt Service Requirements
Year Ending December 31, 2007

Forecasted Net Revenues (Exhibit I)	\$ <u>7,646,376</u>
Debt Service Requirements (Exhibit II)	
(i) 125% of the average annual debt service on all bonds	1,554,018
(ii) Required deposits to the debt reserve funds	<u>—</u>
(iii) Required deposits to the renewal and replacement fund	<u>—</u>
	<u>1,554,018</u>
Estimated Excess of Forecasted Net Revenues Over Debt Service Requirements	\$ <u><u>6,092,358</u></u>

ALDERMAN AGENDA REQUEST

New Business (Last)

FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM:

ALDERMAN KYLE COOK

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

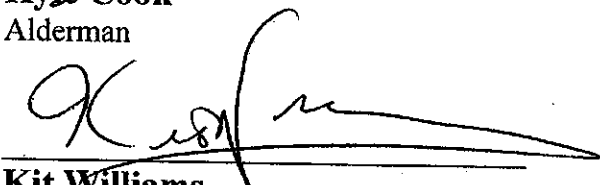
A Resolution To Purchase 13.75 Acres From The Forrest F. Brooks Revocable Trust Located North (And Below) The Lake Lucille Spillway For \$495,000.00 And To Sell 1.89 Acres To The United Presbyterian Church For \$68,000.00 And To Sell The Development Rights Of The Remainder To The Fayetteville Natural Heritage Association And Neighbors For \$179,500.00

APPROVED FOR AGENDA:



Kyle Cook
Alderman

3/13/07
Date



Kit Williams
City Attorney (as to form)

3-13-07
Date

RESOLUTION NO. _____

A RESOLUTION TO PURCHASE 13.75 ACRES FROM THE FORREST F. BROOKS REVOCABLE TRUST LOCATED NORTH (AND BELOW) THE LAKE LUCILLE SPILLWAY FOR \$495,000.00 AND TO SELL 1.89 ACRES TO THE UNITED PRESBYTERIAN CHURCH FOR \$68,000.00 AND TO SELL THE DEVELOPMENT RIGHTS OF THE REMAINDER TO THE FAYETTEVILLE NATURAL HERITAGE ASSOCIATION AND NEIGHBORS FOR \$179,500.00

WHEREAS, the City may exercise an option to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust in the amount of \$495,000.00 by March 31, 2007; and

WHEREAS, neighbors, the Fayetteville Natural Heritage Association and the United Presbyterian Church have agreed to purchase a portion of the property or development rights from the City for a total of \$247,500.00; and

WHEREAS, this property has been highly rated for preservation by the Fayetteville Natural Heritage Association, has access for public trails, and has good natural habitat for wildlife.

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 agrees to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust for \$495,000.00 if the neighbors and Fayetteville Natural Heritage Association purchase development rights from the City (similar to Sequoyah Woods development rights) for \$179,500.00 and the United Presbyterian church purchases 1.89 acres from the City for \$68,000.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Coody to sign any documents necessary to effectuate this purchase and subsequent sale of 1.89 acres to the United Presbyterian Church and the development rights to the Fayetteville Natural Heritage Association and contributing neighbors.

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

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA SMITH, City Clerk

To: Mayor/City Council
From: Kyle Cook, Ward 2 Position 1
Date: March 13, 2007
Subject: Acquisition of Brooks-Hummel Property

RECOMMENDATION: The City Council approve acquisition of the Brooks-Hummel property in the amount of \$247,500.00 to preserve as green space.

BACKGROUND: The Brooks-Hummel property located just below the Lake Lucille spillway (see attached map) became available for purchase last fall. Since that time, FNHA, neighbors, and concerned citizens have secured a purchase option for the 13.75 acres until March 31, 2007 in order to allow time to raise funds, and to date, half the purchase price has been raised. I recommend the City of Fayetteville partner with the neighbors and purchase this land as an installment to the city's enduring green network.

I believe the citizens support land preservation based on their comments from both the 2003 and 2005 citizen surveys.

"Buying land to preserve open or green space"

The citizens declare they are very supportive (41%) and supportive (35%) of the City acquiring land to preserve open or green spaces (Table 47). Twelve percent are neither supportive nor unsupportive while the remaining 12 percent (9 percent unsupportive and 3 percent very unsupportive) expressing disapproval of the City acquiring land to preserve open or green spaces. Fayetteville residents' current level of support (76%) for the city buying land to preserve open or greenspace is slightly higher than that of residents of Washington and Benton Counties in 2000 (74%) and also exceeds the state average of 64 percent.³⁶ This level of support has also increased since 2003, when 69 percent of residents asserted they were very supportive (35%) or supportive (34%) of acquiring land to preserve open or greenspace."

Also, the recently adopted City Plan 2025 states in Goal 5 that we will assemble an enduring green network. "One of Fayetteville's overwhelming differences from other cities is the character and quality of the environmental setting. As such, nurturing this setting is of economic benefit to the city, as a quality environment confers value and attracts residents who all get to share in the common amenity." Continuing in Goal 5, action item two states we will "Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners."

With that said, I urge the City Council to act upon this opportunity to partner with FNHA and the neighbors to acquire this magnificent tract of land in the heart of our city for the enjoyment of our future generations.

Brooks-Hummel Nature Reserve Project (First Part of "Enduring Green Network"?)

The Property

- **Central Location (13.75 acres)**
- **Ecological Diversity**
 - + **Top Ward 2 Aquatic & Second Terrestrial Ranking**
 - + **Sublet Creek and Grassy Areas Vital for Wildlife**
- **Good Public Access (Hillcrest & United Presbyterian Church)**
- **Proposed E-W Trail Could Cross**

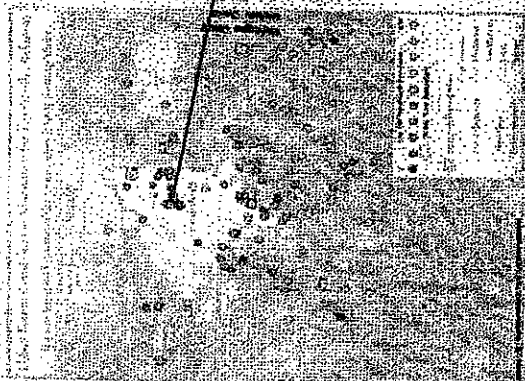
The Proposal

- **FNHA Holds Option to Purchase for \$495k**
 - + **Extended to March 31, 2007**
- **Neighbors/FNHA Have "Raised" \$247.5k from 148 Donors**

Cash	\$143.8k	
Pledges	35.7k	(29.7k Identified, 6k from FNHA)
Sale	<u>68.0k</u>	(1.89 Acres to UPC)
	\$247.5k	

- **Propose City Accept Option and Purchase Property**
 - + **50% Private Funds**
 - + **50% Public Funds**

Conservation Assessment Result



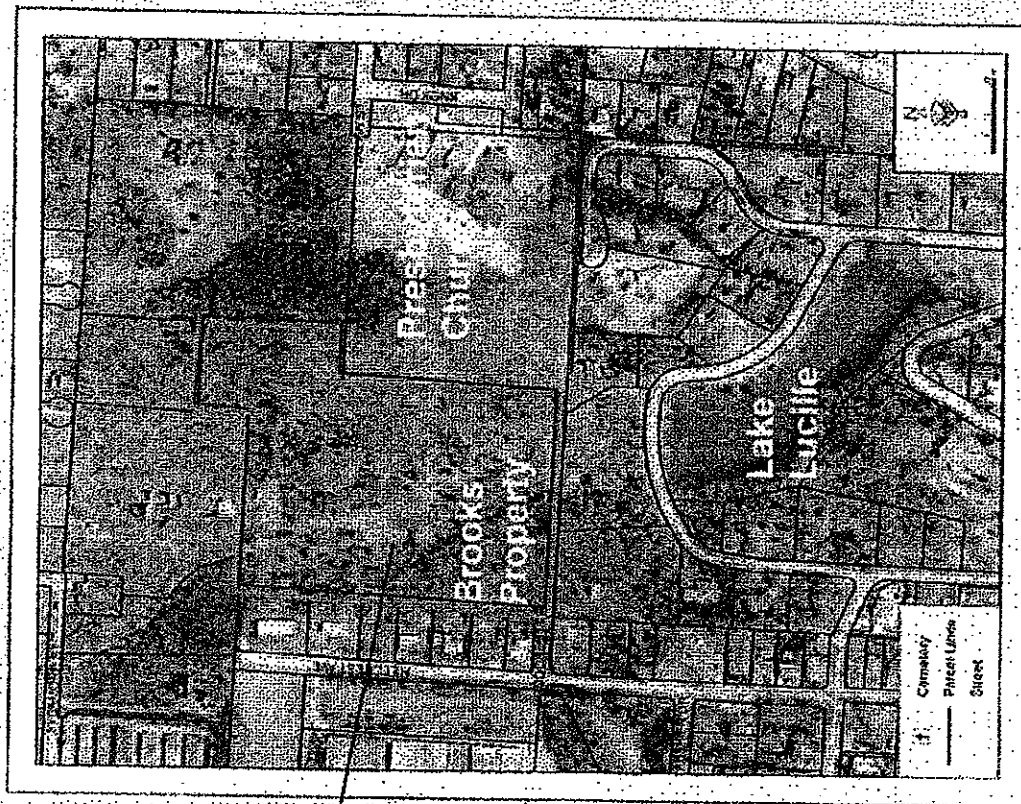
The Fayetteville Natural Heritage Association recently completed a study grant funded by the Arkansas Forestry Commission's Urban Forestry Program and the U.S. Forest Service that mapped valuable natural areas. Of all the city properties studied, the Brooks-Hummel property was one of the most worthy of conservation because of its unparalleled natural qualities.



P.O. Box 3635
 Fayetteville, AR 72702-3635

973-2963
 289-9111

Brooks-Hummel Nature Reserve Project



Local property owners have worked with FNHA to obtain a purchase option that expires February 28, 2007. When acquired, the property will be turned over to the city as a natural Park area. Significant pledges have already been raised, but your support is needed. Time is of the essence. The flyer with this display explains how you can help.

URBAN FOREST CONSERVATION ASSESSMENT

1/4

Site conservation worksheet

Site O

Ward 2 Rank: Terrestrial 2 and 4, Aquatic 1 and 2

This worksheet is to be used for 'on the ground' assessment of ranked parcels in the GIS study produced by The Nature Conservancy Highlands Office and the Fayetteville Natural Heritage Association. This project is supported in part by the Arkansas Forestry Commission's Urban Forestry Program and the U.S. Forest Service.

Date June 2, 2006

Crew hours and minutes 11AM-1PM

Site type (terrestrial or aquatic) location and/or name and aspect

Two properties are shown as aquatic and one adjoining property is terrestrial. Creek corridor and side sloping sites

Assessor(s) Crone/Rollett

Forest type This site is made up of several major forest types which are a pine grove and property adjacent to an ephemeral stream with hickory and hackberry. The other properties contain the major stream corridor and adjacent forest vegetation which is broken by annually mowed grassy areas along the length of the stream.

Forest stage: Old growth _____, Secondary Growth ☒ Relative size of majority of canopy trees: up to 6" _____ medium 6-12 ☒ Large 12" and above _____
Size and species of specimen trees 40" white oak and 24" ash

Stratification (Primary, secondary, herb/shrub layers)

Well defined ☒ Somewhat defined ☒ Poorly defined ☒

Primary canopy density: somewhat open _____ somewhat closed ☒ closed ☒

Major primary canopy species One property has a Pine grove, hickory, hackberry grove. Other properties have sycamore and hackberry in creek bottom with ash species on the side-slopes that changes to a mixture of ash, hickory, and oak further up-slope

Major secondary canopy species-pine grove has little understory except for pine saplings. The hickory/hackberry parts of the site exhibit blackberry and grasses where open to the sun, but otherwise saplings primarily the same as the primary species.

The other properties exhibit lush flood plane vegetation that is impenetrable immediately adjacent to the creek with understory similar to canopy species

Major herb/shrub species One site exhibits vinea near disturbed sites such as the cemetery near the Wheeler Road access point. Where light is bright blackberry and lonicera species flourish. Wild rose and wild grape are also evident indicating site disturbance. The other properties exhibit thick undergrowth adjacent the creek but the grassy meadows parallel the creek and make the site totally accessible. Indian current, mayapple, and lonicera shrub were major herb/shrub species.

2/4

The diversity of natural features on the parcel allows a glimpse of the varied ecosystems of the region. Yes x No _____ or has some other notable attributes
Notable variety of species and a number of good specimen hackberries and sycamores. A number of hickory and ash species were noted!

Unique site features-In addition to a number of good specimen trees such as a 6' dbh sycamore, the sites exhibit a number of vegetation types in a relatively small area. Paths appear to have been created by the public in several places.

Ease of access for walking and hiking are described as: good in most instances though the major creek corridor is not accessible due to heavy undergrowth in places

Visual quality of vegetation setting : low _____ medium _____ high x
(Mature primary canopy trees of one or two major species with open under-story providing strong visual penetration or savannah type)

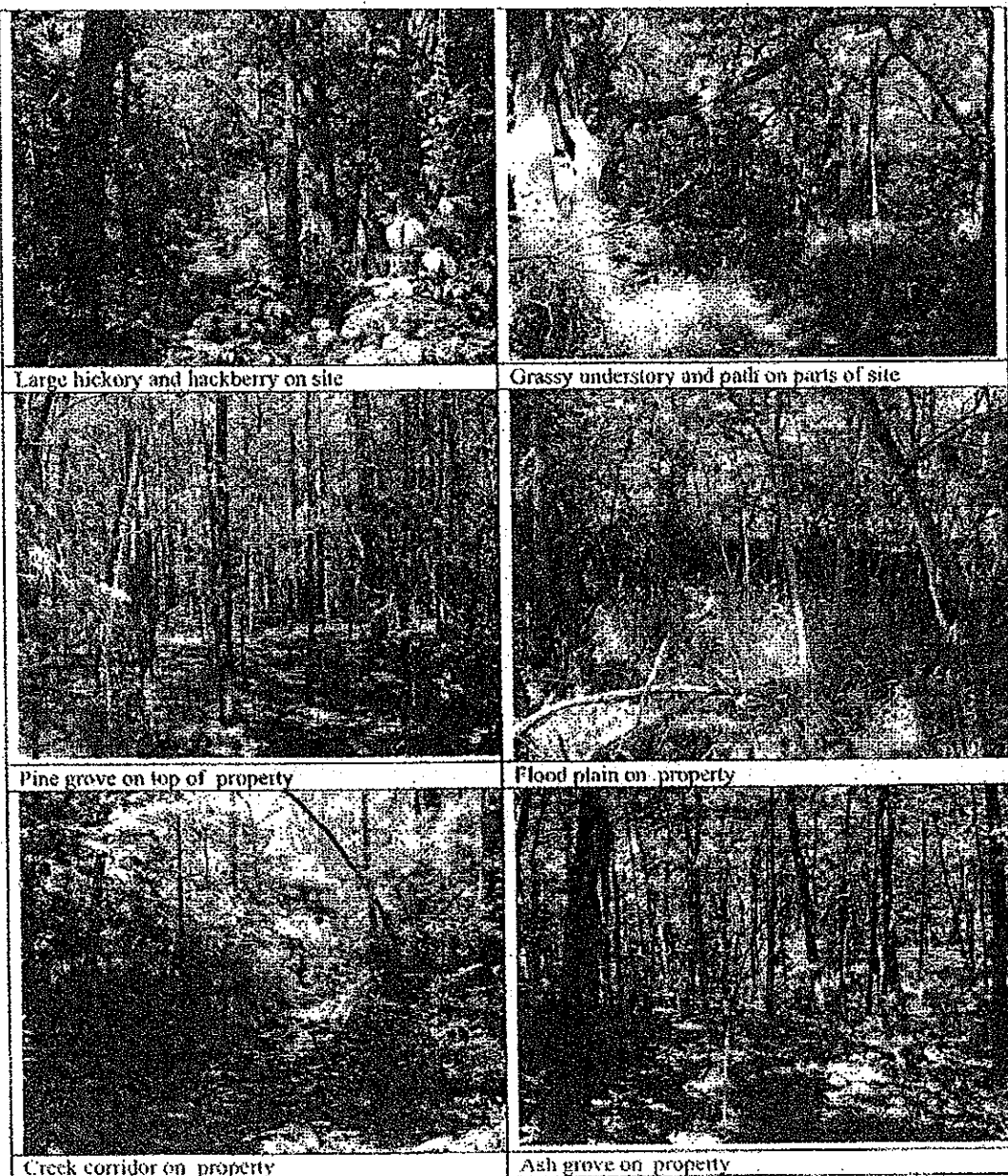
Additional notes and pictures: One site is for sale, and a major effort is underway to conserve it, because it is highly ranked in the city and ward 2. The stream bed is the outflow from Lake Lucille dam. This is an urban natural resource with a variety of site types. Parcels have good access through Lake Lucille, Sycamore Road and Wheeler Road. A major stream corridor is bordered by open mowed grassy areas and wooded slopes. There are both lowland and upland woods. Walking and hiking is good, and there are a variety of views.



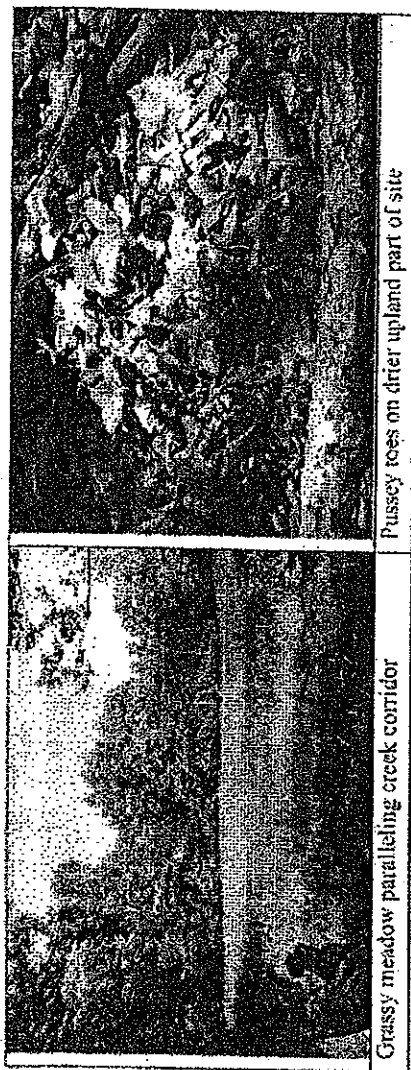
Large oaks on improved part of property

Ephemeral stream on top of property

3/4



A/A



Pussey toes on drier upland part of site

Grassy meadow paralleling creek corridor

~ STEPHEN LANCASTER

1/2

LETTER —

Bettie Lu Lancaster
1271 Lakeridge Drive
Fayetteville, AR 72703
(479) 521-4069
Kyle,

I hope this email address still works. My mom asked me to convince you that the city should help buy the Brooks property. There are good reasons why it should be preserved rather than opened for development (aside from the fact that it adjoins my mom's place and she'd hate to have a subdivision next door!). Of course, I'm writing as your trusted friend, but I also have my qualifications: I have a Ph.D. in Hydrology from MIT, and I'm an Assistant Professor of Geology at Oregon State Univ. Rivers and headwater streams are my specialty--mainly the physics of them, but I've picked up a lot of forest and aquatic ecology from my ecologist collaborators here and from my own ecological work back in 1992 with David Mott at the Buffalo National River. I also teach a course that focuses on river restoration.

For me, the property primarily serves as vital habitat for diverse wildlife. The Brooks (Mrs. Hummel's parents) used to operate a family farm on the site but haven't done so for, oh, probably 30 years, so much of the property is covered by a 30-year-old stand of naturally regenerated native oak-hickory complex. This forest is quite varied on the property, from mostly scrub-oak on some dry ridges to riparian forest along Sublet Creek. There is also still some grassland which provides forage for deer. The habitat quality of the property is enhanced further by two things. First, the grassy "gaps" in the forest (mostly near the creek) provide the kinds of transitional zones so favorable to species diversity. Second, the Brooks property, the common Lake Lucille property, Hugh Kincaid's property, the Presbyterian church property, and my mom's (Lancaster) property comprise a contiguous block of roadless 30-40-year old oak-hickory forest including riparian, wetland, midslope, and ridge-capping habitats. In addition, the property is literally a stone's throw from the undeveloped land on the north side of Ash St. That forest (as of a 2001 aerial photo) continues all the way to Township. While the Brooks property forms a substantial preserve on its own, were it eventually combined with some combination of easements and purchases to maintain the status quo, the property could be the kernel of a substantial "greenway" that is already utilized by all the wildlife that has undoubtedly fled from loss of habitat to development north of Township and east of Mission Blvd (and anywhere else nearby). Check out this area in TerraServer or Google Earth. It's a substantial forested block!

The property likely plays an important role in the water quality of Sublet Creek. Water from streams draining the developed areas (and undeveloped parts of Mt. Sequoyah) upstream of Lake Lucille is "filtered" in the wetlands below the dam and the robust riparian zones on the Brooks property. That riparian zone also provides shade and shelter for aquatic species. Also, there are several small, essentially pristine ephemeral streams that drain the forested slopes on the Brooks property and flow into Sublet Creek. The reach of Sublet Creek through the Brooks property might be the best aquatic habitat of Fayetteville's streams within the Illinois River's watershed. (After Sublet Creek

Page 3 of 3
2/2

leaves the Brooks property, it flows along the backs of the commercial properties on the east side of College Ave. north of Ash. Last I saw, that reach was pretty grimy and incised--your typical urban stream. The creek eventually crosses College and joins Scull Creek, and its water eventually makes its way to the Illinois River.)

The property also has significant historical value due to the presence of the "Skelton Cemetery," which contains graves from ca. 1900 and is dominated by the Skelton family plot, which includes some children's graves. There is already a primitive trail to this site (but I don't know from where, because I last found my way to the cemetery with my son, Corbin, from my mom's place). The children's graves especially are a touching reminder of how much modern medicine has changed our lives.

In summary, it's a pretty cool place with high-value terrestrial and aquatic habitats and a significant historical site, and I've enjoyed exploring it, well, pretty much my whole life. You should give it--and the adjacent undeveloped areas--an explore yourself if you haven't already so that you can appreciate what's at stake. Bill Kincaid might also have some interesting insights, as he and I used to play there as kids.

I hope you and Jennifer are both well!

Best regards,
Stephen

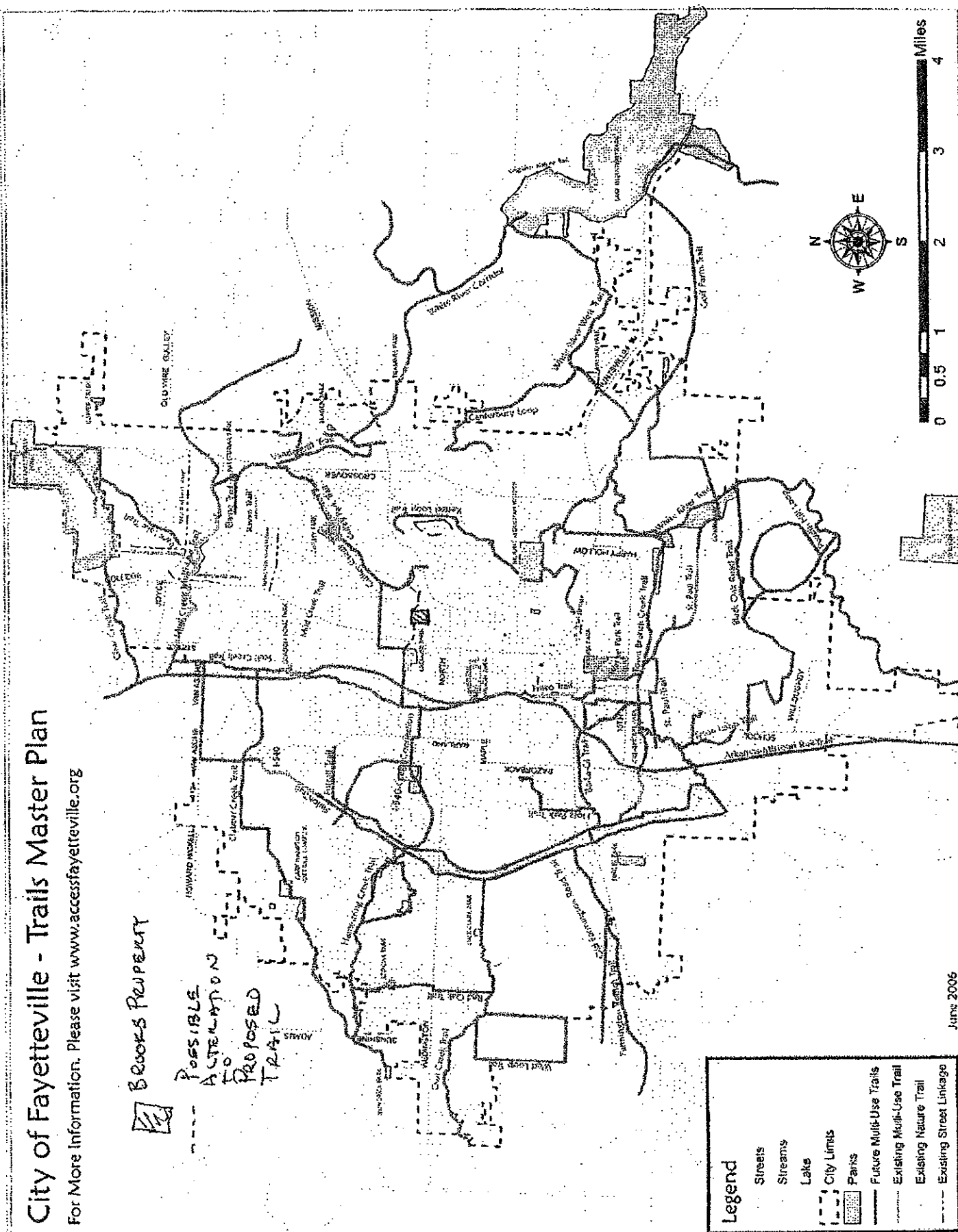
Stephen Lancaster, Asst. Prof., Dept. Geosciences, Oregon State Univ.
104 Wilkinson Hall, Corvallis, OR 97331-5506
(541) 737-9258 (off.); (541) 737-1200 (fax)
Stephen.Lancaster@geo.oregonstate.edu
URL: <http://www.geo.oregonstate.edu/~lancasts>

City of Fayetteville - Trails Master Plan

For More Information, Please visit www.accessfayetteville.org

Brooks Repealty

POSSIBLE
 ALTERNATION
 PROPOSED
 TRAIL



June 2006

Brooks Hummel Nature Preserve Fund Raising Activity

Anne England	1357 Edgehill Dr., 72703-2015
Amy L Wilson	1833 E Applebury, 72701-2439
Shagbark Development Co	PO Box 3103, 70702-3103
Paige & Mary Bess Mulholland	3917 E Caston, 72701
Jerry & Harriet Jansma	900 Lighton Trail, 72701
John King	590 E. Village Dr., 72703
Steven Skattebo	2103 Loren Circle, 72701-3039
Bill & Missy Kincaid	933 Pembroke Rd, 72701
David & Shay Hopper	1224 N Hillcrest, 72703
Johnnie & Peggy Qualls	309 Oakwood, 72703
Bryan Steel	1110 Lakefront Drive, 72703
Susan R Cone	1110 Lakefront Drive, 72703
Candy Clark & Teddy Cardwell	PO Box 1482, 72702-1482
Shelby Rogers	PO Box 4464, 72702-4464
Heather Daniel	PO Box 4041, 72702-4041
David & Carol Albert	PO Box 277, Goshen, 72735
Christopher & Lesa Moyer	1435 Meadowcliff Dr, 72703
Helen Duran & Bob Sanders	4234 Trough Springs Rd, 72703
Janice Ryan	424 North Willow, 72701
Cyrus & Martha Sutherland	1928 Haskell Heights, 72701
John & Tamara Gilmour	PO Box 1109, 72702-1109
Ruth Francis	6770 E Hahndo Lane, 72701-0285
Judith Kilpatrick	1255 W. Lakeridge, 72703-2031
Jay & Joyce Hale	285 W Cleburn St, 72701
Dorothy Neely	PO Box 1231, 72702-1231
Michael & Darcy Hansen	1235 Edgehill Dr., 72703
Marilyn Cochran	1331 Edgehill Dr., 72703
Alice Hampton	1108 E Lakeridge Dr, 72703
L Russert-Kraemer	PO Box 631, 72702-0631
Nancy & Nate Allen	PO Box 3105, 72702-3105
Bob & Natalie Pomeroy	1229 W Lakeridge Dr., 72701
Jeff Jackson	1414 N Hillcrest, 72703
Stephen Chism & Andrea Cantrell	540 E. Lakeridge, 72703, 72703
Tetsundo Sekiguchi - Ted & Chico	1333 Edgehill, 72703
Frank & Elizabeth Fickle	1160 E Lakefront Dr., 72703
Gina & Wayne Hudec	1230 W Lakeridge Dr, 72703
John Erod	1140 W Lakefront Dr, 72703
David & Missy Pledger	1348 Edgehill, 72703
Bill & Sabra Martin	1391 Edgehill, 72703
Rick & Laura McNoir	1650 Wheeler, 72703
Lauryl & Tim Hynes	500 E North Street, 72701
Bettie Lu Lancaster	127 Lakeridge Dr., 72703
James & Lynne Spellman	1219 W. Lakeridge Dr., 72703
Hugh & Brenda Kincaid	520 Lakeridge Dr., 72703
David Hyatt & Nedra Forrest	PO Box 3103, 70702-3103
Stephen & Bonnie Turner	1532 Hillcrest, 72703
Betty Lahiri	530 Lakeridge, 72703
Robert & Susan Walsh	406 E North St., 72701
Frank & Suzanne Doughty	884 N Skyline Dr., 72701-4514
Dick & Jackie Kellogg	725 Dogwood Lane, 72701
Tom & Mary Lynn Kennedy	520 N Willow Ave., 72701
Lowell & Kathy Grisham	310 N Washington, 72701
David O. Shepherd	1547 Lunsford Ave, 72701
Marcia Rachel	2223 Plumarosa, 72701
David Hunter & K. Mueller	833 Bryan Lane, 72701

Brooks Hummel Nature Preserve Fund Raising Activity

Susan Regan	308 E. Spring Street, 72701
Betty Solis	147 Cydnee, 72703
John Van & Rosemary Brahana	882 N. Lewis Lane, 72701
Candace Whiffield	835 Pembroke, 72701
Johnny & Susan Adkins	1322 Southern Heights, 72701-4469
Art Fry	1923 Joyce #323, 72703
Nancy McCartney	1638 W. Maple St, 72701
Buddy & Susan Chadick	423 E. Spring St., 72701
Libby Wheeler	1635 W. Shadowridge, 72701
Julie Preddy	3030 N. Quail Creek Dr., 72703
Jimmy & Jeanie Hill	422 W. Cleburn, 72701
Paul & Maxine LeBlanc	2842 Stanton Ave, 72703
Bill & Margie McKenzie	2411 Gentle Oaks Ln, 72703
Robert & Mary Alguire	1235 N Hillcrest Ave., 72703
Herschel & Barbara Sandefur	1651 W. Cleveland St., 72701
Jeff & Sarah Mitchell	1143 W. Lakeridge, 72703
Mike & Martha Ward	432 Hawthorn St., 72701
Robert A. Jordan	280 W. Ila St., 72701
Barbara Dillon	126 W Ila Street, 72701
Bob Brewer & Jonna Hussey	517 Lytton, 72701
Martha Malley	872 N. Lewis Lane, 72701
Luke & Janet Parsch	467 Rockcliff Rd, 72701-3607
Chaim Goodman-Strauss & Kendall Curren	524 W. Prospect St., 72701
Karen Rollet-Crocker	951 N Pembroke Rd, 72701-2522
Steve & Sally Harms	4470 E Bridgewater Ln, 72703-4611
Norma Hoffrichter	1130 E Lakeridge, 72703
David & Marsha Crittenden	1408 Elmwood Dr., 72703-3002
Martha Agee	1000 Crest Dr., 72701-2312
Ozark Headwaters Grp. of Sierra Club	J.Hale, treas., 285 W Cleburn, 72701
Sue E. Schultze	2632 Bent Trail, Springdale, 72762
James Keenan	PO Box 9600, Fayetteville, 72703
Ron & M-E Anderson	1423 E Ridgeway Drive, 72701
Liz & Les Howick	1823 E. Elkhorn Circle, 72703
Dennis & Linda Collins	387 Assembly Dr., 72701
Carolyn B Madison	PO Box 8601, 72703-0011
John & Shawana Thorup	2314 Thistle Dr., 72704
Wanda Belzung	1923 Joyce Blvd, #255, 72703-5398
Craig & Becky Parker	1707 N Wheeler Ave., 72703
Suzanne Macrae	517 Fallin, 72701-3632
Nancy Reed Koetter	3076 N Dorchester Drive, 72703
Dede Peters	306 E Baxter Lane, 72701
Kathy Thompson	793 E Lighton Trail, 72701
Gene Fry	1923 E Joyce Blvd #323, 72703
First United Presbyterian Church	695 Calvin St., 72703
Ozark Natural Foods	1554 N College, 72703, 521-7558
Pre-option	Money paid to Brooks family
Bob Caulk	790 Missouri Way, 72701, 973-2968
Duane Wollien	821 Applebury Dr., 72701, 521-7203
Wall Eilers	2044 Archer Drive, 72701, 582-0784
David Chance	Springdale AR, 72764
Henry Turner & Megan Chapman	545 E Prospect, 72701, 582-2171
Sami Kopelman	432 N Assembly Dr., 72701, 251-7395
Rita Caver	304 W Cleburn, 72701, 582-0450
Richard & Susie Jones	957 Tanglebriar, 72701-0219, 521-0219
John Barcroft	2819 Prince William Dr., 72703-3993

Brooks Hummel Nature Preserve Fund Raising Activity

Nadine Chenault	PO Box 9358, 72703, 521-1809
Friends of Sami Kopelman; BD gift contr	2591 Oak View Dr., Springdale, 72762
Russell Meller & Susan Hankins	2261 E Meandering Way, 72701
Don Tyson (c/o Robin Wages)	PO Box 2020, S'dale, 72765, 290-7039
Bill Harrison	3 Mt. Nord, 72701
John & Kay DuVal	1131 Eastwood, 72701
Sharon Wilson	1805 N Fox Hunter, WC 75, 72701
Chaim Goodman-Strauss/K. Curlee	524 W Prospect, 72701, 443-5151
Carl Circo	412 N Assembly, 72701, 442-7110
Pete & Margo Heinzelmann	1737 Applebury Drive, 72701, 521-8973
Jim Lindsey	
Penguin Ed's BBQ, Diane & Ed Knight	230 S. East St., 72701, 521-3663
Holly Bryan (from Sue & Buddy Chadick	423 E Spring Street, 72701, 443-0865
Jura & Lisa Margulis	578 Rockcliff Rd., 72701, 443-0242
Heather Blair	5202 Dorchester #3, Chicago, IL 60615
Dr. Diana Gonzales Worthen	16700 Doolittle Rd, Springdale, 72764
Arden Blair	9515 Red Rain, Columbia, MD, 20146
Mike & Angela Martin Crowley	3953 Thistle Lane, Ft. Worth, TX, 76109
Jean Gordon	2510 Hidden Valley Dr., LR, AR, 72212
Barbara Tyson	2694 Randal Pl., 72703,
Kim Agee	1561 Rhonda, 72703,
Martha Agee	1000 Crest Dr., 72701
Steven Skattebo	2103 Loren Circle, 72701-3039, 251-9442
Victoria Bransford McClendon	146 Prospect St., 72701
Sonya Yates	2 W Mt Nord, 72701, 521-0143
Brian Fry (thru Art Fry)	1923 E Joyce #323, 72703
Louisa Jong	2684 Stanton Ave., 72703, 443-4294
Mark & Diane Simmons	410 W Central, Siloam Spr., 72761
Eve Agee	1029 N. Eastwood Dr., 72701, 444-0059
Don Pitts	2790 So. Thompson, S'dale, 72764, 872-3812
Uncle Sam's Safari customers	1494 No. College Ave, 72701, 521-7779
Susan Jenkins	40 E. Elm St., 72703, 521-1255
Suzanne MacRae	517 Fallin, 72701
Nancy Maier	951 Missouri Way, 72701, 521-5678
Lynda Coon	1336 N Hillcrest, 72703-1924, 571-1067
Bud & Suzanne Edwards	578 N Rockcliff Rd., 72701-3808
Trisha & Boyd Logan	1426 Hillcrest Ave, 72703, 521-1443

2005 Survey of Citizens of Fayetteville, Arkansas
Report of Findings
Conducted by the Survey Research Center, University of Arkansas
December 2005

Buying land to preserve open or green space

The citizens declare they are very supportive (41%) and supportive (35%) of the City acquiring land to preserve open or green spaces (Table 47). Twelve percent are neither supportive nor unsupportive while the remaining 12 percent (9 percent unsupportive and 3 percent very unsupportive) expressing disapproval of the City acquiring land to preserve open or green spaces.

Fayetteville residents' current level of support (76%) for the city buying land to preserve open or greenspace is slightly higher than that of residents of Washington and Benton Counties in 2000 (74%) and also exceeds the state average of 64 percent.³⁶ This level of support has also increased since 2003, when 69 percent of residents asserted they were very supportive (35%) or supportive (34%) of acquiring land to preserve open or greenspace.

Limiting funding for development to only certain areas of the city

In 2005, citizens were told that cities sometimes focus on specific areas of the city that need more development and then were asked how supportive they are of providing incentives to encourage development temporarily in specific areas of the city. In 2003, the question was

stated, "How supportive or unsupportive are you for limiting funding for development to only certain areas of the City?"

In 2005, 67 percent are either very supportive (18%) or supportive (49%), while 12 percent are unsupportive (9%) or very unsupportive (3%) of providing incentives to encourage development temporarily in specific areas of the city. The remaining 21 percent of the citizenry are neither supportive nor unsupportive. Differences due to question wording cannot be measured, but if Fayetteville's citizens interpreted the questions similarly, in 2005 they appear to be more supportive of temporarily targeting certain areas of the city for development than they were in 2003 when about 51 percent of Fayetteville residents were supportive (40%) or very supportive (11%) of limiting funding for development of only certain areas of the city. The level of support for focused development espoused by Fayetteville's residents in either 2005 or 2003 far exceeds the 36 percent of Arkansans, in general, and the 42 percent of Benton and Washington County residents who advocated funding only growth-targeted areas of the state in 2000.³⁷ Again, the comparisons are limited by the equality of the questions (Table 47).

³⁶ University of Arkansas at Little Rock Institute of Government. (2000). *Growth in Arkansas*. Little Rock Arkansas, pp. 9-10.

³⁷ University of Arkansas at Little Rock Institute of Government. (2000). *Growth in Arkansas*. Little Rock Arkansas, pp. 9-10.

Goal 5: We will assemble an enduring green network.

The natural environment, and connections with the environment, is part of what makes Fayetteville special. Residents treasure the quality of life associated with living in a place that offers magnificent views and a variety of recreational opportunities. The natural environment of Fayetteville needs to be properly preserved and enhanced. The City of Fayetteville community needs to increase efforts to protect the natural landscape, increase parks and trails, and preserve long views across open green spaces.

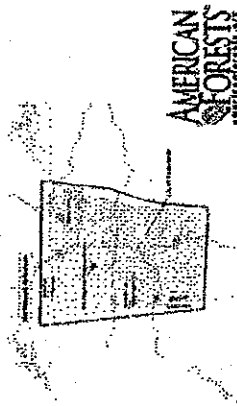
A green network helps maintain the community character and quality of life that makes Fayetteville the great city that it is today, and contributes to the economic success and stability of the City. Fayetteville must compete with other cities in the region for population, jobs, and retail sales. It has a number of assets unavailable to the other cities including the University of Arkansas, the Walton Arts Center, Dickson Street, and an intact city core area that is improving and strengthening. One of Fayetteville's overwhelming differences from other cities is the character and quality of the environmental setting. As such, nurturing this setting is of economic benefit to the city, as a quality environment confers value and attracts residents who all get to share in the common amenity. If the City chooses unregulated development that strips away the natural setting or reserves pieces of it for only a select few, it will lose one of its advantages in the regional economic competition. Since this environment is one of the advantages that distinguish Fayetteville from other cities, it can be an important factor in marketing the unique quality of life to future residents and employers.

September 2003 Urban Ecosystem Analysis Benton and Washington Counties, Arkansas

Calculating the Value of Nature

Report Contents

- 2-3 Project Overview and Major Findings
- 4-8 Regional Ecosystem Analysis
- 4-8 Fayetteville Ecosystem Analysis
- 9 Strengthening Development Knowledge
- 10 Recommendations Initiative
- 11 About The Urban Ecosystem Analysis



Submitted to the URBAN Ecosystem Analysis



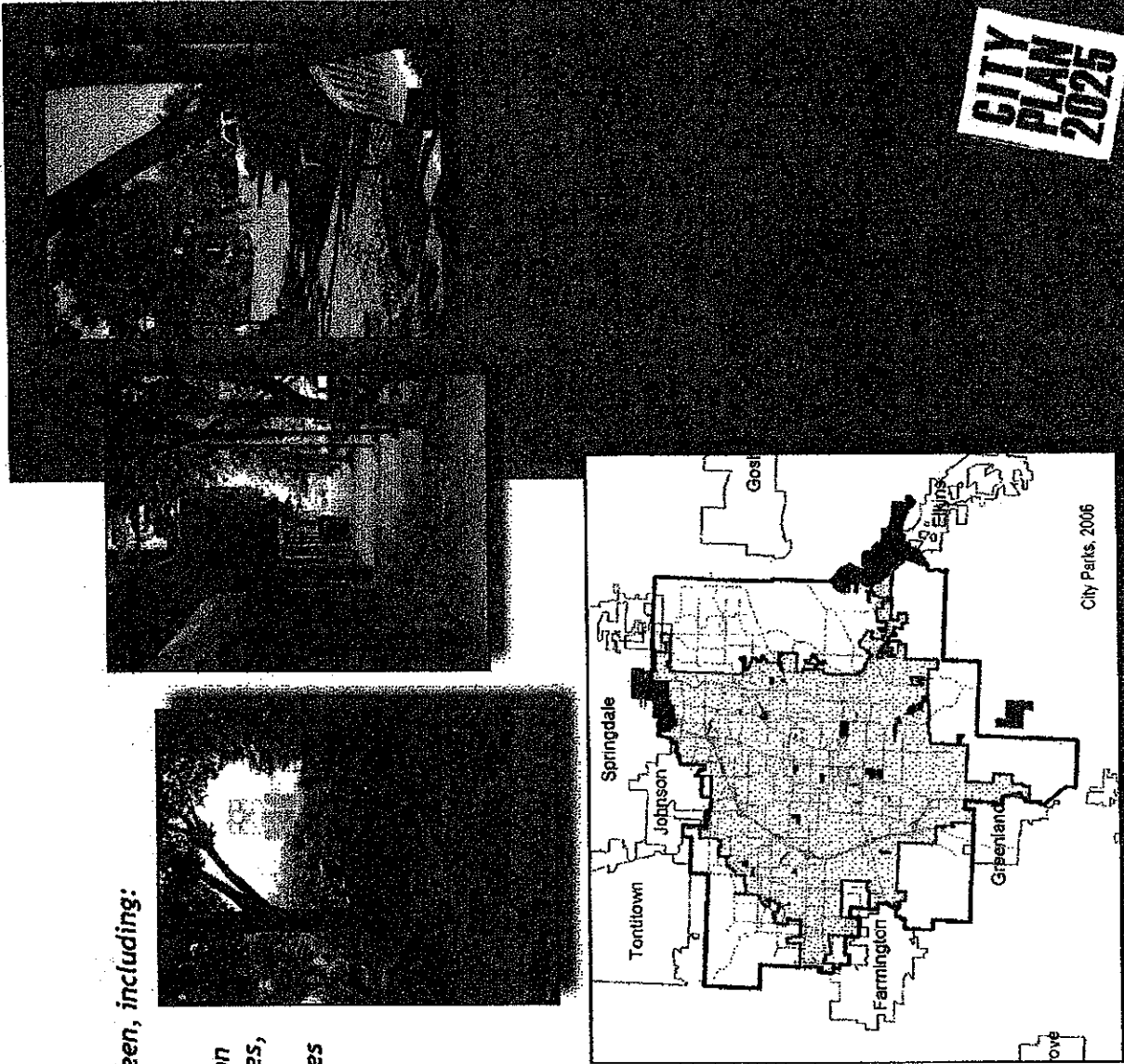
**CITY
PLAN
2025**

Objectives:

a. Vigilantly nurture a continuum of green, including:

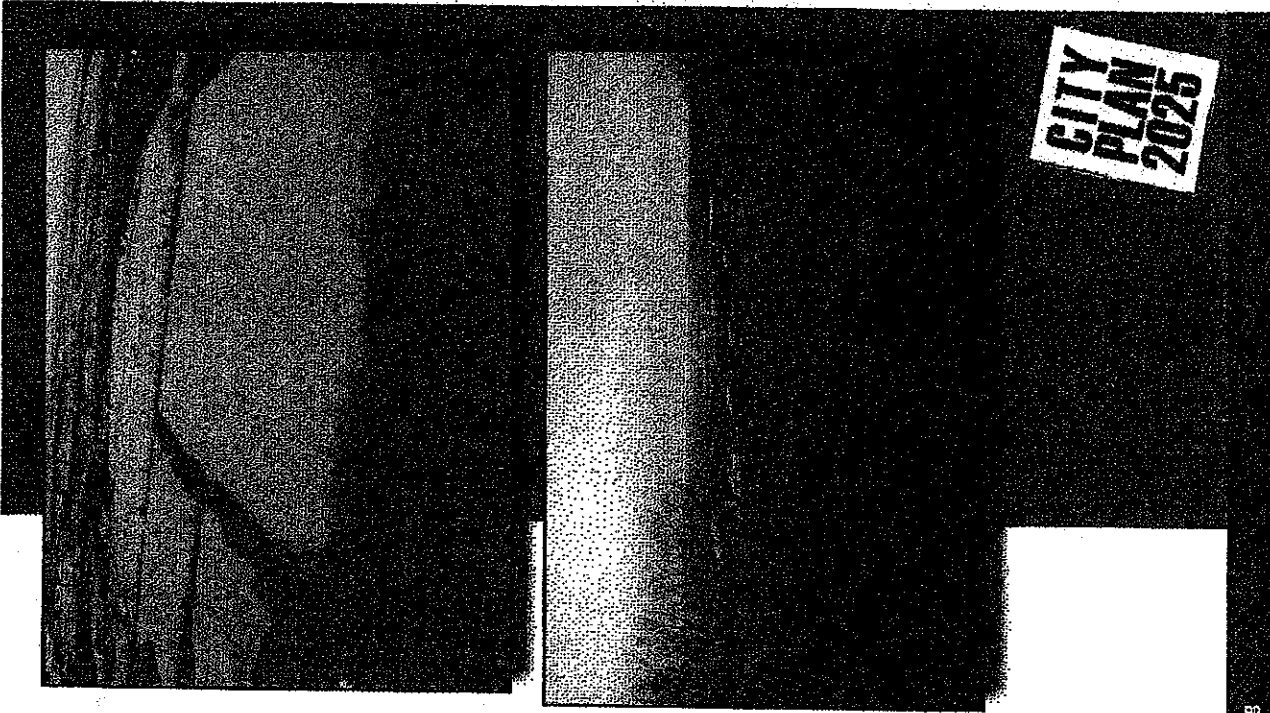
1. tree-lined streets
2. canopy restoration and protection
3. small neighborhood parks, squares, commons & greenbelts
4. major parks & recreation facilities
5. greenways & trails
6. large-scale preserves for preserving hillsides, protecting natural habitats & water quality, and scenic vistas

b. Accelerate public acquisition of open space and parks



c. Promote widespread deployment of conservation easements,
transfer of development rights, & cluster development

d. Maximize City influence over development & preservation in
outlying unincorporated areas



Goal 5: We will assemble an enduring green network.

Action I: Continue to utilize the 10-Year Parks Plan and the Alternative Transportation and Trails Plan.

Action II: Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners.

*Action III: Develop a transfer of development program.
(See TDR, Action Steps Goal II.)*

Action IV: Annex key locations within the Planning Area and provide a land use plan that reflects the principles in City Plan 2025.



Action I: Continue to utilize the 10-Year Parks Plan and the Alternative Transportation and Trails Plan.

Action II: Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners.

Action III: Develop a transfer of development program. (See TDR, Action Steps Goal II.)

Action IV: Annex key locations within the Planning Area and provide a land use plan that reflects the principles in City Plan 2025.

In order to ensure that large annexations initiated by the City Council reflect the goals in City Plan 2025, a land use plan should be generated by staff and property owners in the proposed annexation area before a special election. Developing a land use plan would provide Fayetteville residents and residents of the unincorporated area with concrete information about the effects of annexation and intended development. Promoting a balance of residential and commercial growth by requiring traditional neighborhood development also ensures that the vehicle miles generated from new development will be minimized.



Nominating Committee Report

Meeting Date: March 14, 2007

Room 326, City Hall 5:00pm

Members present: Kyle Cook, Adella Gray, Shirley Lucas, and Robert Rhoads.

The following is being submitted by the Nominating Committee to the entire City Council for consideration.

Advertising and Promotions Commission

The Advertising and Promotion Commission recommends the following candidate for appointment:

Neal Crawford – One term ending 3/31/11.

Audit Committee

The committee did not receive any applications for the Audit Committee.

Board of Adjustments

The committee recommends the following candidates for appointment:

Sheree Alt – one term ending 3/31/12

Michael Akins – one term ending 3/31/12

Civil Service Commission

The committee recommends the following candidate for appointment:

Larry Bittle – one term ending 3/31/13.

Construction Board of Adjustments and Appeals

The committee recommends the following candidates for appointment:

Stan Johnson – one term ending 3/31/12.

Kash Logan – one term ending 3/31/12.

The committee recommends the following candidates for alternate positions:

Gina Driggers – one term ending 3/31/08

Lisa Johnson – one term ending 3/31/08.

Fayetteville Public Library Board of Trustees

The committee recommends the following candidates for appointment:

Marla Hunt – one unexpired term ending 4/01/10

Mike Malone – one term ending 4/01/12

Lorraine Brewer – one term ending 4/01/12.

Nominating Committee Report

Meeting Date: March 14, 2007

Room 326, City Hall 5:00pm

Members present: Kyle Cook, Adella Gray, Shirley Lucas, and Robert Rhoads.

The following is being submitted by the Nominating Committee to the entire City Council for consideration.

Planning Commission

Two committee members recommend the following candidates for appointment:

Candy Clark – one term ending 3/31/10

Christine Myres – one term ending 3/31/10

Sean Trumbo – one term ending 3/31/10.

Two committee members recommend the following candidates for appointment:

Matthew Cabe – one term ending 3/31/10

Shelly West – one term ending 3/31/10

Sean Trumbo – one term ending 3/31/10.

The full committee interviewed all planning commission applicants and proceeded to discuss each nominee. We talked about past practices of the nominating committee including reappointing applicants unless their attendance was lacking. We also discussed placing the most qualified candidates available on the commission and the past service of the three current members that have reapplied. This conversation continued for about 20 minutes until I requested we continue interviewing for the other boards because we still had applicants waiting. At that point, Robert Rhoads left the meeting and the discussion ended with three members of the committee voting to replace two of the current planning commission members. After finishing all the interviews, we again discussed the planning commission nominees, and at the end of that conversation, the nominating committee meeting concluded with the recommendation split two to two.

FOR FILE (SLS)

Petition supporting the
Downtown Master Plan's
current height regulations

We, the undersigned, support the Downtown Master Plan's current height limitations, which were a product of a highly participative public process. These limitations for Main Street Center are a maximum height of 6 stories or 84 feet. The limitations for Downtown General are a maximum height of 4 stories or 56 feet.

Name	Address	Signature
RICHARD BERQUIST	329 N. WEST AVE	[Signature]
Aileen Lewis	2213 Aspen Dr	[Signature]
John Lewis	2273 Aspen Drive	[Signature]
John Nock	1501 FOREST HEIGHTS	[Signature]
Dave Torgerson	3180 Veluwe Dr Fayette	[Signature]
Steve Aust	3134 Kelsie mtn Rd Fayette	[Signature]
Stephen Mansfield	932 N. Garland Ave Fayette	[Signature]
CRAIG UNDERWOOD	2355 PEARL POINT #2, FAY AR	[Signature]
Laura Underwood	2355 Pearl Point #2, Fayette	[Signature]
Bill Underwood	1088 E Shadowridge Fayette	[Signature]
Jean Phillips	2881 Elizabeth Fayette 72703	[Signature]
Regi Spencer	2259 Aspen Drive Fayette 72303	[Signature]
Cynthia Beil	2115 Loren Circle Fayette 72701	[Signature]
David Tanner	639 N. WOODVIEW DR. FAYETTEVILLE 72701	[Signature]
MARK RUKAMATOV	65 S. DUNCAN AVE. APT#10 FAYETTEVILLE AR 72701	[Signature]
CHRIS BARRIBEAU	1516 LUNSFORD FAYETTEVILLE, AR 72701	[Signature]
ANGIE CAMPBELL	1648 E. MISSION FAYETTEVILLE, AR 72701	[Signature]
JORATHAN BOELKIN	475 W. REDVAUX RD. FAYETTEVILLE, AR 72701	[Signature]
Allison Walker	3462 W Chevaux Dr Fayetteville 72704	[Signature]
THOMAS KELLY	1659 N. Viewpoint Fayette 72701	[Signature]
Walt Styer	112 E Sunbridge Fayette 72701	[Signature]
Sig Futrell	2720 Centenwood Road Fayette 72703	[Signature]

We, the undersigned, support the Downtown Master Plan's current height limitations, which were a product of a highly participative public process. These limitations for Main Street Center are a maximum height of 6 stories or 84 feet. The limitations for Downtown General are a maximum height of 4 stories or 56 feet.

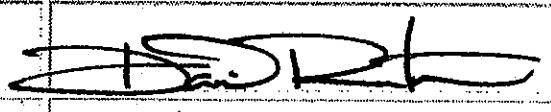
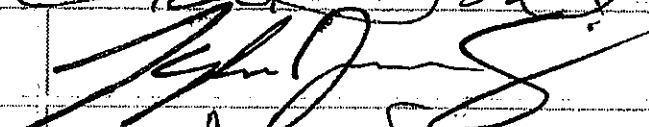
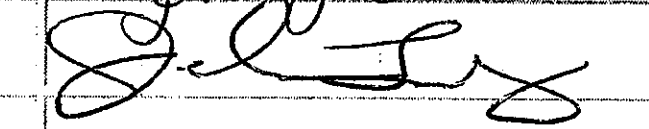
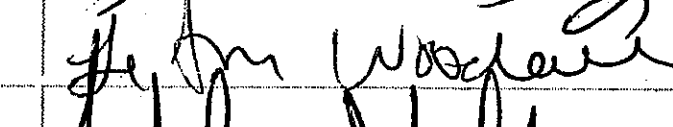
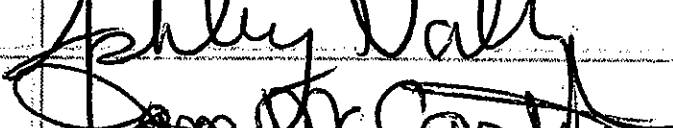
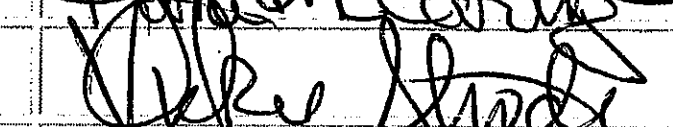
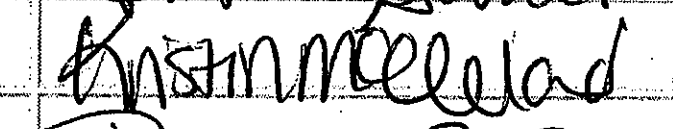
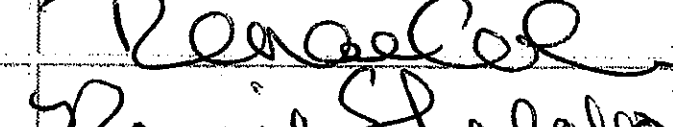
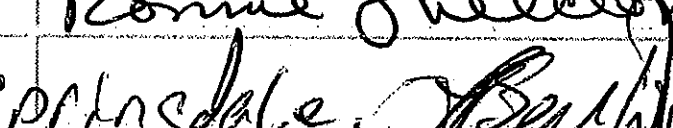
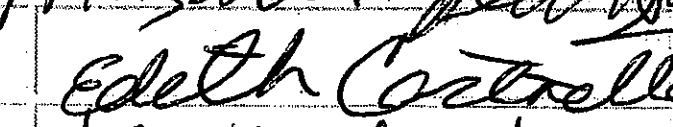
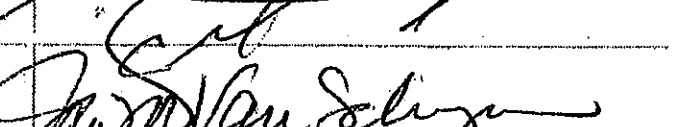
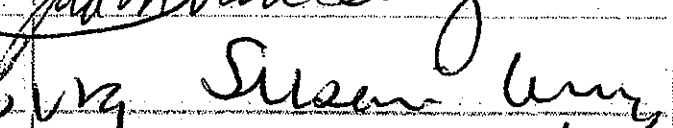
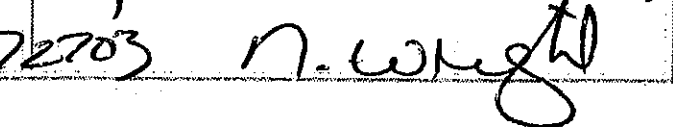
Name	Address	Signature
Deane Bradbery	310 W. Mountain, Fay 72701	Deane Bradbery
Donna Bradbery	✓	Donna Bradbery
Daniel R. McCormick	220 S. School Fay. 72701	Daniel R. McCormick
Julie Masters	2995 N. Rutile Dr Fay 72704	Julie Masters
Donald Chappell	325 W. Dickson St. Fay 72701	Donald Chappell
John R. Ray	120 S. EAST AVE Fay 72701	John R. Ray
Brian Duran	6 West Dickson Fay. 72701	Brian Duran
Hunter Haynes	801 S. 13th St. ROGERS, AR 72758	Hunter Haynes
L. Collins Haynes	417 E. LAFALETTE, TV, AR	L. Collins Haynes
Don & Susan	#1 WEST CENTER ST FAYETTEVILLE, AR 72701	Don & Susan
Mary Braswell	4921 Clean Creek Blvd, Fayetteville, AR	Mary Braswell
Justin L. Sch	1617 Arthur's Ct., Fayetteville	Justin L. Sch
Pat Lidon	2225 As New Put Drum, Fayetteville	Pat Lidon
Dave B	2404 Bristol Pl. FAY AR	DAVE BEVIS
John R. Eldridge III	201 N. EAST ST.	John R. Eldridge III
Sybil Byler	643 W DICKSON ST.	JOSEPH BRAYLEY
Laurel Hendricks	603 W. Dickson	Laurel Hendricks
Kelly Branham	603 W. Dickson	Kelly Branham
	518 W. Hickson	
Mark Sugg	17 N. BLOCK	Mark Sugg
Rob Merry-Ship	1011 TRIST ST. Fay.	Rob Merry-Ship
R. Sharp	649 N. WILSON	R. Sharp

ROBERT SHARP

We, the undersigned, support the Downtown Master Plan's current height limitations, which were a product of a highly participative public process. These limitations for Main Street Center are a maximum height of 6 stories or 84 feet. The limitations for Downtown General are a maximum height of 4 stories or 56 feet.

Name	Address	Signature
Ryan Thornton	870 N. LADYSPRUE LN. 72704	[Signature]
Rob Denning	812 Cedar Ln 72753	[Signature]
Marie Lee	10459 Horan Rd Fay 72701	[Signature]
John Porter	3524 Thames Dr.	[Signature]
Hank Brayles	4847 Wedington	[Signature]
Mallyll Bryant	1444 Dawn Dr Fayetteville 72701	[Signature]
Dana Jones	284 Christy Lane, Farmington	[Signature]
Jeff Mathis	2409 Sarah Jane Fayetteville	[Signature]
Randall Curry	567 McClintock St Fay Ar	[Signature]
Paul H. Woods	3728 E Huntsville FAY AR	[Signature]
Billy Linn	703 Pitman	[Signature]
[Signature]	15903 Old Ridge Rd Winston	[Signature]
[Signature]	7295 E. BLACKOAK RD	[Signature]
[Signature]	988 Daisy Ln Fay	[Signature]
MARTIN LOERTS	808 SPRUCE PRAIRIE Grove AR	[Signature]
Dennis Tume	5323 Sage Ln	[Signature]
Keith Roberts	21940 Marshal Dr.	[Signature]
Rick Craig	#43 Judy Dr Bellavista AR	[Signature]
Christy Donaldson	43 Judy Dr Bellavista AR	[Signature]
Rebecca Cruise	5710 Legacy St Fayetteville AR	[Signature]
Sean Sallings	2732 Ida Lindsey #1 Fay, AR	[Signature]
DARYL PERLE	15225 ASHLEY CT SLOAN SPRING	[Signature]

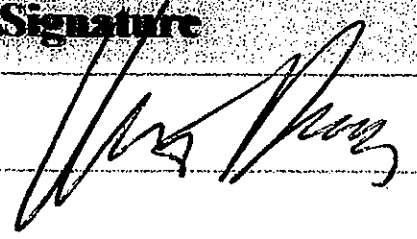
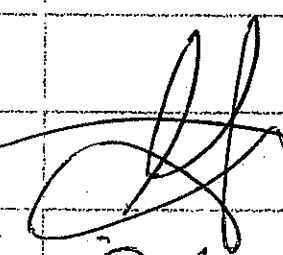
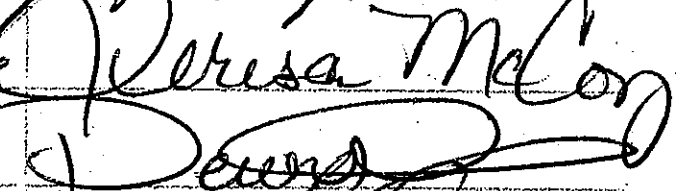
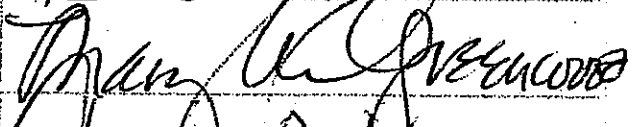
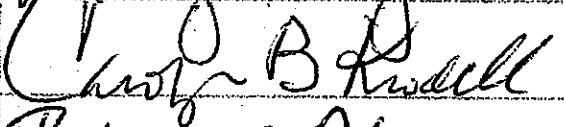
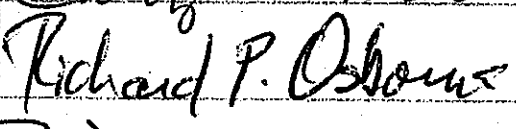
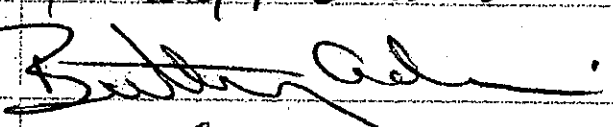
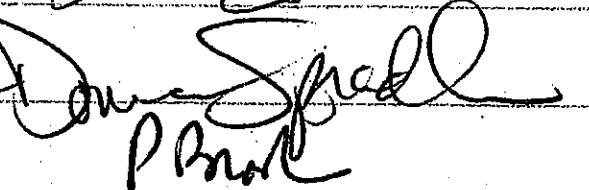
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Name (printed)	Address	Signature
David Rautan David Rautan	2060 Stanwyck Dr.	
Allison Davis	920 W. Maple	Allison Davis
Vickie Smiley	3910 Wilac Dr.	
Tyler Scovill	2429 Jean St.	
Sydney Smith	19545 Oak	Sydney Smith
Joseph Laey	2060 Stanwyck	
MATTHEW PERKINS	2060 STANWYCK	Matthew Perkins
SCHARRELLE L. EASLEY	124 CYNTHIA	
Ann Woodall	2078 Stanwyck	
Ashley Nabholz	2078 Stanwyck	
Jana McCarty	1735 S. Shiloh	
Vickie Strode	2417 Valley Dr	
Kristin McCreath	1501 Holland	
Renae Calcott	1116 W Vine	
Ronnie Sheldon	PO Box 995 Farmington	Ronnie Sheldon
Benjamin Dede	1005 Wildcat Creek Springsdale	
Edith Castrellon	1255 White River Rd	Edith Castrellon
Lauren Hendricks	641 N. Whitman Ave	
Bart Cross	2105 E Stanwyck	
Jan M. VanSchuyver	14601 Candleglow	
Susan Gray	PO Box 36 Mount Airy, NC	Susan Gray
Nancy Wright	424 W. Poplar Fayette AR 72703	

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Name	Address	Signature
Kristen Knight	221 W. South St. 72701	Kristen Knight
Heiko Mueller	525 S. School Ave. 72701	Heiko Mueller
J. O'Berksi	228 E 1/2 Fayette 72701	J. O'Berksi
DANIEL DEAN	867. S. WASHINGTON 72701	Daniel Dean
Jordan L Lemaster	222 E. Dickson St. Apt 2 72701	Jordan L Lemaster
Jennifer Ulrich	2128 Kantz Dr #7 72703	Jennifer Ulrich
VINCE J PIANALTO	481 S. School 72701	Vince J Pianalto
Iris Shepard	930 S. Washington 72701	Iris Shepard
T. J. Vestal	1725 Lynns' Pl 72703	T. J. Vestal
Jeffery Collins	725 N. Vandeventer 72701	Jeffery Collins
Eric T Lloyd	Magnolia Co.	Eric T Lloyd
SEAN R BROWN	455 MASHBURN 72701	Sean R Brown
JASON GILL	221 W. SOUTH 72701	Jason Gill
James S. Chase	1606 W. Center 72701	James S. Chase
Hugh Earnest	2260 Briarwood 72703	Hugh Earnest
BILL WARD	915 PARK 72701	Bill Ward
Suki Lin Highers	156 E Meadow St 72701	Suki Lin Highers
Dylan Hurd	156 E Meadow Fwy 72701	Dylan Hurd

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Name (printed)	Address	Signature
West Doss	12737 Buddy Elkins, Farming, Arkansas 72730	
Greg Jones	112 S. EAST AVE FAY AR 72701	
Walter Miller	10924 Spring Mtn Dr. Farmington	
Janie Segraves	PO Box 234 Fayetteville AR	
TERESA McCoy	915 Block Ave Fayetteville	
Devon Norris	962 S. SILVERADO DR. APT. 101	
Mary Ann Greenwood	26 E. Center, Fay	
CHARLOTTE BRIDELL Mother Bridell	26 E. Center Fayetteville	
RICHARD P. OSBORNE	26 E. CENTER ST. FAYETTEVILLE	
Betty Britney	248 W. Dickson Fay	
Lee Cole	231 S. Gregg Ave	
Dennis Spradlin P. Brock (BROSH)	7565 River Oaks Dr. Buille 72702 248 W Dickson Street	
Walt A. Wait	241 W. DICKSON	William Waite
Michael A. Gardner	241. W. Dickson	Michael Gardner
Hyma T. Holt	2793 Saunter Ln	

501.350.7897
Allison Wallace

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LOSMO

[illegible]

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[illegible]

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[illegible]

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Barrow

[illegible]

[illegible]

We, the undersigned, support the Downtown Master Plan's current height regulations, which were a product of a highly participative public process. The limitations for Main Street Center are a maximum height of 6 stories or 84 feet. The limitations for Downtown General are a maximum height of 4 stories or 56 feet.

[illegible]

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[illegible]

[illegible]

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[illegible]

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Support Current Fayetteville Downtown Master Plan

petition text signatures tell others

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Signatures | Total: 16

Page << first < prev 1 next > last >>

#	Name	Comments
1	Tom Overbey	
2	Paul Heck	I feel that the current DMP heights are restrictive enough, will enhance the beauty of Fayetteville through allowing a variety in buildings and will assist in bringing more economic value to the city....but we have to stop changing the rules as development will not chase a moving target...it is way too expensive design a project in the "hopes" that a variance will be allowed. Please make a decision on this soon - we have enough information on this to decide what to do...which is leave the DMP as it stands!
3	Anonymous	Dear Mayor Coody and City Council Members-Please do not set a standard & protocol of "going backwards" on behalf of the great city of Fayetteville! With the substantial investment we're making in placing our business in Fayetteville, we're counting on progressive-forward looking improvements to take shape in Fayetteville that benefits it's current & new citizens, business owners & visitors. There is so much more work needed in the Downtown area to takes things "to the next level". I was so pleased & impressed with the passing of the DMP, but am now seriously discouraged to hear that it's being potential re-thought/re-done after so much planning & due diligence had been done & being supported so greatly by it's citizens.Please do not take us backwards...stick with your decision, move forward & let's show the region that Fayetteville is taking shape & staying relevant & will be able compete with any great city in this Nation!
4	Justin Long	
5	Jeffery Collins	As someone who has worked for years to help build the economic strength and diversity of the Fayetteville economy I am overwhelmingly dissappointed by current efforts to amend the DMP. Arguments that downtown development based on the current DMP would harm the economic viability of Fayetteville are not substantiated by evidence or sound economic reasoning and in my opinion are simply wrong.
6	Colby Ward	The current building heights are too low, making them lower is a joke.
7	Linda ward	The current building hights are way too low. Making them lower would make drives up property costs downtown and lead to urban sprawl.
8	Jamie Terminella	
9	Leslie Manning	Please do not change the current height limitations in the Downtown's Master Plan. Changing the limitations would indicate that the public input was not considered.
10	Mike Henry	

- 11 Morgan Hooker
- 12 Stephen Cosby The height limitations are just fine where they are. This accomplishes the goal of densification.
- 13 Anonymous I don't understand why this issue has come up again, when it has already been decided and approved.
- 14 Donald Brown The current ordinance is a well balanced, comprehensive and fair to all. It does not pander to one segment of our community over the other and therefore should be defended.
- 15 Michael Andrews
- 16 Tommy L. Lonon

Signatures | Total: 16

Page << first < prev 1 next > last >>

Ads by Goooo

Why Book a Room?

When you c
experience
Hip City Hot
www.hipcityhot

Master Plan

Professiona
design and
services nat
www.NeppiLan

Miami Real

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Needs in Mi
Brickell and
www.MiamiCon

Downtown

Chic and so
Live, work, p
schmooze.
www.intownaus

Northgate

Kansas City
for You Sing
Patio, and F
www.northgate

Sheree Alt

From: Victoria Sowder [vsowder@equitynet.com]
Sent: Monday, March 19, 2007 10:08 AM
To: ward1_pos1@ci.fayetteville.ar.us; bthiel@cox.net; jdseed@swbell.net; ngallen@earthlink.net; Robert Rhoads; rlsferrell@sbcglobal.net; ajsj90@aol.com; ljordan7@hotmail.com; Dan Coody
Cc: city_clerk@ci.fayetteville.ar.us
Subject: newly-proposed height restrictions vs. Downtown Master Plan height restrictions
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Good morning.

I am a resident of Fayetteville (on Rockwood Trail) and a registered voter in Ward 1. I am writing to express my belief in and my support of our Downtown Master Plan in its current form. I personally do not feel that additional height restrictions are warranted at this time.

Thank you for your consideration of my opinion and for your service to our City.

Victoria Sowder
 Administrative Manager
 EquityNet, LLC
 21 W. Mountain, Suite 123
 Fayetteville AR 72701-6064
 479.442.3638
www.equitynet.com

Sheree Alt

From: info@amaregi.com
Sent: Friday, March 16, 2007 11:36 AM
To: Sheree Alt
Subject: [FWD: Re: Voice Your Opinion Regarding The Fayetteville Downtown Master Plan!]

----- Original Message -----

Subject: Re: Voice Your Opinion Regarding The Fayetteville Downtown Master Plan!

From: InstyMike@aol.com

Date: Thu, March 15, 2007 6:44 pm

To: info@amaregi.com

Hey guys! I signed the petition online, but will stop by your office to do so in person early next week.

I will also call Mrs. Lucas and Lioneld to voice my opinion.

Thanks for your proactivity!!!!!!

Michael Andrews

President

FIREHOUSE ENTERPRISES

925 N. Meadowlands Drive

Fayetteville AR 72704



Art Emporium

2914 N. College Ave. Suite 2

Fayetteville, Arkansas 72703

(479) 521-4141

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Sheree Alt

From: info@amaregi.com
Sent: Thursday, March 15, 2007 4:18 PM
To: Sheree Alt
Subject: [FWD: Re: Voice Your Opinion Regarding The Fayetteville Downtown Master Plan!]

----- Original Message -----

Subject: Re: Voice Your Opinion Regarding The Fayetteville Downtown Master Plan!

From: "James E. Huffman" <james@jhuffman.net>

Date: Thu, March 15, 2007 3:38 pm

To: info@amaregi.com

Thank you for this email. I appreciate your updates. I have already been working against this proposed change in the Master Plan.

jim

james e. huffman

479.530.5258

<<http://www.christschurch.net>>

> Voice Your Opinion:

> Keep The Downtown Master Plan Intact

>

> View the e-mail with graphics here:

> http://amaregi.com/ama_template/dmp_update3.html

>

> [image:Downtown Master Plan map]

>

> http://www.accessfayetteville.org/planning_development_and_building_safety/planning/downtown_master_p

>

> Please support the Downtown Master Plan's current height limitations,

> which were a product of a highly participative public process. These

> limitations for Main Street Center are a maximum height of 6 stories or 84

> feet. The limitations for Downtown General are a maximum height of 4

> stories or 56 feet.

>

> How?

>

> Remember--you must be a registered voter in Fayetteville to participate in

> any or all of the three following ways:

>

> 1) Voice your opinion at the City Council meeting regarding this amendment

- > on March 20th, 2007, at 6:00 p.m. in Room 219 of the City Administration
- > Building at 113 W. Mountain. Please let us know at info@amaregi.com if you
- > plan on attending!
- >
- > 2) Sign a petition rejecting the proposed ordinance amendment regarding
- > height restrictions:
- > <http://www.ipetitions.com/petition/fayettevilledmp/index.html>
- >
- > Please feel free also to drop by our offices located at 11 N. West Avenue
- > in downtown Fayetteville to submit your signature.
- >
- > 3) Contact the alderman in your ward in support of preserving the current
- > DMP:
- >
- > Adella Gray (Ward 1): ward1_pos1@ci.fayetteville.ar.us
- > Brenda Thiel (Ward 1): bthiel@cox.net
- > Kyle Cook (Ward 2): jdseed@swbell.net
- > Nancy Allen (Ward 2): ngallen@earthlink.net
- > Robert Rhoads (Ward 3): rrhoads@hallestill.com
- > Bobby Ferrell (Ward 3): rlsferrell@sbcglobal.net
- > Shirley Lucas (Ward 4): ajsj90@aol.com
- > Lioneld Jordan (Ward 4): ljordan7@hotmail.com
- >
- > THANK YOU for your support in keeping the Fayetteville Downtown Master
- > Plan intact for the sake of our community!
- >
- > If you have any questions or would like some information on any of our
- > projects (<http://amaregi.com/projects.html>), please contact us at
- > info@amaregi.com or at the number below:
- > 479.443.1313
- >
- > Forward email
- > <http://ui.constantcontact.com/sa/fwtf.jsp?m=1101361783198&ea=james%40jhuffman.net&a=1101579969137>
- >
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- > This email was sent to james@jhuffman.net,
- > by info@amaregi.com
- >
- > Update Profile/Email Address
- > <http://ui.constantcontact.com/d.jsp?p=oo&m=1101361783198&ea=james%40jhuffman.net&se=457&t=1101579969137&lang=en&reason=T>
- >
- > Instant removal with SafeUnsubscribe(TM)
- > <http://ui.constantcontact.com/d.jsp?p=un&m=1101361783198&ea=james%40jhuffman.net&se=457&t=1101579969137&lang=en&reason=T>
- >
- > Privacy Policy:

Sheree Alt

From: info@amaregi.com
Sent: Thursday, March 15, 2007 2:00 PM
To: Sheree Alt
Subject: [FWD: I'll be at the City Council meeting on March 20th!]

----- Original Message -----

Subject: I'll be at the City Council meeting on March 20th!
From: "Judy Luna" <judy_luna@sbcglobal.net>
Date: Wed, March 14, 2007 5:07 pm
To: <info@amaregi.com>

I will try to attend.

Judy Luna

All outgoing email scanned by Norton Antivirus software for your protection

Judy Luna ABR, e-PRO, GRI, CRS,
Allen Hainge Cyberstar(tm)
"Internet efficiency, personalized service for real estate"
Keller Williams Realty
2418 E. Joyce Blvd.
Fayetteville, AR 72703
Office: 479-442-4228
Cell phone: 479-966-0435
Email: <mailto:judy@judyluna.com>
Main Website: <http://www.judyluna.com>
Sitio en Español: <http://www.casasenarkansas.com>
MLS Search Website: <http://www.NWArkansasHomeSearch.com>

Sheree Alt

From: info@amaregi.com

Sent: Thursday, March 15, 2007 1:59 PM

To: Sheree Alt

Subject: [FWD: Re: Voice Your Opinion Regarding The Fayetteville Downtown Master Plan!]

----- Original Message -----

Subject: Re: Voice Your Opinion Regarding The Fayetteville Downtown Master Plan!

From: KeithS40@aol.com

Date: Thu, March 15, 2007 12:42 pm

To: info@amaregi.com

Thanks for the e-mail. I have tried to send to the council members but must tell that although I own property in downtown fayetteville and other locations in the city I live just outside the city limits

Thanks

Kerry (Keith) Schultz

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

To: Mayor/City Council

From: Kyle Cook, Ward 2 Position 1

Date: March 13, 2007

Subject: Acquisition of Brooks-Hummel Property

RECOMMENDATION: The City Council approve acquisition of the Brooks-Hummel property in the amount of \$247,500.00 to preserve as green space.

BACKGROUND: The Brooks-Hummel property located just below the Lake Lucille spillway (see attached map) became available for purchase last fall. Since that time, FNHA, neighbors, and concerned citizens have secured a purchase option for the 13.75 acres until March 31, 2007 in order to allow time to raise funds, and to date, half the purchase price has been raised. I recommend the City of Fayetteville partner with the neighbors and purchase this land as an installment to the city's enduring green network.

I believe the citizens support land preservation based on their comments from both the 2003 and 2005 citizen surveys.

“Buying land to preserve open or green space

The citizens declare they are very supportive (41%) and supportive (35%) of the City acquiring land to preserve open or green spaces (Table 47). Twelve percent are neither supportive nor unsupportive while the remaining 12 percent (9 percent unsupportive and 3 percent very unsupportive) expressing disapproval of the City acquiring land to preserve open or green spaces. Fayetteville residents' current level of support (76%) for the city buying land to preserve open or greenspace is slightly higher than that of residents of Washington and Benton Counties in 2000 (74%) and also exceeds the state average of 64 percent.³⁶ This level of support has also increased since 2003, when 69 percent of residents asserted they were very supportive (35%) or supportive (34%) of acquiring land to preserve open or greenspace.”

Also, the recently adopted City Plan 2025 states in Goal 5 that we will assemble an enduring green network. “One of Fayetteville's overwhelming differences from other cities is the character and quality of the environmental setting. As such, nurturing this setting is of economic benefit to the city, as a quality environment confers value and attracts residents who all get to share in the common amenity.” Continuing in Goal 5, action item two states we will “**Identify diverse new funding sources and methods for preserving open space in partnership with regional not-for-profit organizations and individual property owners.**”

With that said, I urge the City Council to act upon this opportunity to partner with FNHA and the neighbors to acquire this magnificent tract of land in the heart of our city for the enjoyment of our future generations.

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 20, 2007**

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

Fayetteville Public Library – The Big Read

Citizen Survey 2007 Discussion – Agenda Session only.

Farmington De-annexation discussion-Agenda Session only.

A. CONSENT:

- 1. Approval of the March 6, 2007 City Council meeting minutes.**
- 2. CEMS Ambulance Services for 2007:** A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.
- 3. Arkoma Playgrounds and Supply, Bid # 07-22:** A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.
- 4. A. Camp Equipment, Bid # 07-21:** A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.

5. **SWEPKO Public Service Commission Hearing:** A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPKO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.

B. UNFINISHED BUSINESS:

1. **VAC 06-2364 (Cruz Bay):** An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. *This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*
2. **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 appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.*
3. **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 ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.*
4. **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, and to repeal § 156.02 (B)(6). *This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*

C. NEW BUSINESS:

1. **Power Secure, Inc. Bid Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.
2. **ANX 06-2288 (Broyles):** An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.
3. **R-PZD 06-2281 (Holcomb Heights):** An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision; containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

4. **ADM 07-2477, BioBased:** A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.
5. **Amend Chapter 92 – Animal Ordinance:** An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.
6. **Amend Chapter 51 – Sewer Volume Based Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.
7. **Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.**

D. INFORMATIONAL:

City Council Tour: March 19, 2007

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director
DATE: March 7, 2007

**SUBJECT: AN ORDINANCE SIMULTANEOUSLY DETACHING
TERRITORY FROM THE CITY OF FAYETTEVILLE AND
ANNEXING SAID TERRITORY INTO THE CITY OF
FARMINGTON, PURSUANT TO A.C.A. 14-40-2101**

RECOMMENDATION

The City Council passed Resolution No. 23-07 to set the public hearing date for March 6, 2007. The City Council held the public hearing at the March 6, 2007 City Council meeting where one resident spoke in favor of the detachment.

Following the public hearing, the City Council may bring the proposed ordinance up for a vote to concur in the detachment and annexation.

Staff recommends denial of the detachment due to the boundary it creates, a peninsula west of Double Springs Road, between Fayetteville and Farmington.

BACKGROUND

The City Council passed Ordinance No. 4923 on September 19, 2006 that annexed approximately 405.47 acres of land into the City of Fayetteville. At the September 5, 2006 City Council meeting a small number of property owners requested to be removed from the proposed annexation (please see attached minutes). Because this annexation was an "island annexation" under A.C.A. 14-40-501, all of the properties between Farmington and Fayetteville city limits were required, by ordinance, to be annexed into Fayetteville.

A.C.A. 14-40-2101 provides a procedure for the simultaneous detachment of territory from one city and the annexation of such territory into another city's corporate limits.

The City of Farmington passed an ordinance on January 8, 2007 to begin the process for the detachment and annexation of certain Fayetteville territory located south of Silverthorne Addition and west of Double Springs Road.

At the next regularly scheduled meeting following the March 6, 2007 public hearing, the Fayetteville City Council may bring a proposed ordinance up for vote to concur in the detachment and annexation.

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

3/6/2007

City Council Meeting Date

Tim Conklin

Submitted By

Planning and Development Mgt.

Division

Operations

Department

Action Required:

A PUBLIC HEARING REGARDING THE CITY OF FARMINGTON'S DESIRE TO ANNEX CERTAIN TERRITORY CURRENTLY IN THE CITY LIMITS OF FAYETTEVILLE.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director

2-16-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

2/16/07
Date

Received in City Clerk's Office

ENTERED

2/16/07

Paul A. Becker
Finance and Internal Service Director

2-16-07
Date

Received in Mayor's Office

ENTERED

2/16/07

SEP

[Signature]
Mayor

2/27/07
Date

Comments:

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director
DATE: February 16, 2007

SUBJECT: **A PUBLIC HEARING REGARDING THE CITY OF
FARMINGTON'S DESIRE TO ANNEX CERTAIN TERRITORY
CURRENTLY IN THE CITY LIMITS OF FAYETTEVILLE**

RECOMMENDATION

The City Council passed Resolution No. 23-07 to set the public hearing date for March 6, 2007. A.C.A. 14-40-2101 requires the City to conduct a public hearing within 60 days for the simultaneous detachment of territory from Fayetteville to Farmington.

BACKGROUND

The City Council passed Ordinance No. 4923 on September 19, 2006 that annexed approximately 405.47 acres of land into the City of Fayetteville. At the September 5, 2006 City Council meeting a small number of property owners requested to be removed from the proposed annexation (please see attached minutes). Because this annexation was an "island annexation" under A.C.A. 14-40-501, all of the properties between Farmington and Fayetteville city limits were required, by ordinance, to be annexed into Fayetteville.

A.C.A. 14-40-2101 provides a procedure for the simultaneous detachment of territory from one city and the annexation of such territory into another city's corporate limits.

The City of Farmington passed an ordinance on January 8, 2007 to begin the process for the detachment and annexation of certain Fayetteville territory located south of Silverthorne Addition and west of Double Springs Road.

At the next regularly scheduled meeting following the March 6, 2007 public hearing, the Fayetteville City Council may bring a proposed ordinance up for vote to concur in the detachment and annexation.

RESOLUTION NO. 23-07

**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**

WHEREAS, A.C.A. § 14-40-2101 provides a procedure for the simultaneous detachment of territory from one city and the annexation of such territory into another city's corporate limits; and

WHEREAS, the City of Farmington, by adoption of Ordinance No. 2007-1 on January 8, 2007, has initiated action to attempt the detachment and annexation of five residential lots within the Fayetteville city limits, generally located south of Silverthorne Addition and west of Double Springs Road; and

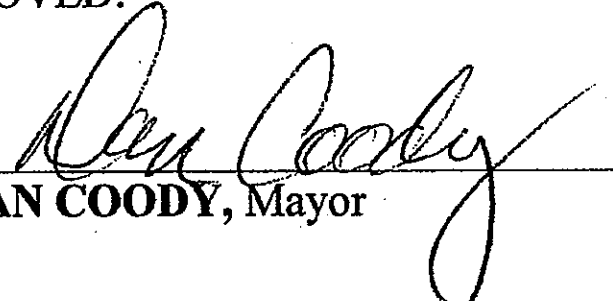
WHEREAS, in accordance with procedures for consideration of such a request, the Fayetteville City Council shall conduct a public hearing within sixty (60) days of Farmington's proposal of said ordinance.

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

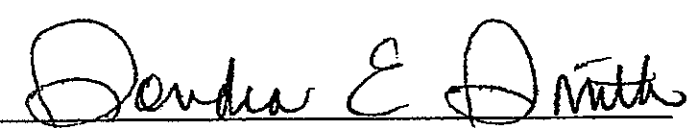
Section 1: A public hearing before the City Council shall be held on March 6, 2007, at 6:00 P.M. in the Council Chambers at Fayetteville City Administration Building, to hear the views of property owners within the area proposed to be detached and annexed, as well as those of Farmington and Fayetteville municipal officials and other concerned citizens.

PASSED and APPROVED this 6th day of February, 2007.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk/Treasurer

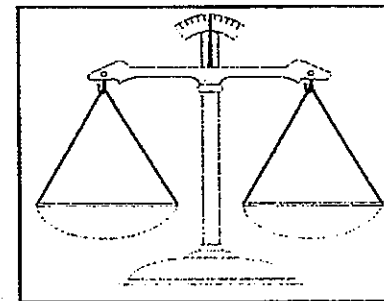


FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

CC: **Tim Conklin**, Planning & Development Management Director

FROM: **Kit Williams**, City Attorney

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

DATE: **January 19, 2007**

RE: **Farmington's request to annex five parcels within the Fayetteville City Limits**

A.C.A. §14-40-2101, et. seq gives Farmington a right to request the Fayetteville City Council to detach land within the City of Fayetteville so that Farmington can annex it. Although I have yet to see an official ordinance properly signed by the Farmington Mayor, I do have the copy of their draft ordinance which allegedly was passed on January 8, 2007.

By statute Farmington "shall send the ordinance to the government of the city or town in which the lands are located." A.C.A. §14-40-2101(a). Hopefully, we shall soon receive this ordinance.

The statute requires that the "ordinance will provide a **legal description** of the lands proposing to be detached and annexed and describe generally the **reasons for proposing the action**. A.C.A. §14-40-2101(b)(1) (emphasis added).

The only "reason" for proposing this detachment and annexation in the ordinance is that it "is being initiated in order to honor **promises made** to certain property owners during consideration of Fayetteville's annexation of an unincorporated island" (emphasis added).

Tim Conklin has provided you the minutes of that meeting. Although there was discussion of the option to seek detachment from Fayetteville and annexation to Farmington, it is difficult to interpret that language as a promise, especially one that would commit the City Council. I explained (page 9 of the minutes) that the City Council "would have to take into account not only their (Ms. Weeks') desires but the desires of one landowner that does not want to be in Farmington."

I was relying on Ms. Weeks' assertion that "(t)here are **seven out of eight** of us on that 40 acre plot that do not want to be in Fayetteville" (page 8 of the minutes). If you look at this petition, only **five of the eight** are seeking to leave Fayetteville.

Ms. Weeks also asserted that the detachment and annexation "would be a straight line." (page 8 of the minutes). In reality, the detachment of those five landowners would result in an extremely jagged border between with a dozen new border lines between our cities (See Exhibit A – map from Farmington).

Even if a later statement by Mayor Coody about Ms. Weeks' option to seek detachment so she could "secede from the union and go to Farmington," (page 9 of the minutes) was claimed to be a promise, that statement was based upon what later turned out to be mistaken statements by Ms. Weeks. Thus, the only reason stated within its ordinance by Farmington to seek this detachment and annexation appears ill-founded.

CONCLUSION

Even if Farmington's ordinance might be lacking in a supportable purpose, Fayetteville must still conduct a public hearing within 60 days of Farmington's ordinance. The only available date after this meeting would be March 6th (to give Farmington enough time to publish the required legal notice 15 days before the hearing).

Fayetteville has complete discretion to grant or deny the detachment request in this case. Your decision should be guided by what is in the best interests of Fayetteville.

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Fee Amt: \$17.00 Page 1 of 4
Washington County, AR
Bette Stamps Circuit Clerk

ORDINANCE 2007-1

File 2007-00001879

AN ORDINANCE SIMULTANEOUSLY DETACHING TERRITORY FROM THE CITY OF FAYETTEVILLE AND ANNEXING SAID TERRITORY INTO THE CITY OF FARMINGTON IN ACCORDANCE WITH ARKANSAS CODE ANNOTATED § 14-40-2101

WHEREAS, A.C.A. §14-40-2101 provides a procedure for the simultaneous detachment of territory from one municipality and annexation of such territory into an adjoining municipality; and

WHEREAS, individual property owners who were recently annexed into the City of Fayetteville are desirous of being detached from the City of Fayetteville and annexed into the City of Farmington.

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

Section 1. That certain territory presently within the corporate limits of the City of Fayetteville is contiguous to and adjoins the City of Farmington. The City of Farmington hereby calls for the simultaneous detachment and annexation of the lands that are described in Exhibit "A" and incorporated herein by reference.

Section 2. That the proposed detachment and annexation of lands described in Exhibit "A" was requested by the property owners within the area proposed to be detached and annexed.

Section 3. That a copy of this ordinance shall be sent to the governing body of the City of Fayetteville. Within sixty (60) days of the proposal of this ordinance, the governing body of the City of Fayetteville shall conduct a public hearing on the proposed detachment and annexation.

Section 4. That at least fifteen (15) days prior to the date of the public hearing, the Farmington City Clerk shall publish a legal notice setting out the legal description of the territory proposed to be detached and annexed.

Section 5. That at the next regularly scheduled meeting following the public hearing, the governing body of the City of Fayetteville may bring the proposed ordinance up for a vote to concur in the detachment and annexation. If

a majority of the total number of members of the Fayetteville City Council vote for the proposed detachment and annexation ordinance, then a prima facie case for detachment and annexation shall be established, and the City of Farmington shall proceed to render services to the newly annexed area.

Section 6. That the decision of the governing bodies of the City of Farmington and the City of Fayetteville shall be final unless a suit is brought in the Circuit Court of Washington County within thirty (30) days after passage of the ordinance to review the mutual actions of the governing bodies.

Section 7. Repealing Clause. All other ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 8. Severability Clause. In the event any part of this ordinance is declared inoperative or invalid as a result of a statute or judicial decision, then only that portion expressly so declared to be inoperative or invalid shall be affected thereby and all other provisions hereof shall remain in full force and effect.

Section 9. Emergency Clause. That the immediate approval of this ordinance is necessary to commence the process of detaching and annexing certain territory into the municipal limits of the City of Farmington; therefore, an emergency is hereby declared and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 8th DAY OF January, 2007.



Ernest L. Penn, Mayor

Attest:


Kelly Thomas, City Clerk

EXHIBIT "A"

A part of the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 15, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Beginning at the Southwest corner of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence North 02° 38' 07" East 1024.77 feet; thence South 87° 50' 00" East 788.27 feet; thence South 02° 22' 58" West 181.55 feet; thence South 87° 57' 15" East 508.48 feet; thence South 02° 28' 18" West 120.00 feet; thence North 87° 57' 44" West 508.29 feet; thence South 02° 22' 57" West 183.15 feet; thence North 87° 57' 44" West 359.74 feet; thence South 02° 22' 58" West 252.00 feet; thence South 87° 57' 45" East 864.05 feet; thence South 02° 57' 47" West 285.52 feet; thence North 87° 59' 35" West 1294.22 feet, to the Point of Beginning and containing 21.194 acres, more or less.

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director 
DATE: December 27, 2006

SUBJECT: **ADOPTION OF A RESOLUTION TO SET A PUBLIC HEARING
DATE REGARDING THE CITY OF FARMINGTON'S DESIRE TO
ANNEX CERTAIN TERRITORY CURRENTLY IN THE CITY
LIMITS OF FAYETTEVILLE**

RECOMMENDATION

Staff recommends adoption of a resolution to set the public hearing date based on A.C.A. 14-40-2101 which requires the City to conduct a public hearing within 60 days for the simultaneous detachment of territory from Fayetteville to Farmington.

BACKGROUND

The City Council passed Ordinance No. 4923 on September 19, 2006 that annexed approximately 405.47 acres of land into the City of Fayetteville. At the September 5, 2006 City Council meeting a small number of property owners requested to be removed from the proposed annexation (please see attached minutes). Because this annexation was an "island annexation" under A.C.A. 14-40-501, all of the properties between Farmington and Fayetteville city limits were required, by ordinance, to be annexed into Fayetteville.

A.C.A. 14-40-2101 provides a procedure for the simultaneous detachment of territory from one city and the annexation of such territory into another city's corporate limits.

The City of Farmington has initiated an ordinance to be considered on January 8, 2007 to begin the process for the detachment and annexation of certain Fayetteville territory located south of Silverthorne Addition and west of Double Springs Road.

The Fayetteville City Council must conduct a public hearing within sixty (60) days of Farmington's adoption of said ordinance. Staff is recommending the public hearing be scheduled for the February 6, 2007 City Council meeting.

At the next regularly scheduled meeting following the February 6, 2007 public hearing, the Fayetteville City Council may bring a proposed ordinance up for vote to concur in the detachment and annexation.



Detachment

Fayetteville City Limits

Proposed Detachment to Farmington

0 135 270 540 Feet

1 inch equals 250 feet

PROPOSED DETACHMENT TO FARMINGTON

A part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of Section 15, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Beginning at the Southwest corner of said SW¼ of the NE¼; thence North 02° 38' 07" East 1024.77 feet; thence South 87° 50' 00" East 788.27 feet; thence South 02° 22' 58" West 181.55 feet; thence South 87° 57' 15" East 508.48 feet; thence South 02° 28' 18" West 120.00 feet; thence North 87° 57' 44" West 508.29 feet; thence South 02° 22' 57" West 183.15 feet; thence North 87° 57' 44" West 359.74 feet; thence South 02° 22' 58" West 252.00 feet; thence South 87° 57' 45" East 864.05 feet; thence South 02° 57' 47" West 285.52 feet; thence North 87° 59' 35" West 1294.22 feet, to the Point of Beginning and containing 21.194 acres, more or less.

December 26, 2006

To whom it may concern:

We have been Farmington residents for 20 years and care for everyone in the Farmington community. We are familiar with the participants in the city government. They are flexible and responsive to the needs of their residents.

The trash service the city of Fayetteville provides us requires 4 of our residents to transport their trash up to a 1/3 of a mile to the pickup point on Double Springs road. Farmington has allowed in these situations private haulers to pick up trash as long as documentation is provided.

We are on septic system. We were informed the last time we paid our water bill we would be required to pay sewer because the city of Fayetteville does not recognize septic tanks.

In my efforts to resolve these matters amicably, I found Fayetteville city officials respectful but inflexible and uncompromising.

I am a Fayetteville businessman, an ardent Razorback fan and hope that Fayetteville retains its personality as we grow. I would not live anywhere other than Northwest Arkansas.

Because we, the undersigned, believe that by being annexed into the city of Fayetteville are being required to share the cities burdens without benefit., we respectfully request we be de-annexed immediately.

Thank you for your time and consideration.

Larry and Michelle Weeks

December 12, 2006

Mayor John Harris
City of Farmington
354 W. Main
Farmington, AR 72730

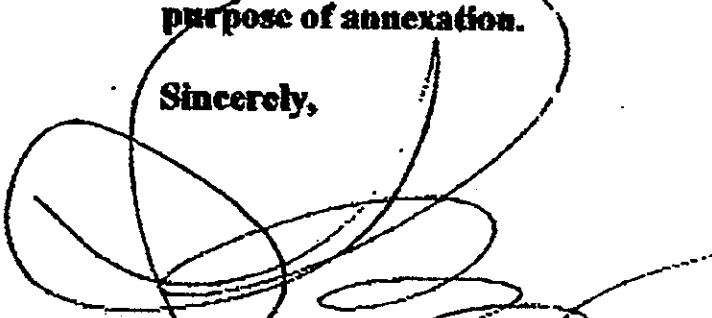
Dear Mayor Harris:

We respectfully request that the annexation of our properties be placed on the agenda of the next city council meeting set for January 16, 2007.

My wife, Michelle Weeks, attended the Fayetteville city council meeting September 5th at which time our properties were annexed into the city of Fayetteville. At that time she was informed that the property owners could request and be granted de-annexation by coming before the Fayetteville city council and making that request.

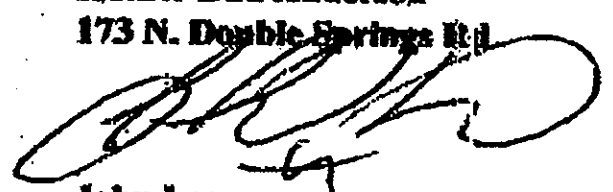
We are therefore asking that this item be placed on the Farmington city council agenda for the purpose of annexation.

Sincerely,



Larry C. Weeks
121 N. Double Springs Rd.

Homer Bud Anderson 12/12/06
Homer Bud Anderson
173 N. Double Springs Rd.



John Larsen
157 N. Double Springs Rd.

George Clay Woody
George Clay Woody
25 N. Double Springs Rd.

Herbert Dorman
Herbert Dorman
117 N. Double Springs Rd.

*Signatures were witnessed and
notarized by: E. Jane Anderson*

12/12/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

12/12/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
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12/13/06

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WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

12/13/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

Alderman Cook: Has there been any comment from the owners? Has there been any discussion with the owners? Have they responded to the city at all?

Yolanda Fields: We have been communication with the property owners since January of this year, and as you can tell by the pictures that I handed out to you, there's been nothing done at that location. The only improvement has been cleanup that we did ourselves.

Alderman Thiel: These resolutions that we have passed, you've only had to move forward with a few of them, haven't you? Once we pass this, generally people do go ahead and take care of their property?

Yolanda Fields: We have found that normally that is the case. We have had some situations where we have to take action, and of course then we place a lien on the property.

Alderman Reynolds: The only thing about this piece of property is that it's got worse. Not better, it's got worse.

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

Resolution 148-06 as recorded in the office of the City Clerk.

Mayor Coody closed the Public Hearing.

Mayor Coody opened the Public Hearing.

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

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: Staff, do you have the report for us tonight?

Tim Conklin, Planning & Development Management Director: This evening you are considering an ordinance annexing approximately 405.47 acres into the City of Fayetteville. I have an exhibit that illustrates the annexation. Double Springs Road is located to the west, 54th Avenue is located to the east, and it's slightly south of Dot Tipton Road. Under state law §14-45-01, allows cities that have unincorporated areas between them, the city that has the larger of the distance or linear feet of corporate limits, to be able to annex that property into the city limits. Later this evening you'll be confirming the order of annexation for the Sloan annexation that's shown also on this exhibit, which is in this red color on the map. Annexing the property will allow compatibility in land use in our development standards; ability for us to construct and plan future capital facilities; ability to require the same level of infrastructure in new development

within these areas within the City of Fayetteville. The following city services would be provided: trash service, police protection, fire protection. Sewer service is available, any extension of private or public lines to serve these areas would be the responsibility of the property owner or developer and curbside recycling and yard waste pickup. Certified letters were sent to the property owners within this area. I have received one call with regard to the proposed zoning and the ordinance that is before you this evening. It states that this area would be zoned RSF-1. The gentleman may be here this evening, but his concern was the ability to have horses on the property. The ordinance also is assigning this area to Ward 4. If you have any questions, I would be happy to answer them at this time. Thank you.

Mayor Coody: Does Council have any questions for Tim on this item?

Alderman Thiel: He can not have horses on RSF-1, can he?

Tim Conklin: That is correct, horses are not allowed within RSF-1. His request was to have his property zoned R-A. A couple of years ago when we annexed the islands we had a lot of discussion about individual parcels being rezoned different zoning districts, and at that time I believe we rezoned it all to RSF-1 with the ability for them to come back. There may have been one or two that we left R-A in the larger areas, but I think at that time we brought most everything in as RSF-1.

Mayor Coody: Anything else?

Alderman Lucas: Can he not keep horses by being grandfathered in.

Tim Conklin: He currently does not have horses on the property.

Alderman Lucas: Okay.

Kit Williams: But I think you are right, if he did have horses or if other people have horses there, then they're grandfathered in and can keep the horses.

Alderman Jordan: What I remember when we annexed in the islands, if they had a business there or if they had cattle there or whatever they were sort of grandfathered in with this.

Alderman Lucas: In this area, I have had a number of people contact me that they would like to be in the city. I have not heard other than what Tim said here of anyone that did not want to be brought in in this area. So it's just a natural growth of Fayetteville, I think, in that area, and we can provide the services very easily.

Mayor Coody: Any other questions or comments?

Alderman Cook: As you know, I'm always against annexation and I'm looking at the reasons why we should support these annexations and the first one is compatibility in land use and development standards. To me, that's the best argument for the annexation. The other one is ability to plan and construct future city capital improvements and the ability to require the same level of infrastructure improvements required for new development within these areas. My comment to that is, we should be concentrating on our infrastructure within the city already within our boundaries and not adding more from outside the city. The following services will be

added with this annexation: trash service, which means more trucks, more mileage, more drivers; police and fire protection, which means budget increases for future needs; sewer service if available, that means loading in our new plant, more pipe maintenance, and curbside recycling, which is more trucks and mileage, too. One way or another we're all going to be paying for this, whether it's through budget adjustments or fees and rates, and I personally think the growth as we continue to expand our city services is killing our budget.

Alderman Lucas: Be it in Fayetteville or Farmington we're going to be providing services to our wastewater treatment plant because we provide the water and sewer to Farmington. So we're going to be providing it whichever city it's in.

Mayor Coody: Also the garbage pickup is an enterprise fund, that doesn't come out of general fund, the people who use the service pay for the service. The fire and police are out of the general fund that would be the one true thing you were talking about.

Alderman Ferrell: Any extensions of this service would be provided by the developer and property owner.

Mayor Coody: Any other questions or comments?

Kit Williams: We need to open it up to the public and we have to leave it on the second reading. We're not allowed to pass this until the next meeting.

Mayor Coody: Okay. Anyone from the public have any comments on this particular item? Yes, ma'am.

Michelle Weeks: I live on 40 acres in this annexation proposal and my understanding is we're going to be taken into Fayetteville on September 16th, is that right, without the vote that's supposed to happen in October?

Mayor Coody: Kit, is that the right date?

Kit Williams: If in fact the City Council votes to approve this ordinance on the 16th, that would be correct.

Michelle Weeks: Okay. I would like to request that our property be zoned R-A. I brought a legal description. There are six other neighbors in our 40 acres that also want to be R-A. They are not with me tonight, though. Their understanding is that since it's been agricultural for years they thought that they would be grandfathered in. So is that not the case?

Mayor Coody: I think that it is the case.

Kit Williams: It's actually the 19th; it's two weeks from tonight, not the 16th.

Mayor Coody: But it is the case on grandfathering existing uses?

Kit Williams: Yes, I think that is correct, especially agricultural uses. The other thing that the city has done in the past when there has an entire neighborhood that wanted to be zoned a different way because of the use that they have out there, then a petition has been passed around

the neighborhood and the neighborhood got rezoned. And so if your neighborhood and everybody out there wanted to be R-A, then I think you could probably get the Planning department to work with you and to get before the City Council on rezoning to R-A if that's what you and your neighbors would like to do. So that's another potential option even beyond being grandfathered in.

Michelle Weeks: Okay. There are seven out of eight of us on that 40 acre plot that do not want to be in Fayetteville and so since you are taking us, I wonder when we could start the process of seceding from the union.

Mayor Coody: De-annexing?

Alderman Thiel: So do you want to be in the City of Farmington?

Michelle Weeks: Yes. Actually we have petitioned Farmington on three separate occasion and they kept telling us not to worry about it, because Farmington had more of the land. They told us that we didn't have to do anything else and then when the Sloan property got annexed in all of us that wanted Farmington, it just took that out.

Alderman Jordan: Could I ask you why you would prefer being in the Farmington city limits than the Fayetteville city limits? Can I ask that question?

Mayor Coody: You may.

Michelle Weeks: Fayetteville has more restrictions than Farmington. We grew up in Farmington and we just want Farmington. It would be a straight line, we are right on Double Springs Road we are on the top left that juts out, and it would actually be better for everybody concerned. There are seven out of eight of us that want Farmington and Farmington wants us. I don't know if you guys know that Ernie Penn and Melissa down at the Farmington City Hall, they all told us that we would be in Farmington, no problem. Then I talked to her about two weeks ago and she was trying to get a hold of me, she didn't know how to get a hold of me. She said "I'm sorry I told you that, when the Sloan property got annexed in it changed everything."

Mayor Coody: All right. Yes, ma'am.

Alderman Thiel: I guess I misunderstood. I thought that everyone out there wanted to be in Fayetteville.

Alderman Lucas: That's our understanding.

Michelle Weeks: There are other people here that do not want Fayetteville.

Mayor Coody: Tim, what does this do? Does this create an island? What technically does this do?

Kit Williams: Well the only thing that you could do in a case like this, you have to annex the entire island, you can't annex a portion of the island. Then, as we have done with Springdale before, it's possible to detach a portion of Fayetteville if the City Council wants to do that and if the Farmington City Council wants to accept it. We've accepted two parcels from Springdale in

the past for various reasons. In this particular that would be something that you would want to look at. You would have to take into account not only their desires but maybe the desires of one landowner that doesn't want to be in Farmington and would rather be in Fayetteville, but that would be a decision that you would make and that the City Council of Farmington would make. Both City Councils would have to be positive on that in order for a detachment to occur and an annexation into Farmington.

Alderman Ferrell: Ma'am, you said it was 40 acres. Do all the people that don't want to be annexed live on these 40 acres, or is it on and near?

Michelle Weeks: There are eight houses out there; seven do not want to be in Fayetteville.

Alderman Ferrell: Within the 40 acres?

Michelle Weeks: Yes. We're all in the 40 acres.

Alderman Ferrell: Thank you.

Mayor Coody: Tim could you use the pointer and show us where the 40 lies?

Tim Conklin: Are you south of Silverthorne in this area? (Tim showed the Council on the map the area Ms. Weeks was referring to.)

Mayor Coody: I see. That seems like a logical place to draw the line if we wanted to.

Alderman Thiel: But Kit explained that we really couldn't do that.

Kit Williams: You couldn't now, but you could in the future.

Mayor Coody: That's what I mean, if we were able to get the 40 acres, it looks like that would work for both us and Farmington is what I meant by that. Would you be willing to do it this way, to where we could go ahead and annex the whole 405 acres, and then deal with your families to let you secede from the union and go to Farmington? If you don't want to come to Fayetteville we don't want to force you to do that because you would vote against everybody up here once you get a chance to.

Michelle Weeks: I will if you'll give me the chance to get out of Fayetteville.

Mayor Coody: Yeah. That option would be open to you.

Michelle Weeks: And if you do annex us in that you do us R-A.

Mayor Coody: Okay. Is that a pretty good understanding to everybody?

Alderman Lucas: Can we annex it in as R-A? I mean, we're doing the whole thing R-1.

Kit Williams: Well, initially we're annexing everything in as R-1, which is one unit per acre; you would be grandfathered in with your horses anyway. Of course, if you're seeking a

detachment, then I would seek the detachment rather than a rezoning, because if you're detached it would be up to Farmington to zone you.

Mayor Coody: Does that sound reasonable?

Michelle Weeks: Sure.

Mayor Coody: Is there any other comment from the public on this?

Heather Dumas: Good evening. I'm representing approximately 26 property owners, totaled, we have about 215 acres. If you'll look on your map, if you look at the Sloan annexation, from his southern line all the way down to the northern city limit line, those are the property owners I'm representing.

Mayor Coody: Could you use the pointer just to show everybody in the room where you're talking about.

Tim Conklin showed the Council the area Ms. Dumas was referring to.

Heather Dumas: Originally we wanted to file to annex into Fayetteville with Sloan, but we couldn't work out our timing. We did file for annexation into Fayetteville about two weeks after Mr. Sloan did. Two weeks ago we had a public hearing at the county and the county did release us to go into Fayetteville, but after talking with staff we couldn't get through Fayetteville's process before the election was complete. I know the majority of the property owners here would still like to be in Fayetteville. The majority of them, which is family in one form or another, we don't plan on developing for a considerable amount of time, so right now it is farmland. We do plan on keeping it as farmland. There is one 40 acre tract that is under development right now with the old Hatfield property, I believe Mark Foster is developing that. The rest is pretty much agricultural land. We have incurred considerable expense trying to come into Fayetteville and fight Farmington, so we would ask that you go ahead and pass the ordinance for us.

Mayor Coody: All right. Any other questions or comments for Heather on this? Would anyone else like to speak? How are you tonight, sir?

Maurice Rankin, 105 North Double Springs Road: We're in the protrusion to the left of Double Springs and we are very emphatically in favor of the proposal. We want to go into Fayetteville; we don't want to be in Farmington. Two principle reasons, taxes are hundreds of dollars higher in Farmington than they are in Fayetteville, and Fayetteville's recycling services are much better and a number of other advantages, too. I've spoke to you previously on this, so I won't take the time to repeat all of that. Definitely there are people here in the neck over there that do want to be in Fayetteville. Thank you.

Mayor Coody: If you would like to speak at length about the lower taxes and Fayetteville's other services, you're welcome to.

Maurice Rankin: We have five acres and we are on Double Springs Road right about where the hand is.

Mayor Coody: All right. Thank you very much, sir. Anyone else want to address this tonight? How are you this evening?

Lorinda Schader, 5769 West Shallot Drive: Shallot Drive is on the bottom right hand section, over on the far right on the bottom. We also would like to be in Farmington. We haven't come forward or called anyone or anything because we also were told that it wouldn't be a problem for them to take us in. Also when you refer to the horses, is that also cattle? Are cattle grandfathered in, because we have cattle on our property.

Mayor Coody: Existing uses get grandfathered when we annex.

Kit Williams: Right.

Mayor Coody: We don't annex a piece of property and then tell you that you have to change your use from what you've been using it as. We don't do that.

Lorinda Schader: We have family and our children have gone to Farmington. I've worked in Farmington for 19 years and we live about two minutes from Farmington, so we would like it known that we would like to go into Farmington also.

Mayor Coody: Anyone else? Yes, sir. How are you, Ted?

Ted Youmans, 152 Double Springs Road: I don't won't take any more of your time from what I said a few weeks ago. Everything north of Washington County 640 was designated by Bud Allen in the Fayetteville growth area; it's been designated as such since 1988. You'll be following his wishes by doing this annexation. Thank you.

Mayor Coody: All right. Thanks Ted. Anyone else? We will close it to public comment and bring it back to City Council. What's the Council's wish?

Alderman Lucas: We have to leave it on this reading.

Mayor Coody: And this is again at the next meeting? All right. Then we're going to close this public hearing and move along to the next one.

Alderman Ferrell: The way we're going to go is will annex it all and then people will de-annex or detach if they want?

Mayor Coody: Yeah, if the City Council here and the City Council of Farmington both agree.

This ordinance was left on the second reading.

Mayor Coody closed the Public Hearing.

Mayor Coody opened the Public Hearing.

Annexation of Island Surrounded by the City of Fayetteville: An ordinance to annex into the City of Fayetteville, Arkansas a parcel of land completely surrounded by the incorporated limits

of the City of Fayetteville, Arkansas. *This ordinance was left on the first reading at the August 15, 2006 City Council Meeting.*

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

City Attorney Kit Williams read the ordinance.

Mayor Coody: All right we're going to open this up. Tim, what do you have for us?

Tim Conklin: Mayor, City Council, this parcel or tract of land is completely surrounded by the City of Fayetteville. It is located off of Double Springs Road to the east. Its south of Legacy Pointe Subdivision and west of Silverthorne Subdivision, so it is completely surrounded by the City of Fayetteville. Currently a portion of the property is under development or has been developed with mini storage units. Once again, as I stated at the previous annexation, compatibility and land use and development standards, ability to plan, provide services, these unincorporated areas that are left adjacent to developed subdivisions have caused issues for us to properly plan the city. With regard to Legacy Pointe, a street stub out was planned, which now has blocked in perpetuity, if the mini storage is ever redeveloped, and so these areas are important that we bring into the city just as we did two years ago. Thank you.

Mayor Coody: Questions for staff on this one? All right. Does anyone from the public have any comments on this particular annexation? Anyone at all? Seeing none, we'll close it to public comment and bring it back to City Council.

Kit Williams: This, like the last one, will be heard for the third and final time at our next City Council meeting on the 19th.

Mayor Coody: All right. Any other questions or comments from City Council? All right. We will leave this on this reading and close this portion of our public hearing and we'll move along to old business.

This ordinance was left on the second reading.

Mayor Coody closed the Public Hearing.

OLD BUSINESS:

RZN 06-2172 Dunnerstock: An ordinance rezoning that property described in rezoning petition RZN 06-2172 for approximately 19.98 acres, located west of Ruppel Road, east of Meadowlands Subdivision, from R-A, Residential Agricultural, RSF-1, Residential Single Family, 1 unit per acre, and C-2 Thoroughfare Commercial to C-1, Neighborhood Commercial, RMF-12, Residential Multi Family, 12 units per acre, and RSF-7, Residential Single Family, 7 units per acre. *This ordinance was left on the second reading at the August 15th, 2006 City Council Meeting*

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

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

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

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

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

UNFINISHED BUSINESS:

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

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

City Attorney Kit Williams read the ordinance.

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

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

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

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

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

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

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

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

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

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

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

City Attorney Kit Williams read the ordinance.

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

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

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

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

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

Agenda Session 2/27/07
Farmington Annexation Public
Hearing. C.I.

December 12, 2006

Mayor Dan Coody
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Mayor Coody:

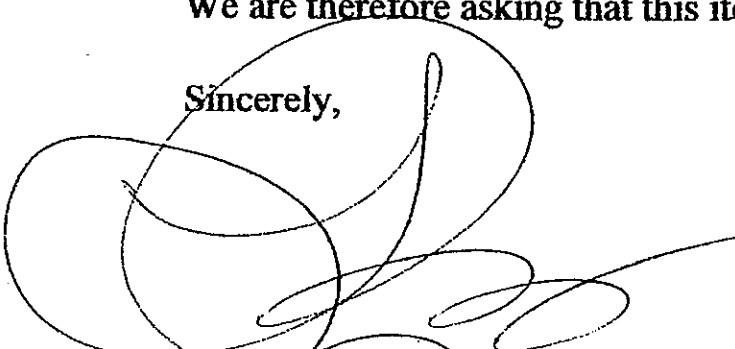
We respectfully request that the de-annexation of our properties be placed on the agenda of the next city council meeting set for January 2, 2007.

My wife, Michelle Weeks, attended the city council meeting September 5th at which time our properties were annexed into the city. At that time she was informed that the property owners could request and be granted de-annexation by coming before the city council and making that request.

We are therefore asking that this item be placed on the city council agenda for that purpose.

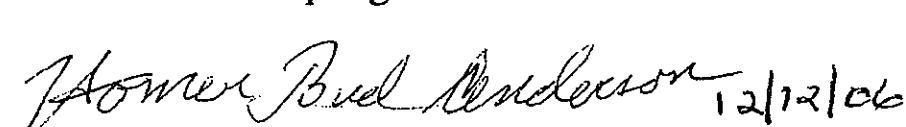
Sincerely,

Signatures were witnessed and
notarized by: E. Jane Anderson


Larry C. Weeks
121 N. Double Springs Rd.

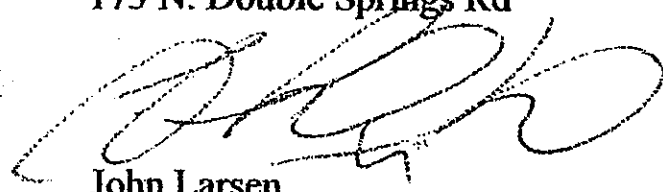
12/12/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011


Homer Bud Anderson
173 N. Double Springs Rd.

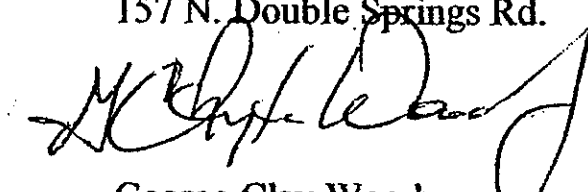
12/12/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011


John Larsen
157 N. Double Springs Rd.

12/12/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011


George Clay Woody
25 N. Double Springs Rd.

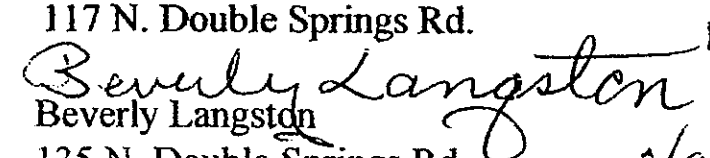
12/13/06

E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

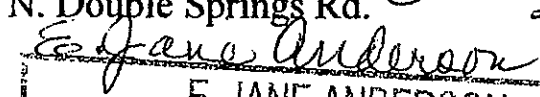

Herbert Dorman
117 N. Double Springs Rd.

12/13/06

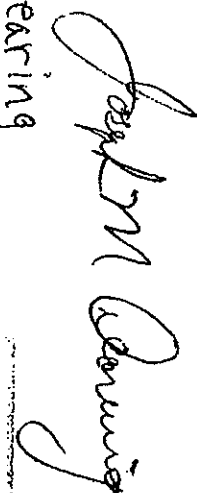
E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011


Beverly Langston
135 N. Double Springs Rd.

2/9/07


E. JANE ANDERSON
NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

199 N Double Springs Rd
= 0596 M. Dearing



NOTARY PUBLIC-STATE OF ARKANSAS
WASHINGTON COUNTY
My Commission Expires Feb. 12, 2011

E. Jane Anderson
2/29/07

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

A. 2
CEMS Ambulance Services for 2007
Page 1 of 10

March 20, 2007
City Council Meeting Date

Tony Johnson
Submitted By

Fire
Division

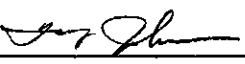
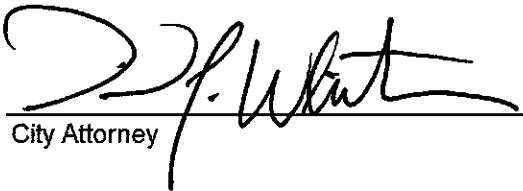
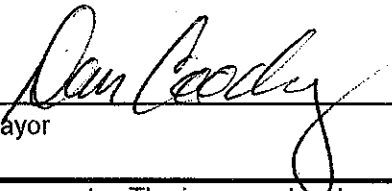
Fire
Department

contract amendment
Action Required:

A resolution approving a ~~change order~~ in the amount of \$20,000 for the increase in fees charged by CEMS for 2007 ambulance services for the City of Fayetteville.

\$ 20,000.00 Cost of this request	\$ 270,000.00 Category / Project Budget	Transfers to CEMS Program Category / Project Name
1010.6600.5705.00 Account Number	\$ - Funds Used to Date	Program / Project Category Name
Project Number	\$ 270,000.00 Remaining Balance	General Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 Department Director	2-26-07 Date	Previous Ordinance or Resolution # 38-06
 City Attorney	3/6/07 Date	Original Contract Date:
 Finance and Internal Service Director	3-6-07 Date	Original Contract Number:
 Mayor	3/2/07 Date	Received in City Clerk's Office 
		Received in Mayor's Office

Comments: The increase has been reviewed during the not for profit funding requests in the 2007 budget process.



City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701
Phone (479) 575-8365 Fax (479) 575-0471

Fire Chief's Memorandum

To: Mayor Coody
Fayetteville City Council

From: Fire Chief Tony Johnson *TJ*

Subject: Request to Amend Resolution No. 38-06 (City of Fayetteville Contract for
Emergency Medical Transport Service)

Date: February 26, 2007

At the December 19, 2006, City Council Meeting, the Council approved an increase in the level of funding for Central Emergency Medical Service (CEMS) from \$250,000 to \$270,000 annually. I am requesting the following amendment to be made to paragraph #8 of the aforementioned Resolution in order to make the disbursements to CEMS.

*8. The term of performance for this agreement will expire December 31, 2008, subject to approval of an annual City budget containing funding for the service. The City agrees to pay and CEMS agrees to accept as payment in full for its services, the annual amount of \$250,000 **\$270,000** in twelve (12) monthly installments of \$20,833.00 **\$22,500.00**. The amount to be paid for services in future budget years are dependent on the amount of appropriated by the City Council for each budget year. If the Public Utility Model is accepted and instituted for service, this contract will automatically terminate upon the effective date of the Public Utility Model.*

Thanking you in advance for your consideration and passage of this request.

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT #1
TO THE CONTRACT WITH CENTRAL EMERGENCY MEDICAL
SERVICES, INC. (CEMS) FOR EMERGENCY MEDICAL
TRANSPORT SERVICES.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas
hereby approves Amendment #1 to the contract with Central Emergency
Medical Services, Inc. (CEMS) for emergency medical transport services. A copy
of Amendment #1, marked Exhibit "A" is attached hereto and made a part
hereof.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

**AMENDMENT #1
TO THE
CONTRACT FOR EMERGENCY MEDICAL TRANSPORT SERVICES**

BE IT KNOWN TO ALL:

That the City of Fayetteville, Arkansas and Central Emergency Medical Services (CEMS), on this _____ day of March, 2007, hereby agree that the Contract of March 7, 2006, shall be amended by striking Paragraph 8 and inserting the following in its stead:

8. The term of performance for this agreement will expire December 31, 2008, subject to approval of an annual City budget containing funding for the service. The City agrees to pay and CEMS agrees to accept as payment in full for its services, the annual amount of \$270,000.00 in twelve (12) monthly installments of \$22,500.00. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by the City Council for each budget year. If the Public Utility Model is accepted and instituted for service, this contract will automatically terminate upon the effective date of the Public Utility Model.

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set by their authorized representative effective the date set for herein above.

Central Emergency Medical Services, Inc.

City Of Fayetteville, Arkansas

Tony Hickerson, Administrator

Dan Coody, Mayor

WITNESS:

ATTEST:

Sondra Smith, City Clerk/Treasurer

RESOLUTION NO. 38-06

A RESOLUTION APPROVING RENEWAL OF THE CONTRACT FOR EMERGENCY MEDICAL TRANSPORT SERVICES WITH CENTRAL EMERGENCY MEDICAL SERVICES (CEMS) IN THE ANNUAL AMOUNT OF \$250,000.00 THROUGH DECEMBER 31, 2008 OR UNTIL THE EFFECTIVE DATE OF THE PUBLIC UTILITY MODEL IF ADOPTED SOONER.

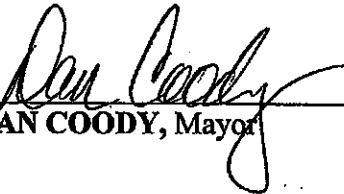
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves renewal of the Contract for Emergency Medical Transport Services with Central Emergency Medical Services (CEMS) in the annual amount of \$250,000.00 through December 31, 2008. A copy of the Contract, marked Exhibit "A" is attached hereto, and made a part hereof.

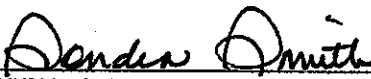
Section 2. That if the Public Utility Model is accepted and instituted for this service, this contract will automatically terminate upon the effective date of the Public Utility Model.

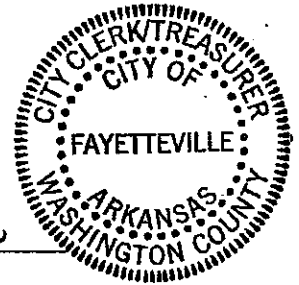
PASSED and APPROVED this 7th day of March, 2006.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



**CITY OF FAYETTEVILLE
CONTRACT FOR EMERGENCY MEDICAL TRANSPORT SERVICES**

This Agreement is entered into on this 74th day of March, 2004, between the City of Fayetteville, hereinafter known as the "City" and Central Emergency Medical Service, hereinafter known as "CEMS," an Arkansas not-for-profit corporation.

WHEREAS the City has determined that a public need exists for an emergency ambulance service that operates within the city limits of Fayetteville to serve Fayetteville residents,

WHEREAS CEMS has developed an emergency ambulance service that operates within the City limits and serves Fayetteville residents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and CEMS agree as follows:

1. This Agreement will begin on the date first written above.
2. CEMS agrees to develop, operate, and maintain an Advanced Life Support (ALS) Emergency Ambulance Service that serves Fayetteville residents and respond to all emergency medical calls for service within the city limits of Fayetteville. This ALS service will be provided in conjunction with the Fayetteville Fire Department's emergency response units, with the Fayetteville Fire Department agreeing to provide Basic Life Support (BLS) Non-Transport Emergency Response Service. The Fayetteville Fire Department shall maintain control over the use of Fire Apparatus as First Response Units and CEMS shall maintain control over the use of Ambulances.
3. The Fayetteville Fire Department agrees to operate according to the established patient treatment protocols, as identified by the CEMS' Medical Director, from the time patient contact is made until the time the patient is removed from the incident scene and transported, via ALS Ambulance, to recognized medical treatment facility or hospital, or until CEMS personnel determine the call is a no-transport.
4. CEMS agrees to provide written quarterly and annual reports to the City's Project Coordinator describing the activities undertaken during the preceding period and also to report on the following performance measures: Number of calls responded to, average response time for these calls, type of patient service provided for each response. (Whether the patient accepted or declined care). The parameters for calculating the average response time will be from the time the call is verified at the CEMS medical communication center until arrival at the incident location by the first arriving transporting Ambulance. "Time call is verified" shall be the moment the communication center personnel receive both sufficient location information to know where a response is required and sufficient information to determine the presumptive run priority designation. "Arrival at incident location" means the moment an ambulance crew notifies the medical communication center that it is fully stopped at the location where the ambulance shall be parked while the crew exits to approach the patient. In situations where the ambulance has responded to a location other than the scene (e.g. staging areas for hazardous material/violent crime incidents or non-secured scenes), arrival at the scene shall be the time the ambulance arrives at the designated staging location. The quarterly reports are to be submitted to the Project Coordinator by April 15, July 15, October 15, and January 15 for the preceding calendar quarter. The data used to compile these reports will include only those calls for service within the corporate city limits of the City of Fayetteville, Arkansas and will be reported for the current quarter, current year-to-date, and prior year-to-date.
5. CEMS commits to maintaining an average response time not to exceed eight (8) minutes within the City of Fayetteville's corporate limits for the duration of this contract.
6. CEMS agrees to make both financial and response data records available for review by the Project Coordinator and the City's Internal Auditor as requested, and to provide the City with an annual audit performed by a certified public accountant licensed by the State of Arkansas. CEMS agrees to comply with

the Arkansas Freedom of Information Act as applicable. Requests for records shall follow compliance requirements of the Health Insurance Portability and Accountability Act (HIPAA).

7. For the purposes of this Agreement, the Project Coordinator for the City will be the City Fire Chief or his/her designee. The Project Coordinator for CEMS will be CEMS Administrator Tony Hickerson or his successor or designee. Communications pertaining to this agreement will be through the respective Project Coordinators for the City and CEMS.
8. The term of performance for this agreement will expire December 31, 2008, subject to approval of an annual City budget containing funding for the service. The City agrees to pay and CEMS agrees to accept, as payment in full for its services, the annual amount of \$250,000.00 in twelve (12) monthly installments of \$20,833.00. The amounts to be paid for services in future budget years are dependent on the amounts appropriated by City Council for each budget year. If the Public Utility Model is accepted and instituted for this service, this contract will automatically terminate upon the effective date of the Public Utility Model.
9. CEMS will hold harmless, defend, and indemnify the City, from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the performance or nonperformance of the services or subject matter in this Agreement.
10. CEMS must provide and maintain in force, at all times during the term of the contract, insurance for worker's compensation as provided by state statute, commercial general liability, and vehicle liability. Such policies will be issued by companies authorized to do business in the State of Arkansas. Minimum amounts required for commercial general liability and automobile liability are \$1,000,000.
11. For any work sublet, CEMS will require the subcontractor to provide similar worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under workers' compensation insurance, CEMS will provide and will cause each subcontractor to provide adequate employers' liability insurance for the protection of such of his employees as are not otherwise protected. A certificate of insurance addressed to the City listing the above coverage amounts is to be submitted with contract approval. The premiums for all insurance required herein will be paid by CEMS.
12. CEMS and the City agree to establish a standing Emergency Medical Services (EMS) Workgroup. This EMS Workgroup shall consist of three (3) representatives from CEMS; three (3) representatives from the Fayetteville Fire Department; and two (2) representatives from the Fayetteville Police Department's Central Dispatching Office. This Workgroup will meet to discuss the coordination of services, facilitate the exchange of ideas to enhance the quality of service being provided and develop a problem-solving mechanism. This Workgroup shall meet as requested by any member of the Workgroup, but not less than once per quarter during the calendar year.
13. All notices required or permitted under this agreement will be submitted in writing to the other party in this agreement by certified mail, return receipt requested, which notice will be effective three (3) days after deposit therein addressed to the following:

City of Fayetteville
Dan Coody,
Mayor
113 West Mountain St.
Fayetteville, AR 72701

Fayetteville Fire Dept.
Tony Johnson,
Fire Chief
303 W. Center St.
Fayetteville, AR 72701

CEMS
Tony Hickerson,
Administrator
645 S School Ave
Fayetteville, AR 72701

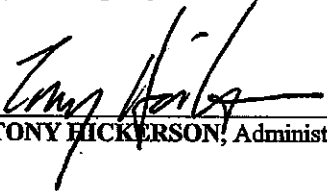
16. Neither party may assign any of its rights or obligations under this agreement, without the express written consent of the other. Nor shall this agreement be construed to bestow any rights or benefits upon anyone other than the City and CEMS.
17. It is agreed and understood that the failure of either party to invoke any of the available remedies under this contract or under law in the event of one or more breaches or defaults by the other shall not be construed as

a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

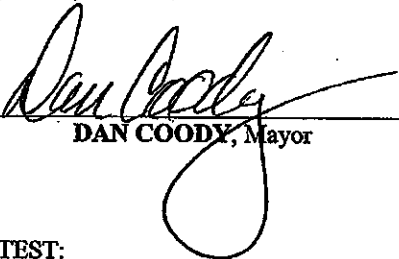
18. This contract contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. No modification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City and CEMS. This contract supersedes all prior agreements, contracts and understandings of any kind between the parties relating to the subject matter hereof. This contract may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
19. Each paragraph of this contract is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
20. This contract shall be interpreted according to and enforced under the laws of the State of Arkansas. The parties further agree that any litigation arising from this contractual relationship shall be commenced in either the Circuit Court of Washington County, Arkansas, or the United States District Court for the Western District of Arkansas, Fayetteville Division. The parties hereby submit to the personal jurisdiction of said courts, and waive any objections to venue in said courts.
21. Tax Exempt Status: Attached hereto and made part hereof is a copy of the correspondence from the Internal Revenue Service dated _____ confirming the 501(c)(3) tax exempt status of the Central Emergency Medical Service.

IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

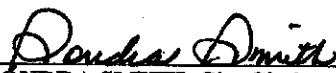
Central Emergency Medical Services, Inc.

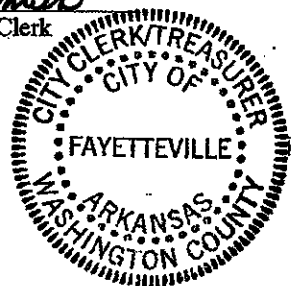
By: 
TONY HICKERSON, Administrator

City of Fayetteville, Arkansas

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk



Central
emergency
medical
services

Comments:

RESOLUTION NO. _____

A RESOLUTION APPROVING RENEWAL OF THE CONTRACT FOR EMERGENCY MEDICAL TRANSPORT SERVICES WITH CENTRAL EMERGENCY MEDICAL SERVICES (CEMS) IN THE ANNUAL AMOUNT OF \$250,000.00 THROUGH DECEMBER 31, 2008 OR UNTIL THE EFFECTIVE DATE OF THE PUBLIC UTILITY MODEL IF ADOPTED SOONER.

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 renewal of the Contract for Emergency Medical Transport Services with Central Emergency Medical Services (CEMS) in the annual amount of \$250,000.00 through December 31, 2008. A copy of the Contract, marked Exhibit "A" is attached hereto, and made a part hereof.

Section 2. That if the Public Utility Model is accepted and instituted for this service, this contract will automatically terminate upon the effective date of the Public Utility Model.

PASSED and APPROVED this 7th day of March 2006.

APPROVED:

DAN COODY, Mayor

ATTEST:

By _____
SONDRA SMITH, City Clerk

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

20-Mar-07
City Council Meeting Date

Kay Curry/Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

A resolution awarding Bid #07-22 and approval of a contract with Arkoma Playgrounds & Supply in the amount of \$138,530.50 with a 9.5% project contingency of \$13,160.40 for a total project cost of \$151,690.90 for the installation of park amenities for the development of Harmony Pointe Park; and approving a budget adjustment in the amount of \$50,000.00.

\$151,690.90
Cost of this request
2250.9255.5806.00
Account Number
02013.7
Project Number

\$ 201,700.00
Category/Project Budget
\$ 49,178.00
Funds Used to Date
\$ 152,319.26
Remaining Balance

Neighborhood Park Development
Program Category / Project Name
Park and Recreation Improvements
Program / Project Category Name
Parks Development
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

[Signature] 3-2-07
Department Director Date

[Signature] 3/6/07
City Attorney Date

Paul A. Bech 3-2-07
Finance and Internal Service Director Date

[Signature] 3/7/07
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office
ENTERED
3/2/07

Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
Connie Edmonston, Parks and Recreation Director
From: Kay Curry, Park Planner
Date: March 2, 2007
RE: **Harmony Pointe Park Construction**

RECOMMENDATION

A resolution awarding Bid #07-22 and approval of a contract with Arkoma Playgrounds & Supply in the amount of \$138,530.50, with a 9.5% project contingency of \$13,160.40 for a total project cost of \$151,690.90 for the development of Harmony Pointe Park.

BACKGROUND

Harmony Pointe Park is 8.35 acres and located at 6264 W. Milliken Bend in the Legacy Pointe subdivision. This subdivision is situated in the southwest of quadrant of town along Double Springs Rd. between Wedington Dr. and Persimmon Street. The park serves residents within a ½ mile radius. Three public meetings were conducted to involve the neighborhood and assess the communities needs and desires for amenities within the park. Based on these findings, a park master plan that included sidewalks, a playground, a pavilion, a bicycle rack, three picnic tables, benches, a grill, tree plantings and a half basketball court was designed by Park Staff and presented to the neighborhood. The plan was approved by the neighborhood on September 21, 2006. On October 2, 2006, the Parks and Recreation Advisory Board approved the plan and a budget of \$150,000 for the development of the park. At the January 8th Parks and Recreation Advisory Board meeting an additional \$50,000 was approved for the development of the park allocating a total of \$200,000 its development. The development of the park was also approved in the 2006 Capital Improvement Plan. Because of the associated cost, the development of this park was phased. Phase I includes the construction and installation of playground equipment for children ages 2-5 years and 5-12 years, a pavilion with two picnic tables, a bicycle rack, and sidewalks. The playground equipment was purchased at 50% of the retail price by the City through a Game Time Obesity Grant (Ordinance No. 4951).

DISCUSSION

The project was advertised on February 2nd and 9th and opened on March 1, 2007. Five vendors including Arkoma Playgrounds & Supply, Midland Construction, Pick-It Inc., Noland Construction Inc., Benchmark Construction of NWA Inc, submitted bids. Arkoma Playground and Supply was the low bid in the amount of \$138,530.50. If approved, the project will begin in April and be completed in August.

BUDGET IMPACT

This project is funded with Park Land Dedication Funds from the Southwest Park District. Total project cost including a 9.5 % contingency is \$151,690.90.

City Council Meeting of March 20, 2007

A. 3
Arkoma Playgrounds and Supply, Bid # 07-22
Page 3 of 22

Agenda Item Number

Attachments:

PRAB October 2nd and January 8th Minutes

Ordinance No. 4951

Master Plan

Bid Tabulation Sheet

Contract

Budget Adjustment

Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-22 AND APPROVING A CONTRACT WITH ARKOMA PLAYGROUNDS AND SUPPLY IN THE AMOUNT OF \$138,530.50 FOR THE INSTALLATION OF PARK AMENITIES AT HARMONY POINTE PARK; APPROVING A 9.5% PROJECT CONTINGENCY IN THE AMOUNT OF \$13,160.40; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$50,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-22 and approves a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 9.5% project contingency in the amount of \$13,160.40.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$50,000.00.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Section 00 52 13

Agreement

**BETWEEN CITY OF FAYETTEVILLE AND ARKOMA
PLAYGROUNDS & SUPPLY**

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2007 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Arkoma Playgrounds & Supply (herein after called CONTRACTOR).

CITY OF FAYETTEVILLE and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the construction of a neighborhood park consisting of a pavilion with picnic tables, play equipment, bike rack, sidewalks, earthwork, concrete work, and for **Harmony Pointe Park**; and all items indicated in the Drawings and Specifications.

Article 2. ENGINEER.

The Project has been designed by
City of Fayetteville Parks and Recreation Division
1455 South Happy Hollow Road
Fayetteville, Arkansas 72701

Will be hereinafter called PARKS AND RECREATION DIVISION PROJECT MANAGER an who is to act as CITY OF FAYETTEVILLE'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1 The Work for Harmony Pointe Park Construction shall be substantially completed within 100 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B& C of the General Conditions within 100 consecutive calendar days after the date when the Contract Time commences to run.

3.2 Liquidated Damages. CITY OF FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY OF FAYETTEVILLE and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents and amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1 For all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in this paragraph 4.2.

PAYMENT ITEMS

ITEM NUMBER	DESCRIPTION	UNIT	EST. QTY.
1	Moblization (1)	L.S.	1.00
2	Construction Staking	L.S.	1.00
3	Tree Protection - Silt Fencing / Temporary Fencing (3)(5)	L.F.	470.00
4	Select Fill / Topsoil - complete in place (8)	C.Y.	65.00
5	Seed and Straw (4)	1,000 S.F.	15.00
6	Compacted Fill (Red Dirt) (10)	C.Y.	278.00
7	Unclassified Excavation (2)	C.Y.	185.00
8	Concrete Sidewalk (4" Thickness) (7)	S.Y.	183.00
9	Concrete Slab for Playground (4" Thickness)(7)	S.Y.	445.00
10	Play Equip. Installation - complete in place (6)	L.S.	1.00
11	Rubber Safety Surfacing - Tiles complete in place(6)(9)	S.F.	4001.00
12	Pavilion (20' Shelter with 2 ADA Accessible Picnic Tables) on (5" thick) Concrete Slab - complete in place (6)(7)(9)	L.S.	1.00
13	6' Benches - complete in place (6)(9)	EA.	2.00
14	Bike Rack - complete in place(6)(9)	EA .	1.00
*	Play Equipment (Provided by the City of Fayetteville)		

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DIVISION PRPROJECT MANAGER as provide in the General Conditions.

5.1 Progress Payments. CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER, on or abut the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02. All such payments will be measured by the schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

90 percent of Work completed (with the balance of 10 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DIVISION PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DIVISION PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DIVISION PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DIVISION PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance, and furnishing of the Work.

6.3. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.

6.4. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawing are not Contract Documents and may not be complete for CONTRACTOR'S purposes. CONTRACTOR acknowledges that CITY OF FAYETTEVILLE AND PARKS AND RECREATION DIVISION PROJECT MANAGER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

6.5. CONTRACTOR is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and

drawings identified in the Contract Documents, and all additional examinations, investigations, exploration, tests, studies, and data with the Contract Documents.

6.7 CONTRACTOR has given PARKS AND RECREATION DIVISION PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Document and the written resolution thereof by PARKS AND RECREATION DIVISION PROJECT MANAGER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE AND CONTRACTOR concerning the Work consist of the following:

- 7.1 This Agreement (pages 1-7, inclusive).
- 7.2 Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3 Certificates of Insurance, (Exhibit C).
- 7.4 Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).
- 7.5 General Conditions (pages 1 to 42, inclusive).
- 7.6 Supplementary Conditions (pages 1 to 13, inclusive).
- 7.7 Specifications consisting of Divisions 1 through 16 as listed in table of contents thereof.
- 7.8 Addenda numbers, inclusive.
- 7.9 One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets numbered two through nine with each sheet bearing the following general title: **Harmony Pointe Park**.
- 7.10 The following which may be delivered or issued after the Effective Date of the agreement and are not attached hereto:
 - 7.10.1 Notice to Proceed
 - 7.10.2 All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 8. MISCELLANEOUS.

8.1 Terms used in the agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.3 CITY OF FAYETTEVILLE and CONTRACTOR each binds itself, it partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5 Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

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

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and CONTRACTOR have signed this Agreement in quadruplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DIVISION PROJECT MANAGER, and two counterparts have been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and CONTRACTOR or identified by PARKS AND RECREATION DIVISION PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2007 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

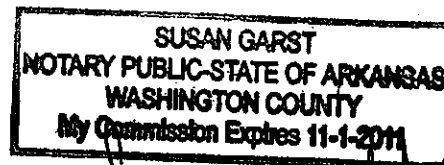
CONTRACTOR

By: _____
Mayor

By: Becky L. Thompson

[CORPORATE SEAL]

[CORPORATE SEAL]



Attest _____

*Attest

Susan Garst, Notary

* If a Corporation, attest by the

Secretary.

Address for giving notices

Address for giving notices

(If CITY OF FAYETTEVILLE is a public body, attach License No. _____ evidence of authority to sign and resolution or other documents Agent for service of process: authorizing execution of Agreement.

(If CONTRACTOR is a corporation, attach evidence of authority to sign)

PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes October 2, 2006

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 5:35 P.M. on October 2, 2006 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members Bitler, Colwell, Davis, Bailey, Davidson and Burke; Langsner and Free were absent; Park Staff Jumper, Curry, Edmonston, Whillock, Wright, Coles and audience were in attendance.

5. Legacy Pointe Subdivision Park Plan: Kay Curry, Park Planner

Legacy Pointe Subdivision is located east of Double Springs Road and south of Owl Creek. This subdivision contains an 8.35 acre park that was deeded in phases as a Park Land Dedication Requirement in July of 2003 and June of 2006. On October 3, 2005 PRAB discussed this park and approved the following motion:

Pawlik-Holmes moved to recommend that Staff proceed with development of the master plan for the park keeping in mind the \$75,000 figure recommended by Parks for development of the park as a target figure and return to Parks Board for final approval. Mauritsen seconded the motion. The motion was approved 7-0-0 with Hill, Bailey, Harrison, Langsner, Davidson, Mauritsen and Pawlik-Holmes voting 'yes' and Marley absent for the vote.

Parks Staff held a public meeting on February 9, 2006 to discuss the neighborhood's desires for the future park. A master plan was designed and a second public meeting was held on the park site on September 14, 2006 to review the proposed park master plan. Approximately 14 people from the neighborhood attended this meeting with their suggestions. The master plan was approved by the neighborhood at this meeting. Parks Staff attend the POA meeting on September 21 to once again review the plan and receive input from the approximately 13 people attending. It was the consensus of the neighborhood to approve the proposed park master plan and to have two separate playgrounds on one slab similar to the layout of the Finger Park new playground for a cost of \$110,000. Other approved amenities included benches, a bike rack, a pavilion with picnic tables and grill, sidewalks, landscaping (limited), and a half-court basketball court to be a deductive alternate of the bid packet. (See attached estimated budget.) Additionally as part of the Owl Creek Trail, a 12 foot trail will traverse the park and be built and funded by the Transportation Division's Trails Program.

Parks Staff Recommendation: Approval of the master plan and the proposed plan to be bid.

Colwell asked what the proposed half basketball court lays next to.

Curry explained and pointed out on the projected map the court is adjacent to the detention pond.

Colwell said he is concerned it is too close to people in the neighborhood and the sound of the bouncing balls would cause a noise-issue.

Davidson asked the neighborhood representatives present at the meeting if the neighborhood would be okay with that.

Shannon Jones, representing Legacy Pointe POA said the priorities are actually the picnic area and pavilion.

PRAB Motion: Davidson moved to accept Staff recommendation. Davis seconded and the motion passed 6-0-0.

Legacy Pointe Subdivision Funding Request:

Parks Staff recommends funding \$150,000 from the Southwest Park District Park Land Dedication Fund for the development of the park located in the Legacy Pointe Subdivision.

Colwell inquired when the money would be spent.

Edmonston said the money can currently all be spent because it is unencumbered.

Bitler asked if there's any more planning to be spent from the fund.

Edmonston said there is money to spend on the community park, Dale Clark Park and on Mountain Ranch Development park.

Colwell asked how much of the work is done by Park Staff.

Edmonston said everything related to trails is installed by the Transportation Department. Everything else, such as the basket ball court, is done by Parks Staff.

Colwell asked if we're getting to a place where we will need a construction crew in Parks to do the work instead of bidding out the jobs.

Edmonston said we are getting close to that point. Trees and shrubs can be done in-house but the sidewalks will be bid out. Legacy Pointe Park will be bid out.

PRAB Motion: Bitler moved to accept Staff recommendation. Davis seconded and the motion passed 6-0-0.

Legacy Pointe Subdivision Park Name Recommendation:

Legacy Pointe Subdivision POA recommends Harmony Pointe Park as the name of the park located at Legacy Pointe. This name was chosen at their September 21, 2006 POA meeting. Other park names considered were Owl Creek Park, Tipton Park, and Harmony Grove. (See attached note of park name recommendation submitted by their POA President.) According to our Naming of Facilities Policy, the names are submitted for review to PRAB and are automatically tabled until the next month to allow for public input.

PRAB Motion: Park names are tabled until the next November 6, 2006 PRAB meeting according to the Naming of Facilities Policy. Colwell moved to table as is required and Davidson seconded. All members present approved and the naming of the park was tabled till November 6 meeting.

Minutes prepared by Cheryl Whillock

**FAYETTEVILLE
PARKS AND RECREATION ADVISORY BOARD**

Meeting Minutes January 8, 2007

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 6:20 P.M. following a site visit to two locations, on January 8, 2007 in Room 326 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:

Parks and Recreation Advisory Board members Colwell, Davidson, Burke, Davis and new members Biendara, Hatfield and Mauritsen were present; Bitler was absent; Park Staff Jumper, Curry, Edmonston, Coles, Whillock, Wright, and audience were in attendance.

10. Park Land Dedication Fund Request:

SW Park District Funding Request for Harmony Pointe Park:

Harmony Pointe Park is located on the southwest side of Legacy Pointe Subdivision (south of Highway 16 West and east of Double Spring Road). The 8.35 acre park was obtained as a requirement of the Park Land Dedication Ordinance. PRAB approved the master plan of the park and \$150,000 for the park's development on October 2, 2006. (The master plan is attached.) Parks and Recreation was approved a GameTime® Fight Obesity through Play grant that gave a 50 percent off the list price of a playground. Due to the size of this Park and the 599 homes to be within the five mile radius of this park, staff is recommending an additional \$50,000 for this project.

PRAB Motion:

Davis moved to approve the use of an additional \$50,000 from the SW Park District Funds to complete the improvements to Harmony Pointe Park. Mauritsen seconded the motion. The motion passed by a vote of 6-0-0. Bitler and Burke were absent for the vote.

Minutes prepared by Cheryl Whillock

January 8, 2007/ 1

ORDINANCE NO. 4951

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF PLAYGROUND EQUIPMENT FROM GAMETIME BY SOUTHWEST PARKS & PLAYGROUNDS, L.P. IN THE AMOUNT OF \$85,161.00 FOR HARMONY POINTE AND COPPER CREEK PARKS.

WHEREAS, GameTime by SouthWest Parks & Playgrounds, L.P. has approved the Parks & Recreation Division for a *Fight Obesity Through Play* Grant, in the form of a fifty percent (50 %) price reduction for playground equipment; and,

WHEREAS, the equipment could not be obtained at this low a price through normal competitive bidding procedures; and,

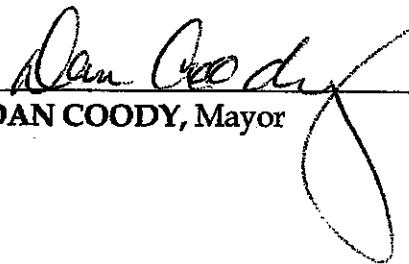
WHEREAS, the normal competitive bidding process would not allow the City to realize the savings of \$72,299.00 to equip playgrounds at two new parks, and is therefore deemed unworkable, impractical and not feasible in this instance.

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

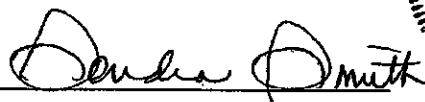
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and therefore waives the requirements of formal competitive bidding for the purchase of playground equipment from GameTime by SouthWest Parks & Playgrounds, L.P. in the amount of \$85,161.00 for Harmony Pointe and Copper Creek Parks.

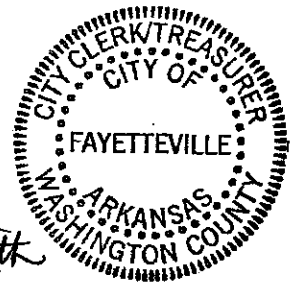
PASSED and APPROVED this 21st day of November, 2005.

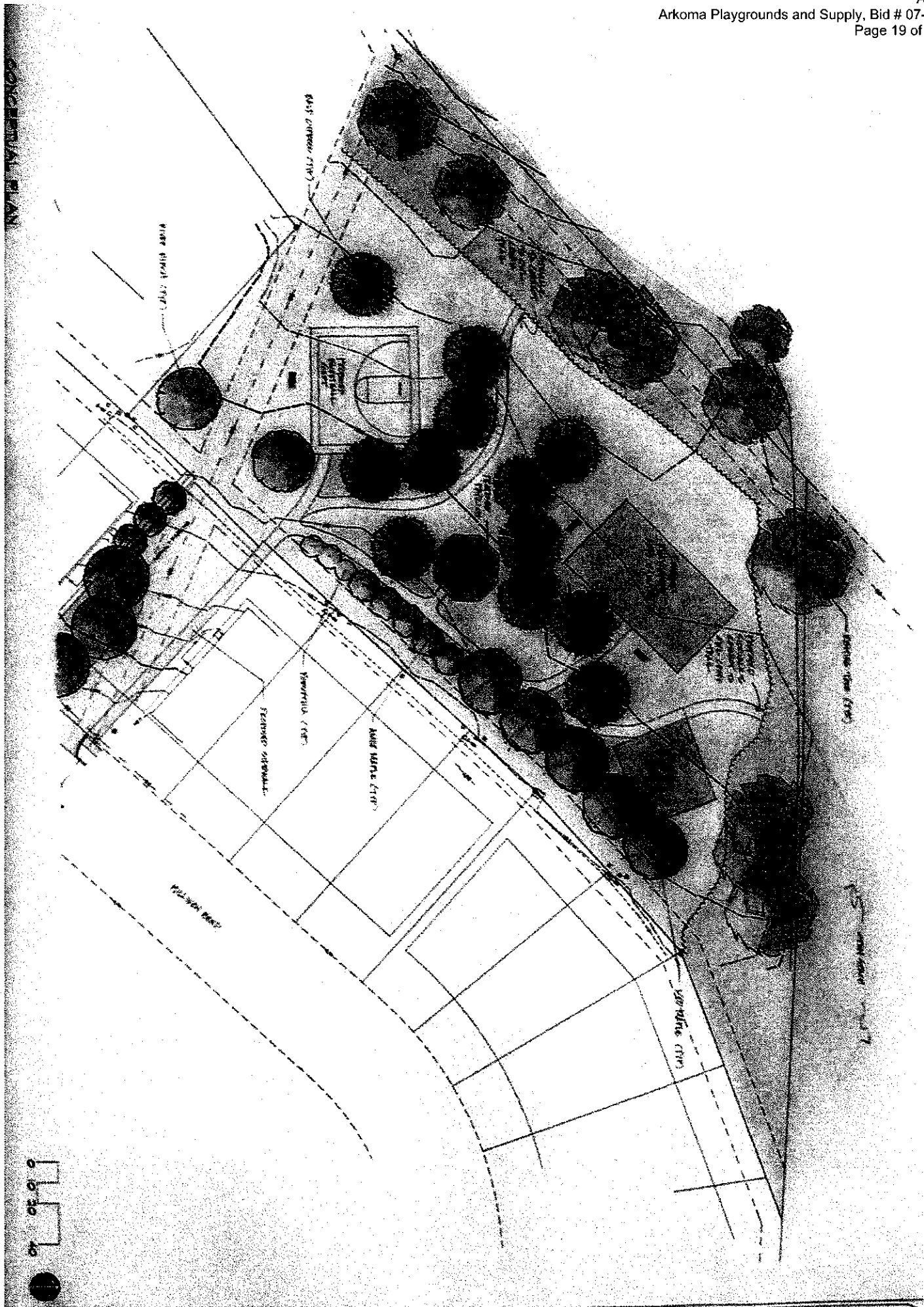
APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk





Bid 07-22, Harmony Pointe Park
Detailed Bid Tab: 3/1/07 - 2:00 PM, Central Standard Time



ITEM#	DESCRIPTION	UNIT	EST. QTY.	Unit Price	Bid Price	Unit Price	Bid Price	Unit Price	Bid Price	Unit Price	Bid Price	Unit Price	Bid Price
1	Modification (1)	L.S.	1.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00	\$1,380.00
2	Construction Shading	L.S.	1.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00	\$1,347.00
3	Ties Protection - Silt Fencing / Temporary Fencing (3)(6)	L.F.	470.00	48.37	\$22,714.90	\$22,714.90	\$22,714.90	\$22,714.90	\$22,714.90	\$22,714.90	\$22,714.90	\$22,714.90	\$22,714.90
4	Silt Protection - Silt Fencing / Temporary Fencing (3)(6)	C.Y.	68.00	68.00	\$4,624.00	\$4,624.00	\$4,624.00	\$4,624.00	\$4,624.00	\$4,624.00	\$4,624.00	\$4,624.00	\$4,624.00
5	Seal and Gravel (4)	1,000 S.F.	18.00	18.00	\$3,240.00	\$3,240.00	\$3,240.00	\$3,240.00	\$3,240.00	\$3,240.00	\$3,240.00	\$3,240.00	\$3,240.00
6	Compacted Fill (Red Dirt) (10)	C.Y.	278.00	278.00	\$7,782.00	\$7,782.00	\$7,782.00	\$7,782.00	\$7,782.00	\$7,782.00	\$7,782.00	\$7,782.00	\$7,782.00
7	Underside Excavation (2)	C.Y.	185.00	185.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00
8	Concrete Sidewalk (4" Thickness) (7)	S.Y.	183.00	183.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00	\$3,330.00
9	Concrete Slab for Playground (4" Thickness) (7)	S.Y.	446.00	446.00	\$7,992.00	\$7,992.00	\$7,992.00	\$7,992.00	\$7,992.00	\$7,992.00	\$7,992.00	\$7,992.00	\$7,992.00
10	Play Equip. Installation - complete in place (6)	L.S.	1.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00
11	Rubber Safety Surfacing - Ties complete in place (6)(9)	S.F.	400.00	400.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00	\$16,500.00
12	Partition (20' Shelter with 2 ADA Accessible Plastic Tables)	L.S.	1.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00	\$26,626.00
13	6 Benches - complete in place (6)(9)	EA.	2.00	\$1,136.00	\$2,272.00	\$2,272.00	\$2,272.00	\$2,272.00	\$2,272.00	\$2,272.00	\$2,272.00	\$2,272.00	\$2,272.00
14	Blue Rock - complete in place (6)(9)	EA.	1.00	\$373.00	\$373.00	\$373.00	\$373.00	\$373.00	\$373.00	\$373.00	\$373.00	\$373.00	\$373.00
TOTAL BID AMOUNT					\$139,630.50		\$164,668.10		\$166,666.31		\$166,366.00		\$167,000.00

Deductive Alternate
D 1 Pavilion (20' Shelter with 2 ADA Accessible Plastic Tables) on (6" thick) Concrete Slab - complete in

CERTIFIED: P. Lisa
Peggy Vice, Purchasing Manager

WITNESS: A. F. Faren
DATE: 3/1/07

NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

Harmony Pointe Park Cost Estimate

BUDGET: \$200,000

Arkoma

ITEM NUMBER	DESCRIPTION	UNIT	EST. QTY.	UNIT \$	ESTIMATE
1	Mobilization (1)	L.S.	1.00	\$1,980.00	\$1,980.00
2	Construction Staking	L.S.	1.00	\$1,347.50	\$1,347.50
3	Tree Protection - Silt Fencing / Temporary Fencing (3)(5)	L.F.	470.00	\$2.27	\$1,067.00
4	Select Fill / Topsoil - complete in place (8)	C.Y.	65.00	\$66.85	\$4,345.00
5	Seed and Straw (4)	1,000 S.F.	15.00	\$86.17	\$1,292.50
6	Compacted Fill (Red Dirt) (10)	C.Y.	278.00	\$12.46	\$3,465.00
7	Unclassified Excavation (2)	C.Y.	185.00	\$26.01	\$4,812.50
8	Concrete Sidewalk (4" Thickness) (7)	S.Y.	183.00	\$52.48	\$9,603.00
9	Concrete Slab for Playground (4" Thickness)(7)	S.Y.	445.00	\$47.71	\$21,230.00
10	Play Equip. Installation - complete in place (6)	L.S.	1.00	\$16,500.00	\$16,500.00
11	Rubber Safety Surfacing - Tiles complete in place(6)(9)	S.F.	4001.00	\$10.93	\$43,727.00
12	Pavilion (20' Shelter with 2 ADA Accessible Picnic Tables) on (5" thick) Concrete Slab - complete in place (6)(7)(9)	L.S.	1.00	\$26,526.00	\$26,526.00
13	6' Benches - complete in place (6)(9)	EA.	2.00	\$1,130.00	\$2,260.00
14	Bike Rack - complete in place(6)(9)	EA.	1.00	\$375.00	\$375.00
*	Play Equipment (Provided by the City of Fayetteville)				

SUBTOTAL

\$138,530.50

CONTINGENCY

13,160.40

TOTAL

\$151,690.90

Deductive Alternate

D 1	Pavilion (20' Shelter with 2 ADA Accessible Picnic Tables) on (5" thick) Concrete Slab - complete in place (6)(7)(9)	L.S.	1.00		\$26,526.00
-----	--	------	------	--	-------------

City Of Fayetteville

(Not a Purchase Order)

Supply, Bid # 07-22
Page 22 of 22

Requisition No.: **3/2/07** Date:

P.O. Number: Expected Delivery Date:

Vendor #: **7122** Vendor Name:

ARKOMA

Address:

Fob Point:

Mail Yes: No:

Taxable Yes: No: Quotes Attached

City: State:

Zip Code:

Ship to code:

Division Head Approval:

Requester:

Requester's Employee #:

Extension:

Qty

2727

472

Item Description

Quantity

Unit of Issue

Unit Cost

Extended Cost

Account Numbers

Project/Subproject #

Inventory #

Fixed Asset #

Harmony Pointe Park
Construction per Bid 07-22

1

lot

138,530.50

\$138,530.50

2250.9255.5806.00

02013.7

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: \$138,530.50

Tax: \$138,530.50

Total: \$138,530.50

Approvals:

Mayor: Department Director:

Finance & Internal Services Director: Budget Manager:

Dispatch Manager: Utilities Manager:

Purchasing Manager:

IT Manager:

Other:

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

Mar 20-07
City Council Meeting Date

David Bragg Fleet Operations Operations
Submitted By Division Department

Action Required:

That City Council approve the purchase of one Wirtgen Milling Machine from A. Camp Equipment in the amount of \$392,500 for use by Transportation Division.

\$392,500.00

Cost of this request

\$

657,383.00

Category/Project Budget

Other Vehicles & Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

-

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02080.1

Project Number

\$

657,383.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

David Bragg
Department Director

3-20-07
Date

D. P. White
City Attorney

3/6/07
Date

Paul A. Burch
Finance Director

3-6-07

Don Hardy
Mayor

3/7/07
Date

Received in City Clerk's Office

ENTERED

Received in Mayor's Office

Comments:



Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DB*
Date: February 28, 2007
Subject: Purchase of one Milling Machine

RECOMMENDATION: That City Council approve the purchase of one Wirtgen Milling Machine from A. Camp Equipment of Fayetteville in the amount of \$392,500.

BACKGROUND: Bid #07-21 was opened on February 13, 2007 for one crawler mounted cold milling machine for use by the Transportation Division. One bid response was received in the amount of \$392,500.00 with a trade allowance of \$80,000.00 for City unit #69.

The lowest bid from A. Camp Equipment of Fayetteville is a current model direct replacement for unit #69 and meets all specifications.

This milling machine is a replacement for unit #69, a 1996 Wirtgen pavement milling machine with 2000 hours of operation. This machine is a key component without which the paving program will shut down. While this machine is still serviceable, it has reached an age where dependability puts the entire program at great risk. The machine would be a good back up machine for a contractor with multiple machines. We feel it can be sold at auction for more than the trade allowance offered.

I recommend acceptance of the bid from A. Camp Equipment in the amount of \$392,500.00 without trade.

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles/Equipment.

This purchase was approved by the Equipment Committee at their meeting on February 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-21 TO A. CAMP EQUIPMENT FOR THE PURCHASE OF ONE (1) WIRTGEN MILLING MACHINE IN THE AMOUNT OF \$392,500.00 FOR USE BY THE TRANSPORTATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

City Of Fayetteville

(Not a Purchase Order)

Requisition No. _____ Date: **3/1/2007**
P.O. Number _____ Expected Delivery Date: _____

Vendor # **16208** Vendor Name: **A. CAMP EQUIPMENT**

Address: _____

City: _____

State: _____

Fob Point: _____

Zip Code _____

Ship to code: _____

Mail Yes: XX No: XX

Taxable Yes: XX No: XX

Requester

MARGARET HATTABAUGH

Requester's Employee # **2256**

Extension: **495**

Quotes Attached Yes: _____ No: _____

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2007 WIRTGEN MILLING	1	EA	\$392,500.00	\$392,500.00	9700.1920.5802.00	02080.1		
2	MACHINE, TO BE UNIT 9092		EA		\$0.00				
3	FIXED ASSET 709092		EA		\$0.00				
4	PER BID 07-21		EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
			Lot		\$0.00				

Special Instructions:

Subtotal: **392,500.00**

Tax: **EXEMPT**

Total: **392,500.00**

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

AGENDA REQUEST FORM

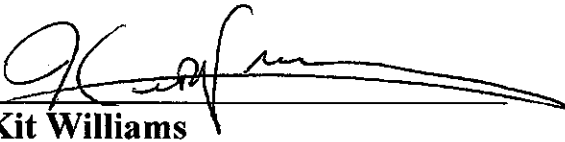
FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM: CITY ATTORNEY KIT WILLIAMS

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Express The Intent Of The City Council For The Public Service Commission Hearing On SWEPCO's Proposed Enlargement Of Its 69kv Transmission Line To A 161kv Transmission Line In Fayetteville

APPROVED FOR AGENDA:



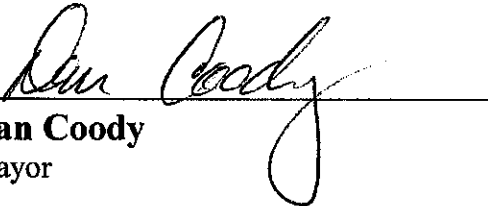
Kit Williams

City Attorney (as to form)

3-2-07

Date





Dan Coody

Mayor

3/7/07

Date

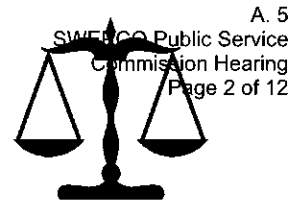


FAYETTEVILLE

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: **March 2, 2007**

RE: **SWEPCO's towers for enlarged transmission line**

Although I filed a Petition to Intervene to beat the filing deadline of March 6, 2007, I am uncomfortable suggesting possible alternatives to the Public Service Commission without direct authorization and advice from the City Council. Accordingly, I will present a Resolution for your consideration at the March 20th City Council meeting so that the City Council can determine which, if any, possible alternative routes it will support for the P.S.C. hearing on April 5, 2007.

Attached to this memo is the Resolution that will be before you for the March 20th meeting as well as the February 9, 2007 letter from David Matthews representing SWEPCO in which he describes seven alternative routes for the large transmission line. These alternatives are shown on the color map which has been reproduced and attached again for you.

RESOLUTION NO. _____

A RESOLUTION TO EXPRESS THE INTENT OF THE CITY COUNCIL FOR THE PUBLIC SERVICE COMMISSION HEARING ON SWEPCO'S PROPOSED ENLARGEMENT OF ITS 69kV TRANSMISSION LINE TO A 161kV TRANSMISSION LINE IN FAYETTEVILLE

WHEREAS, the City of Fayetteville has filed its Petition For Leave To Intervene and tentatively suggested two alternatives to the Public Service Commission, (this petition is attached as Exhibit A); and

WHEREAS, this Petition can be amended if the City Council determines that either proposed alternative is not acceptable or advisable; and

WHEREAS, the City Council rather than the City Attorney's office should make this policy determination.

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 determines that the City's Petition For Leave To Intervene is satisfactory (or should be amended as follows:)

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF)
SOUTHWESTERN ELECTRIC POWER COMPANY)
(SWEPCO) FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO REBUILD)
AND CONVERT ITS EXISTING 69kV TRANSMISSION)
LINE TO 161 kV BETWEEN SWEPCO'S FAYETTEVILLE)
AND NORTH FAYETTEVILLE SUBSTATIONS IN)
WASHINGTON COUNTY, ARKANSAS)

DOCKET NO. 06-172-U

PETITION FOR LEAVE TO INTERVENE

Comes now the City of Fayetteville, Arkansas, (Washington County) and moves this Commission for leave to intervene in this proceeding for the following reasons:

1. Petitioner City of Fayetteville, Arkansas, has recently expended millions of taxpayer dollars to enhance the appearance of Dickson Street in the same location as where Southwestern Electric Power Company (SWEPCO) has sought a Certificate of Public Convenience and Necessity to substantially enlarge its 69 kV transmission line to 161 kV across Dickson Street.

2. Although the line may be able to be built upon the existing easement, this substantially larger transmission line will be located on far taller and more massive towers which will substantially impair aesthetics of several blocks of Dickson Street, Lafayette Street and Maple Street and impair the view of the most prominent and important historic building in Fayetteville, Old Main on the University of Arkansas campus.

3. A Certificate of Public Convenience and Necessity should not be granted to SWEPCO to allow the construction of the substantially larger and taller towers supporting the larger 161 kV transmission line at its proposed location at least within the two block length from Dickson Street to Maple Street because of the towers' deleterious aesthetic and economic affects upon the City of Fayetteville, its citizens and businesses.

4. The City of Fayetteville would recommend either of the following two alternatives to SWEPCO for the Public Service Commission's approval which would allow SWEPCO to meet its needs to link the Fayetteville Substation near Dickson Street with the North Fayetteville Substation while protecting the aesthetic views of Old Main, one of the most visually important and recognized structures in the state.

(A) Western Route

The Western Route combining links A, B and K avoids impacting Old Main and the main campus area of the University of Arkansas as well as dense residential and commercial areas.

(B) Existing Route with no towers from Dickson Street to Maple Street

In order to protect the aesthetics of Dickson Street and view of Old Main, the taller, steel towers requested by SWEPCO should not be allowed between Dickson and Maple. This can be accomplished by burying all other lines currently on the electrical poles, thereby reducing the height required for the 161 kV line as separation from the other lines OR burying the 161 kV line itself for this two block segment.

5. The cost for either the Western Route or burying a two block segment of the 161 kV line or the other electrical lines should be borne by SWEPCO which is seeking this enlarged capacity for its business purposes and is appropriately a cost of doing business in Arkansas.

WHEREFORE, the City of Fayetteville prays that this Commission grant its Petition To Intervene in this proceeding.

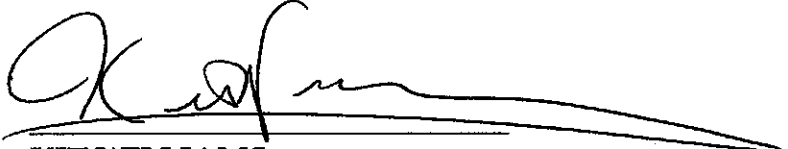
CITY OF FAYETTEVILLE
Petitioner

BY: 

KIT WILLIAMS, ABA #76007
Fayetteville City Attorney
113 W. Mountain St., Ste. 302
Fayetteville, AR 72701
Phone: (479) 575-8313
FAX: (479) 575-8315

CERTIFICATE OF SERVICE

I, Kit Williams, swear or affirm that I have sent the above Petition To Intervene by U.S. Mail, postage prepaid, to Honorable David R. Matthews, Matthews, Campbell, Rhoads, McClure, Thompson & Fryauf, P.A., 119 South Second Street, Rogers, AR 72756 on this 1st day of March, 2007.


KIT WILLIAMS

Fayetteville City Attorney

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

A. 5
SWEPCO Public Service
Commission Hearing
Page 7 of 12

RECEIVED

FEB 21 2007

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

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.

Landowner
February 9, 2007
Page 2

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 reconnector 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 reconnector 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 reconnector 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.

Landowner
February 9, 2007
Page 3

RAILROAD ROUTE USING LINK D:

This alternative route includes links A, D, F, G & H and only deviates from the aforescribed 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 the 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

Landowner
February 9, 2007
Page 4

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.

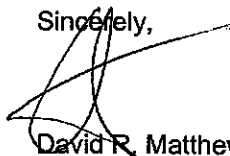
As indicated above, SWEPCO has evaluated all of the above alternative routes and has recommended to the Public Service Commission that the existing route be utilized rather than create new impacts on previously unaffected property owners. The alternative routes are being presented to the Public Service 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.

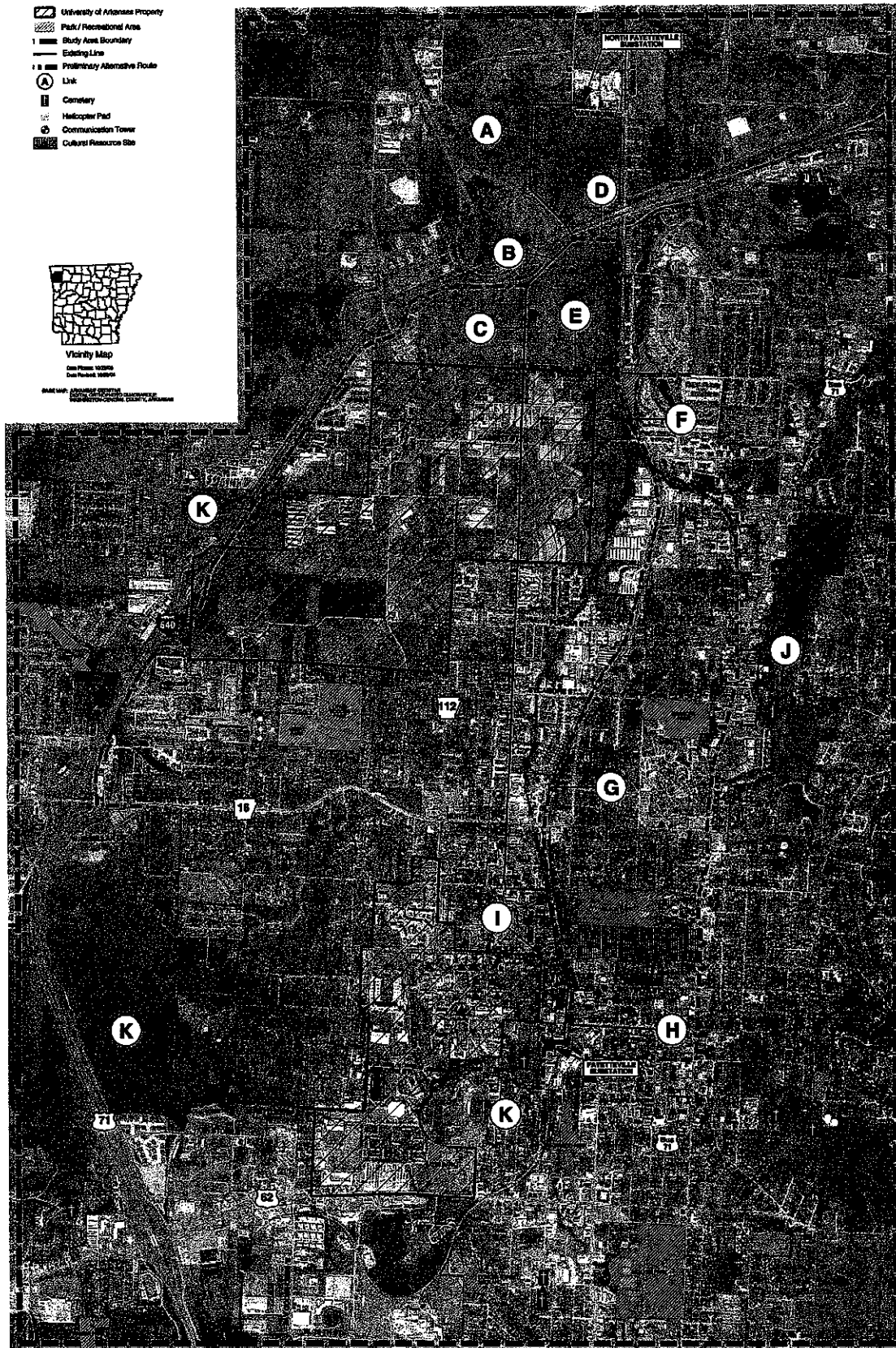
The public hearing scheduled for April 5, 2007 is not a condemnation proceeding. There will be no discussion at this hearing concerning acquisition of rights-of-way or the proper compensation levels for said rights-of-way. Of course as mentioned above, if the preferred route recommended by SWEPCO is 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

620708.00

DECEMBER 2008

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

6-Mar-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 06-2364: (Cruz Bay, 523): Submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue. The property is zoned MSC, Main Street Center and contains 0.04 acres. The request is to vacate 150' of the 12' alley on the subject property.

\$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

☐

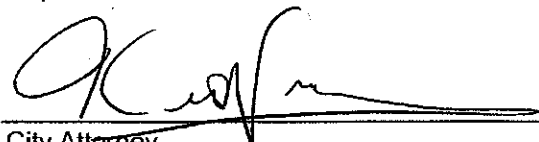
Budget Adjustment Attached

☐

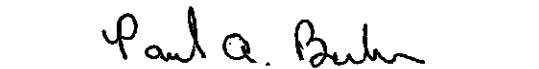
 2-12-07
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

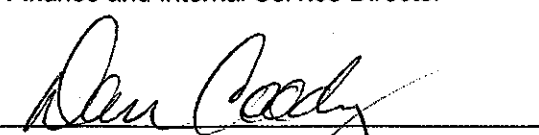
 2-13-07
City Attorney Date

Original Contract Number: n/a

 2-14-07
Finance and Internal Service Director Date

Received in City Clerk's Office

ENTERED
2-13-07 

 2/21/07
Mayor Date

Received in Mayor's Office

ENTERED
2/14/07 

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ^{jk}

Date: February 9, 2007

Subject: Alley Vacation for Cruz Bay, LLC (VAC 06-2364)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating an alley located north of 5th Street between South School Avenue and South Locust Avenue.

BACKGROUND

The alley right-of-way is located north of 5th Street between South School Avenue and South Locust Avenue. There are two existing dilapidated structures, however the majority of the property is undeveloped with multiple mature trees. The subject alley has never been constructed and the alley right-of-way directly to the south was vacated by Ordinance No. 4477. The alley continues to the north, intersecting Archibald Yell Blvd. in a location that is not recommended for vehicular access, as sight distance is very limited.

The applicant is requesting to vacate a 12' wide alley within Block 11 of Ferguson's Addition.

DISCUSSION

The Planning Commission voted 7-0-0 to forward this item to the City Council with a recommendation for approval. Notification was provided to all appropriate utility representatives and adjoining property owners. Conditions of approval are recommended in order to satisfy the comments made by utility company representatives.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 06-2364 SUBMITTED
BY MANDY BUNCH FOR PROPERTY LOCATED NORTH OF 5TH STREET
BETWEEN SOUTH SCHOOL AVENUE AND SOUTH LOCUST AVENUE,
VACATING 150' OF THE 12' ALLEY ON THE SUBJECT PROPERTY.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted alley is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described platted alley:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. Any relocation of existing utilities shall be at the owner/developer's expense.
2. Utility easements to be granted along the north and west sides of the subject property per comments from Southwestern Electric Power Company.

PASSED and **APPROVED** this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "B"
VAC 06-2364

SURVEY DESCRIPTION OF 12' ALLEY TO BE VACATED:

A TRACT OF LAND BEING A PART OF BLOCK 11 OF THE FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE AS RECORDED IN PLAT BOOK 4 AT PAGE 203. SAID TRACT OF LAND BEING A PART OF THE SE1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 10 OF SAID FERGUSON'S ADDITION, A CHISELED HOLE IN CONCRETE BEARS S03°25'25"W 5.00 FEET; THENCE N03°25'25"E 40.01 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 11 BEING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF W. FIFTH STREET (45'R/W) AND THE WEST RIGHT-OF-WAY LINE OF S. LOCUST AVENUE (60'R/W); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°42'33"W 144.03 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF SAID BLOCK 11 AND THE POINT OF BEGINNING; THENCE CONTINUING N87°42'33"W 12.00 FEET TO THE SOUTHEAST CORNER OF LOT 7 OF SAID BLOCK 11; THENCE N03°25'25"E 150.03 FEET TO THE NORTHEAST CORNER OF LOT 9 OF SAID BLOCK 11; THENCE S87°42'33"E 12.00 FEET TO THE NORTHWEST CORNER OF LOT 4 OF SAID BLOCK 11; THENCE S03°25'25"W 150.03 FEET TO THE POINT OF BEGINNING, CONTAINING 1,800 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

EXHIBIT "A"

765-05458-000 *
765-05456-000
HOSSEIN FAKHIMI
PO BOX 3482
FAYETTEVILLE, AR 72702

765-05447-001 *
765-05448-001
CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701

765-05451-000
TIMOTHY & CHRISTINE KLINGER
PO BOX 1064
FAYETTEVILLE, AR 72702

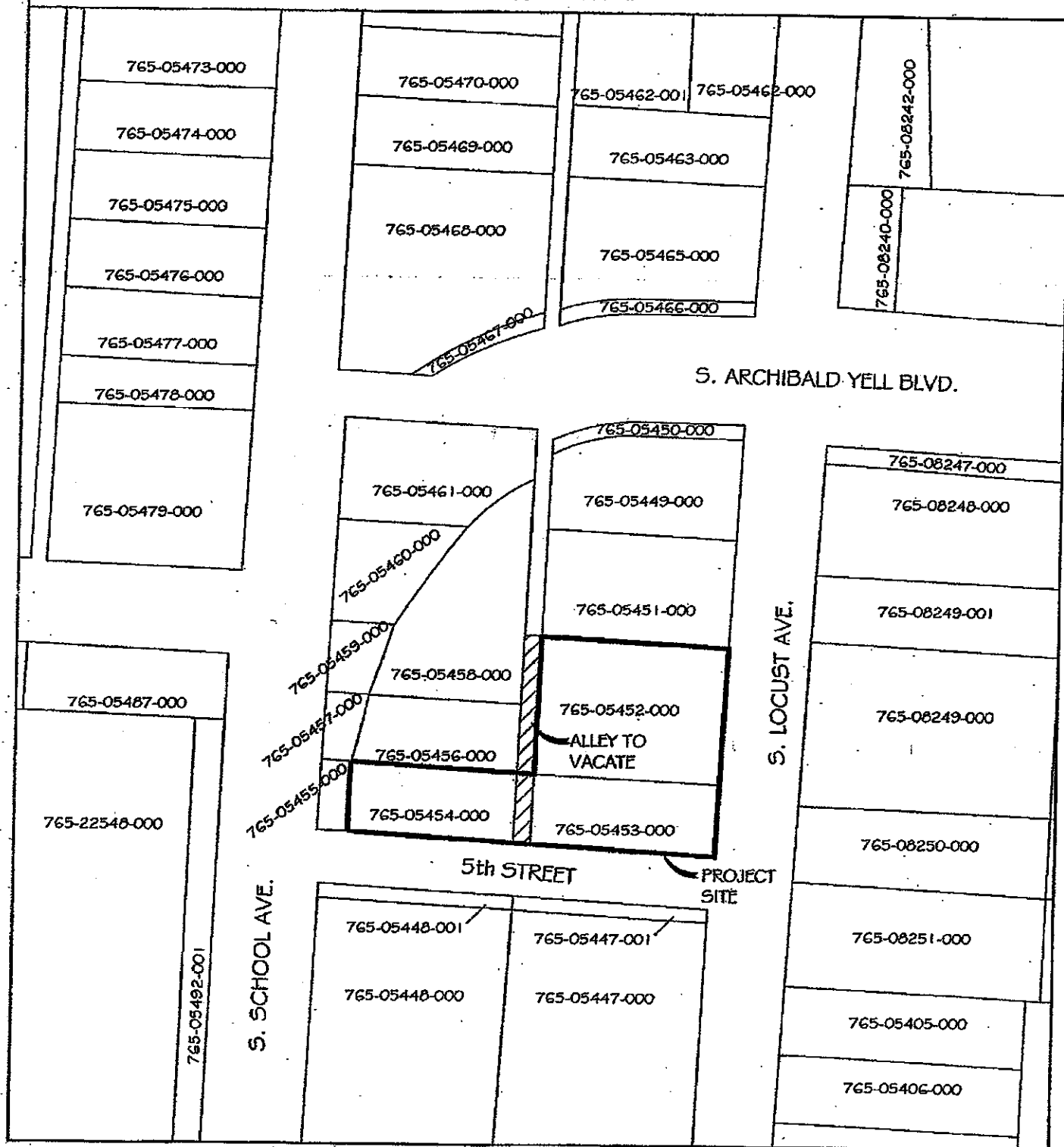
PARCEL MAP

EXHIBIT "B"
VAC 06-2364

SURVEY DESCRIPTION OF 12' ALLEY TO BE VACATED:

A TRACT OF LAND BEING A PART OF BLOCK 11 OF THE FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE AS RECORDED IN PLAT BOOK 4 AT PAGE 203. SAID TRACT OF LAND BEING A PART OF THE SE1/4 OF SECTION 16, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 10 OF SAID FERGUSON'S ADDITION, A CHISELED HOLE IN CONCRETE BEARS S03°25'25"W 5.00 FEET; THENCE N03°25'25"E 40.01 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 11 BEING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF W. FIFTH STREET (45'R/W) AND THE WEST RIGHT-OF-WAY LINE OF S. LOCUST AVENUE (60'R/W); THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°42'33"W 144.03 FEET TO THE SOUTHWEST CORNER OF LOT 6 OF SAID BLOCK 11 AND THE POINT OF BEGINNING; THENCE CONTINUING N87°42'33"W 12.00 FEET TO THE SOUTHEAST CORNER OF LOT 7 OF SAID BLOCK 11; THENCE N03°25'25"E 150.03 FEET TO THE NORTHEAST CORNER OF LOT 9 OF SAID BLOCK 11; THENCE S87°42'33"E 12.00 FEET TO THE NORTHWEST CORNER OF LOT 4 OF SAID BLOCK 11; THENCE S03°25'25"W 150.03 FEET TO THE POINT OF BEGINNING, CONTAINING 1,800 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.



PC Meeting of December 11, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~December 6, 2006~~ Updated December 12, 2006

VAC 06-2364: (CRUZ BAY/ALLEY, 523): Submitted by MANDY BUNCH for property located at NW CORNER OF 5TH ST. AND S. LOCUST. The property is zoned MSC, MAIN STREET CENTER and contains approximately 0.04 acres. The request is to vacate 150' of the 12' alley on the subject property.

Planner: Jesse Fulcher

Findings:

Property Description and Background: The alley right-of-way is located north of 5th Street between South School Avenue and South Locust Avenue. There are two existing dilapidated structures, however the majority of the property is undeveloped with multiple mature trees. The subject alley has never been constructed and the alley right-of-way directly to the south was vacated by Ordinance No. 4477. The alley continues to the north, intersecting Archibald Yell Blvd. in a location that is not recommended for vehicular access, as sight distance is very limited.

Request: The applicant is requesting to vacate a 12' wide alley within Block 11 of Ferguson's Addition.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

Southwestern Electric Power Company

Utility easements to be granted along the north and west sides of the subject property. Owner/developer to pay the cost of conversion from

Arkansas Western Gas	overhead lines to underground lines along alley. No Objections
Southwestern Bell Telephone	Any relocation of existing utilities shall be at the owner/developer's expense.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No Objections.
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding (VAC 06-2364) to the City Council with a recommendation for approval with the following conditions.

Conditions of Approval:

1. Any relocation of existing utilities shall be at the owner/developer's expense.
2. Utility easements to be granted along the north and west sides of the subject property per comments from Southwestern Electric Power Company.

CITY COUNCIL ACTION: Required **PLANNING COMMISSION ACTION:** Required
Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled
Date: December 11, 2006

Motion: Clark

Second: Myers

Vote: 7-0-0 (Anthes recused)

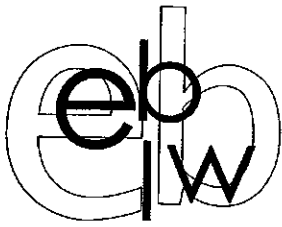
Comments: _____

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

By

Title

Date



EB LandWorks, Inc.

B.1
VAC 06-2364 (Cruz Bay)
Page 10 of 24

PO Box 3432, Fayetteville, Arkansas 72702-3432
phone 479.444.7769 fax 479.444.7793

November 2, 2006

Mr. Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701
Phone (479)575-8267

RE: Vacation Request - 12' Alley North of 5th Street
Fayetteville, Arkansas

Dear Mr. Pate:

Cruz Bay, LLC owns property situated north of 5th Street between S. School and S. Locust in Fayetteville. Their property is located just north of Walgreen's. The attached proposal is to vacate the 12' alley that current splits their property for a distance of 150'. A portion of the alley should revert to the adjacent property owner. They have signed as joint petitioners. This property is zoned Main Street Center/D-1 Downtown District. We have obtained and attached all of the necessary documents and information in accordance with the procedure outlined by the city.

If you need additional information, or have any questions, please call me at (479)444-7769.

Best Regards:

Mandy R. Bunch, PE

ADJACENT PROPERTY OWNER NOTIFICATION FORM
FOR ALLEY VACATION REQUEST

Date: July 19, 2006

* Address / location of vacation: 12' Alley running approximately 150' north from the north boundary of the 5th Street right-of-way to the north boundaries of Lot 4 & Lot 9 of Block 11 of Ferguson's Addition

Adjacent property address: 405 S. Locust

* Lot: 3 Block: 11 Subdivision: Ferguson's Addition

REQUESTED VACATION:

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

See Attached for legal description and graphic representation of what is being vacated.

ADJACENT PROPERTY OWNERS COMMENTS:

☐ I have been notified of the requested vacation and decline to comment.

☐ I do not object to the vacation described above.

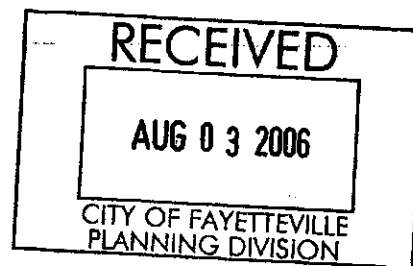
* ☒ I do object to the requested vacation because:

PIECEMEAL VACATION IS POOR PLANNING. IF THE
ALLEY IS TO BE VACATED, IT SHOULD BE SO
FROM ARCHIBALD YELL SOUTH TO 5th STREET. WE
WOULD NOT OBJECT TO A FULL BLOCK VACATION BUT
WE DO OBJECT TO SECTION BY SECTION

TIMOTHY C & CHRISTINE KLINGER
Name of Property Owner (printed)

Timothy C Klinger
Signature of Property Owner

Cruz Bay, LLC
Name of Applicant



* THE DESCRIPTION IN THE NOTICE STATES LOTS & BLOCK. THE
MAP SHOWS TAX PARCELS. WE CANNOT MATCH THE
TWO. SHOULD BE CONSISTENT.

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 10/31/06UTILITY COMPANY: OZARKS ELECTRICAPPLICANT NAME: CRUZ BAY, LLC
REQUESTED VACATION (applicant must check all that apply):APPLICANT PHONE: 479-444-7769
Go money Bunch

- ☐ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

12' Alley Running North from 5th Street

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

 OZARKS ELECTRIC
Signature of Utility Company Representative

Lead Staking Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 7/2/06

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Mandy Bunch, PE APPLICANT PHONE: 444-7769
REQUESTED VACATION (applicant must check all that apply):

- ~ Utility Easement
- ~ ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ~ ☒ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

North of
** 5th Street between S. Locust & S. School (See Attached Sheets)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- X No objections to the vacation(s) described above.
- ~ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

~ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

PROJECT COORDINATOR
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 7/21/06

UTILITY COMPANY: AEP/SWEPLO

APPLICANT NAME: Mandy Bunch, PE

APPLICANT PHONE: 444-7769

REQUESTED VACATION (applicant must check all that apply):

- ~ Utility Easement
- ~ ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ~ ☒ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

North of
** 5th Street between S. School & S. Locust (see Attached sheets)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ~ No objections to the vacation(s) described above.
- ~ ☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

UTILITY EASEMENT TO BE GRANTED ALONG WEST SIDE
OF PROPERTY AND ALONG NORTH SIDE OF PROPERTY

- ~ ☒ No objections provided the following conditions are met:

CUSTOMER TO PAY COST OF CONVERSION FROM OVERHEAD
TO UNDERGROUND OF LINES GOING UP ALLEY.

Jim Sargent
Signature of Utility Company Representative

ENGINEER I
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 1/21/06UTILITY COMPANY: Arkansas Western GasAPPLICANT NAME: Mandy Bunch, PE APPLICANT PHONE: 444-7769
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

North of
5th Street between S. School & S. Locust (See Attached Sheets)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Bill Robison
Signature of Utility Company Representative

NW REGIONAL MANAGER
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 7/21/06UTILITY COMPANY: SWBTAPPLICANT NAME: Mandy Buach, PEAPPLICANT PHONE: 444-7709REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed)**

North of
5th Street Between S. Locust & S. School (see Attached Sheets)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

IF THERE ARE ANY EXISTING FACILITIES LOCATED WITHIN AREA
TO BE VACATED THIS WILL BE AT THE OWNER/DEVELOPERS EXPENSE
AND EASEMENTS GRANTED FOR NEW ROUTESusan B. Clouse
Signature of Utility Company RepresentativeOSP DESIGN ENGINEER
Title

Utility Approval Form

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 9/14/06

UTILITY COMPANY: Water & Sewer

APPLICANT NAME: Mandy Bunch, PE. APPLICANT PHONE: 444-7769
REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☒ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** 5th Street between S. School & S. Locust (See Attached Sheets)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

See attached memo dated November 1, 2006, titled
Easement Vacation Request, 5th Street Between School and Locust

- ☒ No objections provided the following conditions are met:

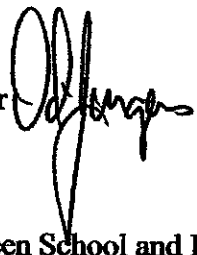
[Signature]

Signature of Utility Company Representative

Water and Wastewater Director
Title

WATER AND WASTEWATER DEPARTMENT
DEPARTMENTAL CORRESPONDENCE

TO: Jan Gambill, Planning

FROM: David Jurgens, Water & Wastewater Director 

DATE: November 1, 2006

SUBJECT: Easement Vacation Request, 5th Street Between School and Locust

I concur with the rights of way vacations of 5th Street between South School and Locust Avenue and the north-south alley extending north from 5th Street between South School and Locust Avenue with the following comments and requirements.

1. Legal sewer service must be provided to the other structures on the block bordered by 5th Street, US 71B, and Locust Avenue. As of now, it appears there is not legal service that accessible by the car lot in the northwest corner of the block. I suspect that the sewer service for this car lot ties to either the sewer main on Locust or the main on 5th Street. A sewer main must be extended to the property line of this car lot. This may require a 20' minimum easement to this lot either from Locust or from the vacated 5th Street.
2. An eight inch water line must be constructed in the vacated 5th Street right of way, tying the 12" water line on Locust to the 2" water line on the east of side of South School. This will require a minimum of a 20' utility easement for the water line. An additional width of easement is required if a sewer main will be installed in this same easement.

Cc: Engineering
Water/Sewer Operations
Mandy Bunch, E. B. LandWorks

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 7/21/06

UTILITY COMPANY: City of Fayetteville Transportation

APPLICANT NAME: Mandy Bunch, PE APPLICANT PHONE: 444-7769
REQUESTED VACATION (applicant must check all that apply):

- ☐ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** North of 5th Street (see Attached Sheets)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

☐ No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

8/3/06

Transportation Supt
Title
Transportation Division
Operations Department
CITY OF FAYETTEVILLE
575 8227

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 7/21/00

UTILITY COMPANY: City of Fayetteville Solid Waste

APPLICANT NAME: Mandy Bunch, PE APPLICANT PHONE: 444-7769
REQUESTED VACATION (*applicant must check all that apply*):

- ☐ Utility Easement
- ☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☒ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

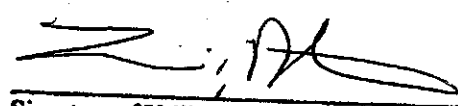
** (See Attached sheets) North of 5th Street

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

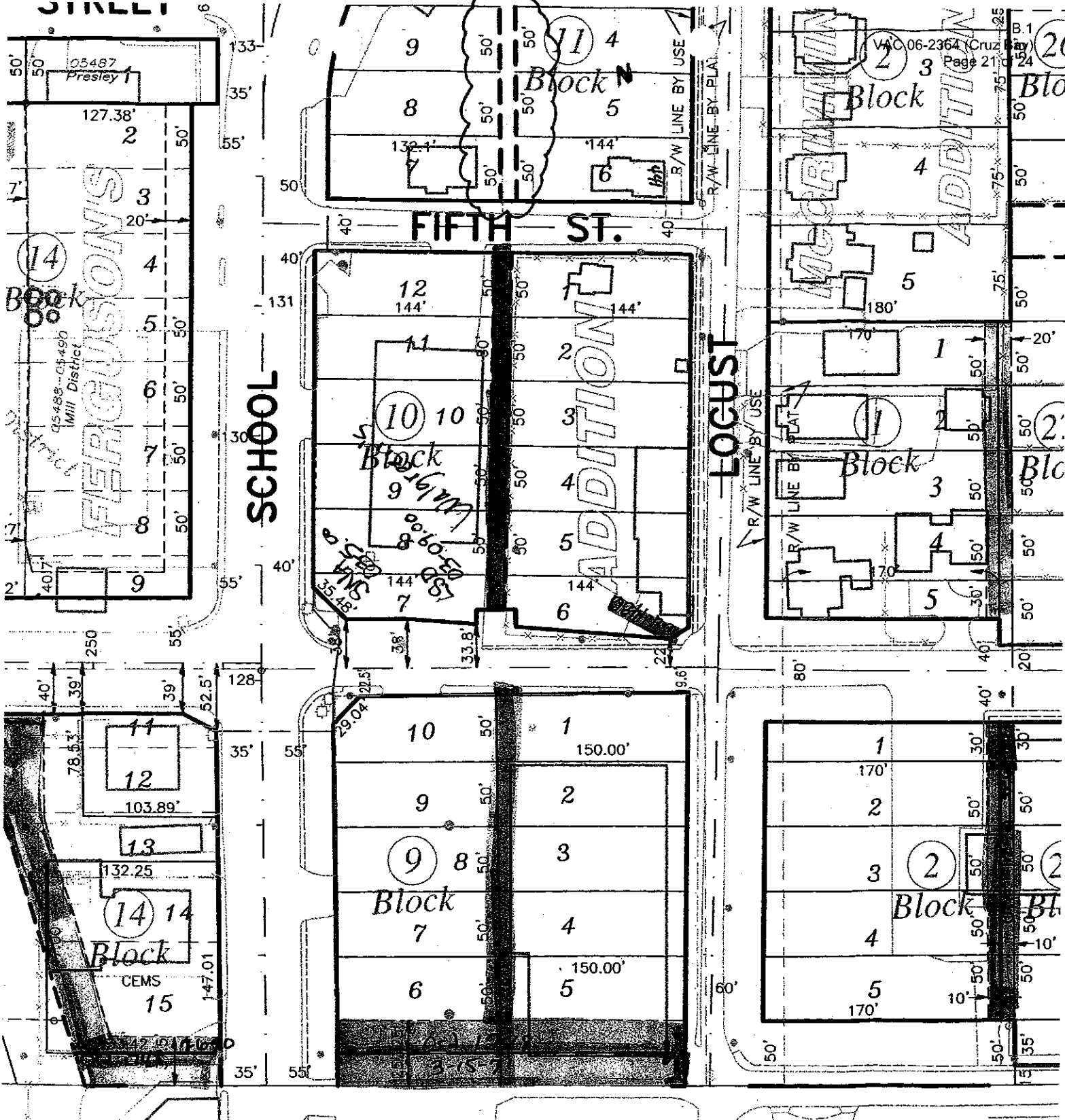
- ☐ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:


Signature of Utility Company Representative

Title

Commercial Solid Waste Rep

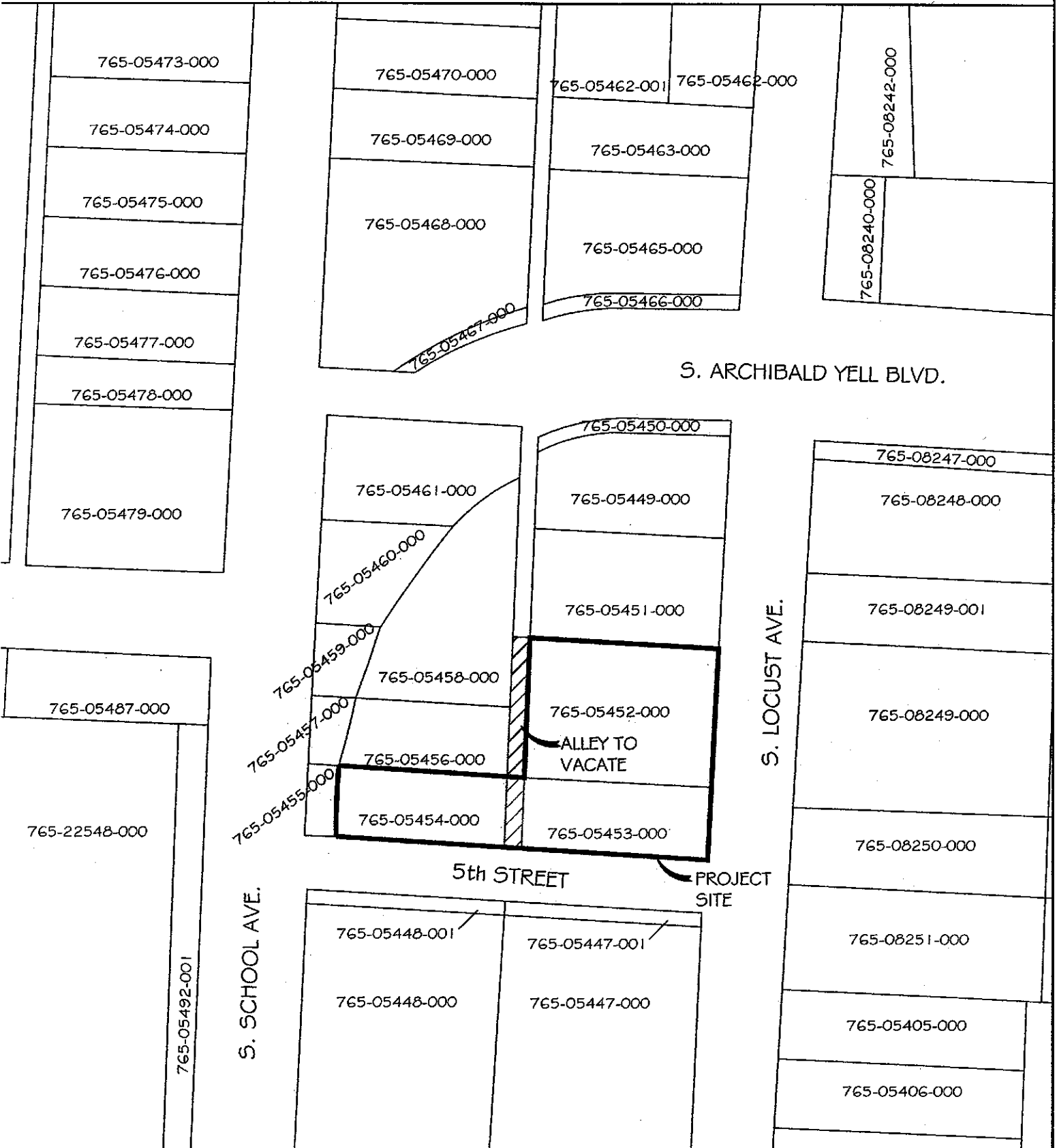


765-05458-000 &
765-05456-000
HOSSEIN FAKHIMI
PO BOX 3482
FAYETTEVILLE, AR 72702

765-05447-001 &
765-05448-001
CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701

765-05451-000
TIMOTHY & CHRISTINE KLINGER
PO BOX 1064
FAYETTEVILLE, AR 72702

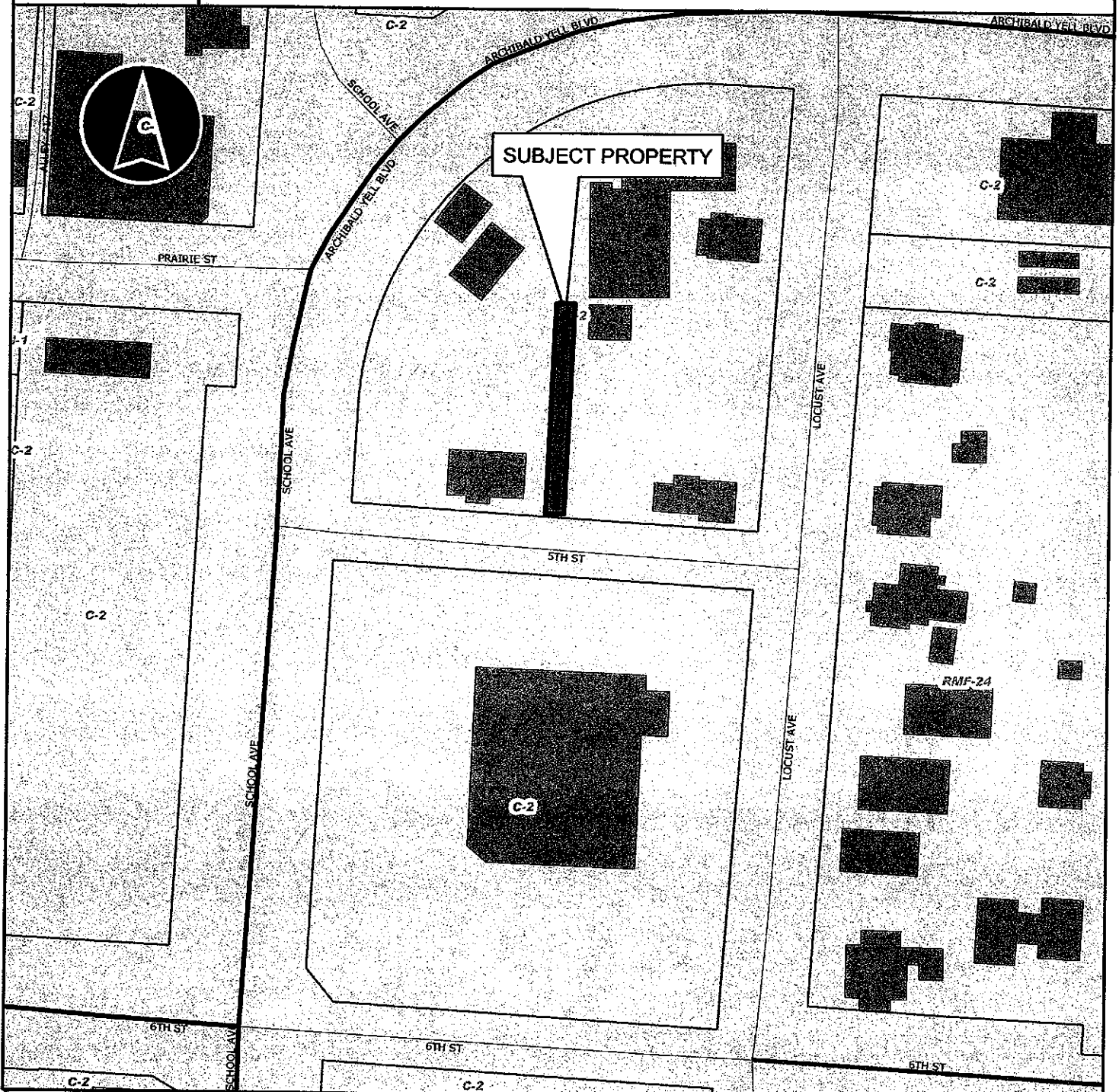
PARCEL MAP



VAC06-2364

Close Up View

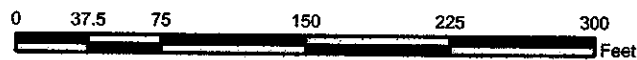
CRUZ BAY/ALLEY



Overview

Legend

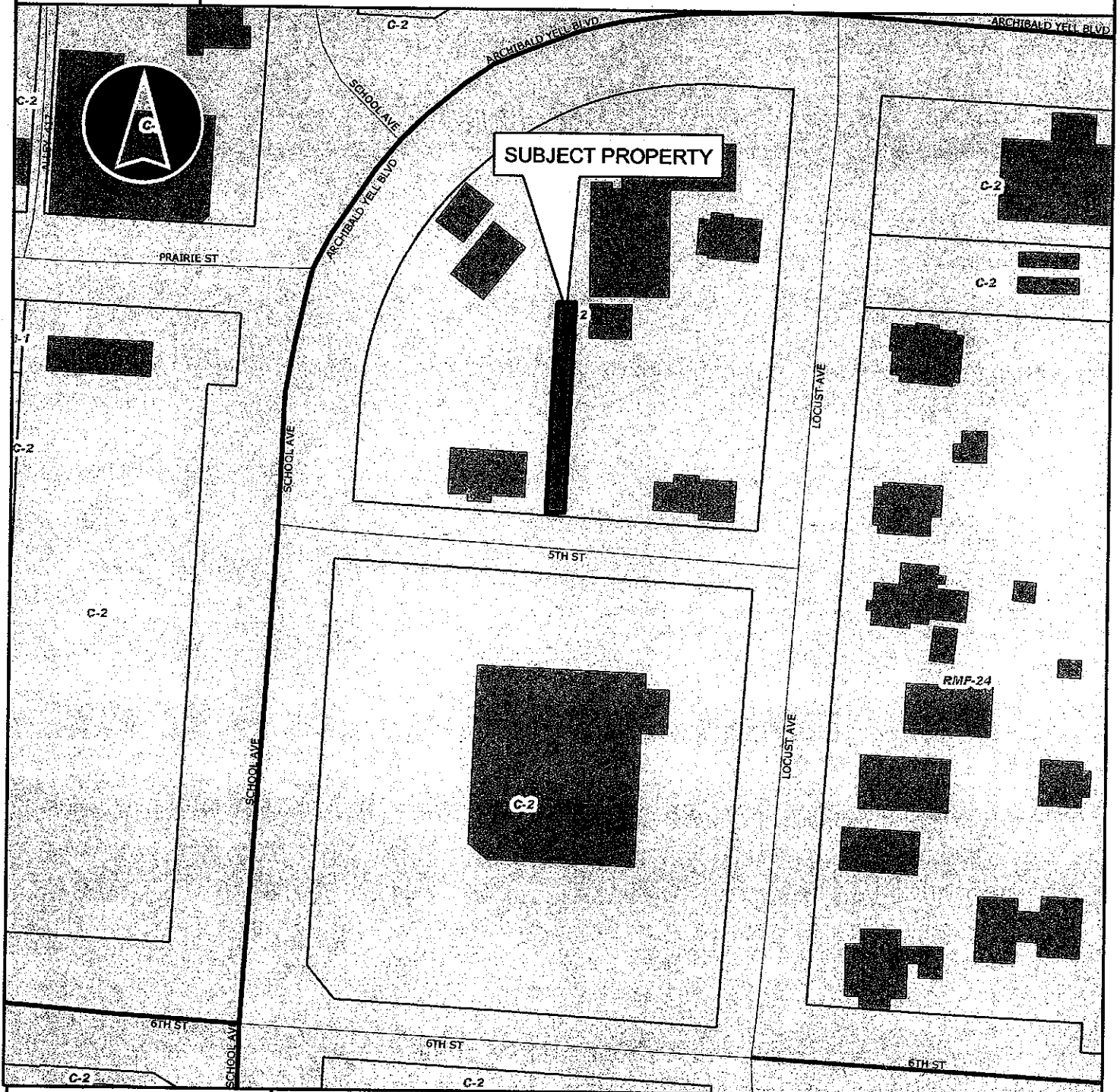
- ○ ○ ○ ○ Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



VAC06-2364

Close Up View

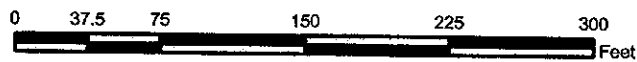
CRUZ BAY/ALLEY



Overview

Legend

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



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.

Tabled to March 30, 2007 2/20/07

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.

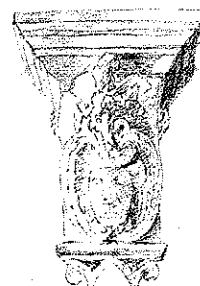
Based on staff recommendations and the waivers that would be required, the interior street was approved as a private street instead of a public street. Staff indicated that maintenance of this relatively steep street, along with a very small stacking distance and minimal offset from the State Highway at its entrance to Wedington Drive contributed to staff's recommendation that the street remain private.

BUDGET IMPACT

None.

January 19, 2007

Sondra Smith, City Clerk
113 West Mountain Street
Fayetteville, Arkansas 72701



HOUSES
INCORPORATED

217 North East Avenue
Fayetteville, AR 72701
telephone: 479.521.9155
facsimile: 479.521.6199

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 19 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

cc: Steve Mansfield
Tom Jefcoat

~~01-19-07 10:45:03 CEB~~

01-19-07P04:53 RCVD

PPL Planning Commission Staff Report



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	Maximum 16,576 SF
<i>Anticipated development (not required by zoning):</i> 428 bedrooms 16 Efficiencies 156 1-bedroom 116 2-bedroom 8 3-bedroom	<i>Anticipated development (not required by zoning):</i> 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

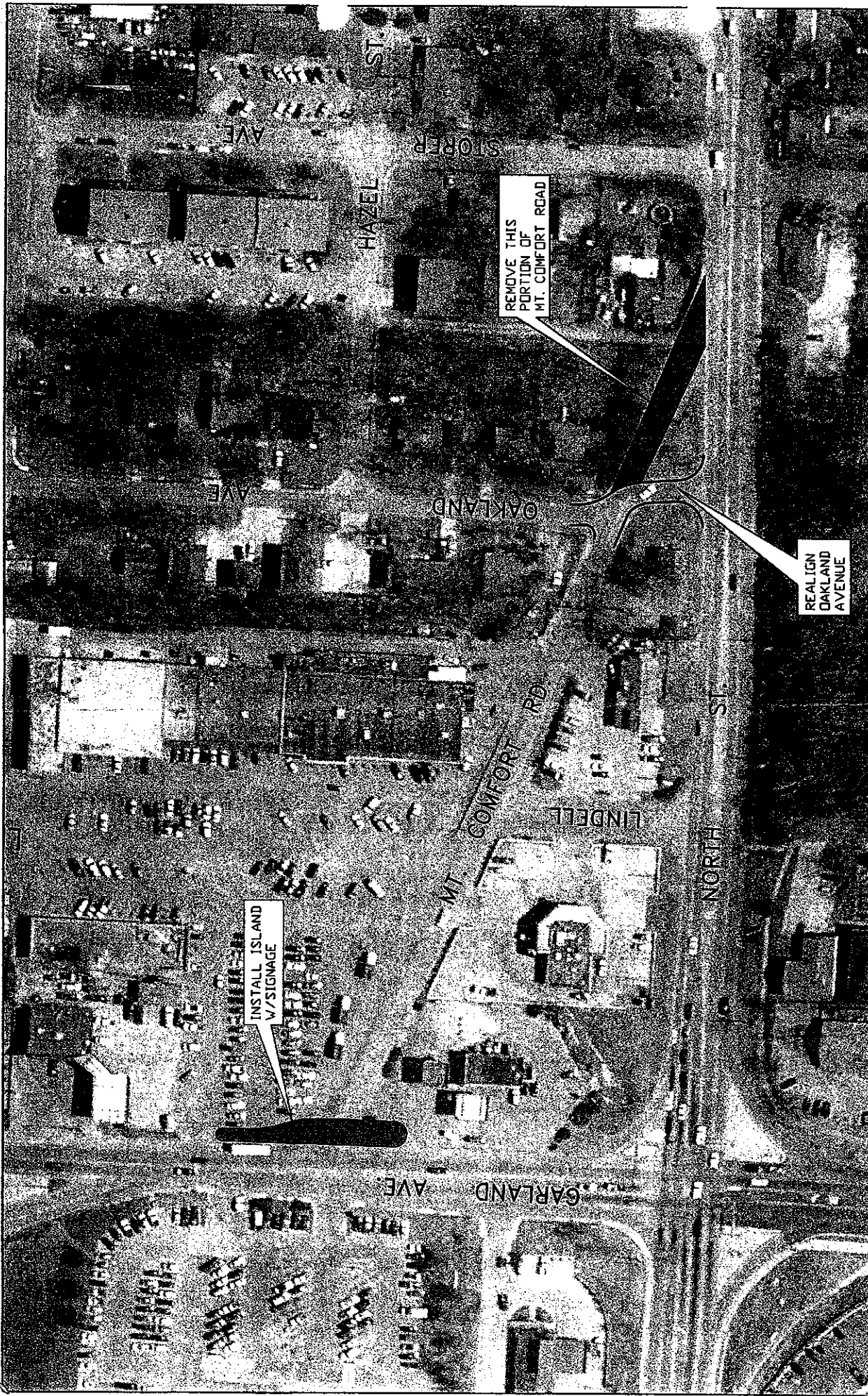
Re: Plat Review Comments (January 8, 2007 Planning Committee Meeting)

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 Drive 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).
- 

FILE
COPY



↑ 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

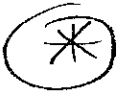
The Planning Commission voted 8-0-0 in favor of this request on December 12, 2005. A Planned Zoning District requires City Council approval as it includes zoning and land use approval. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

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 coloring 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



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	Maximum 16,576 SF
<i>Anticipated development (not required by zoning):</i> 428 bedrooms 16 Efficiencies 156 1-bedroom 116 2-bedroom 8 3-bedroom	<i>Anticipated development (not required by zoning):</i> 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,

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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 is 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 we 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.

R-PZD 05-1796 Park West: 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.

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.*

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.

R-PZD 05-1796 Park West: 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 15th 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.

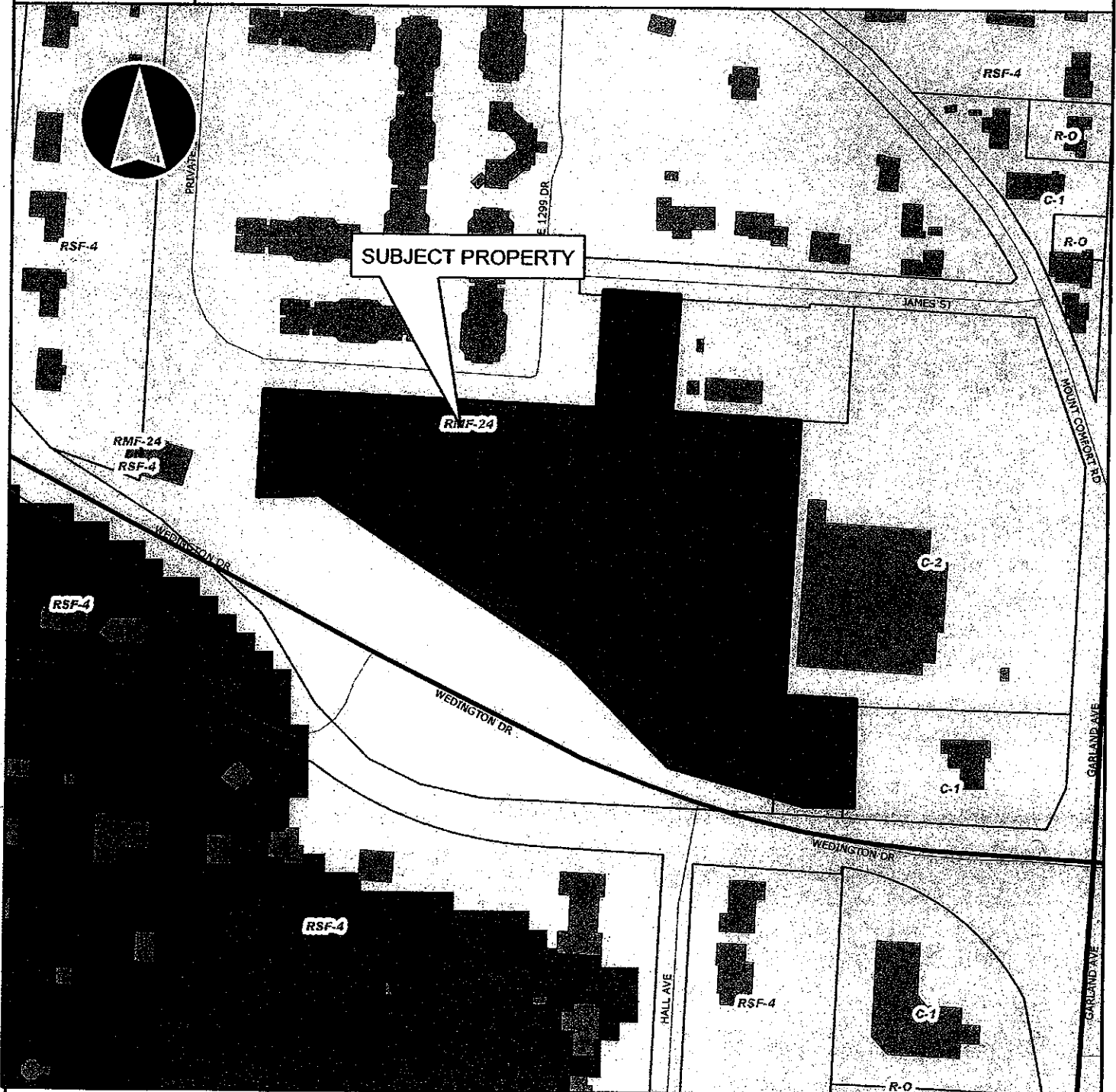
Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 4826 as Recorded in the Office of the City Clerk.

PPL06-2302

WEDINGTON CIRCLE

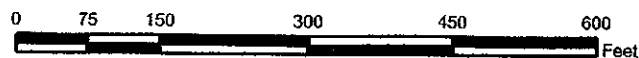
Close Up View



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- PPL06-2302
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

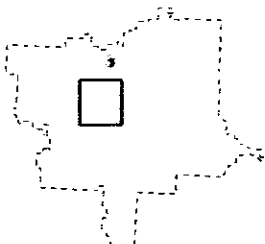


One Mile View

WEDINGTON CIRCLE



Overview



Legend

Subject Property



Boundary

 Planning Area☐ Outside City

Legend

Hillside-Hilltop Overlay District



0 0.25 0.5 1 Miles

PPL06-2302

WEDINGTON CIRCLE

Close Up View



Overview

Legend

2006 Imagery (BW)
Value

High : 255

Low : 0

PPL06-2302

Hillside-Hilltop Overlay District

Overlay District

Fayetteville

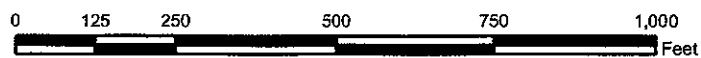
FLOODWAY

100 YEAR

500 YEAR

LIMIT OF STUDY

BaseLine Profile



Handed out at Agenda Session
2/13/07. C.4. Wedington Circle Appeal

EC REVIEW
B.2
Wedington Circle Appeal
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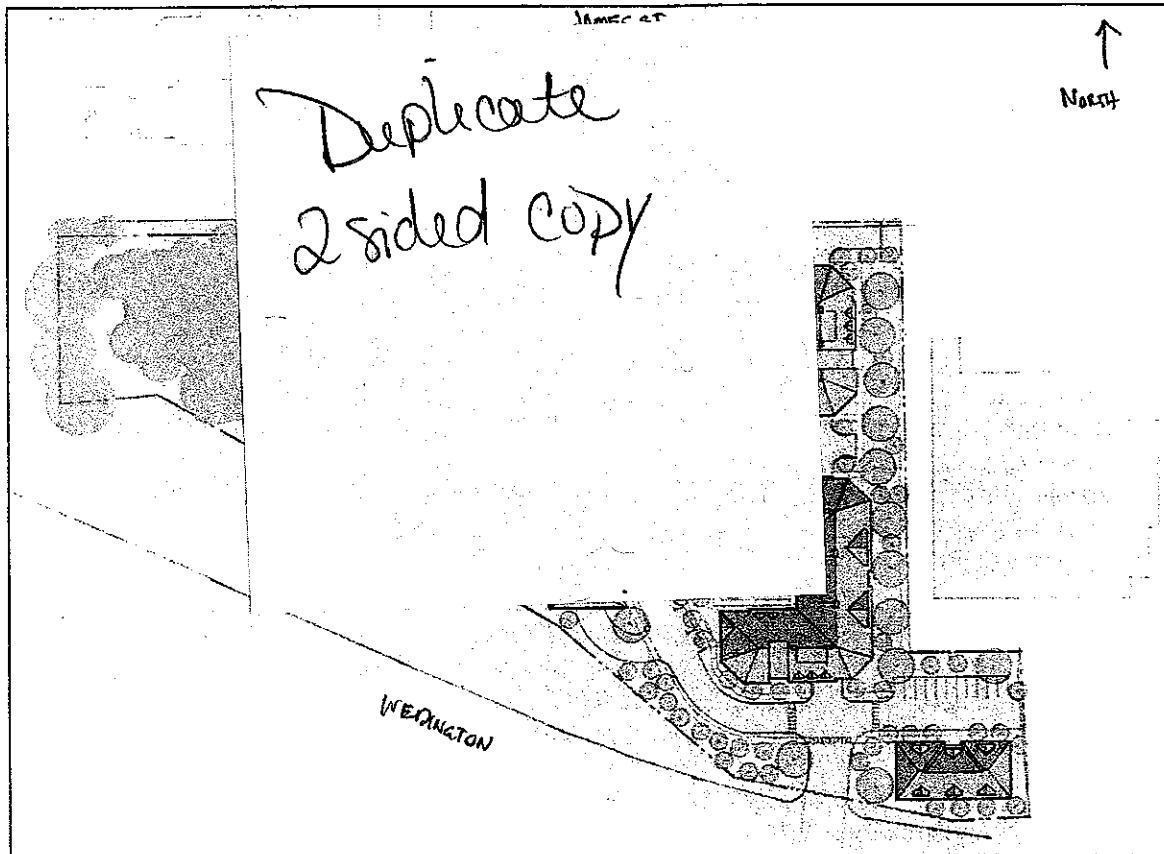
WEDINGTON CIRCLE

A Mansfield House, L.L.C Development

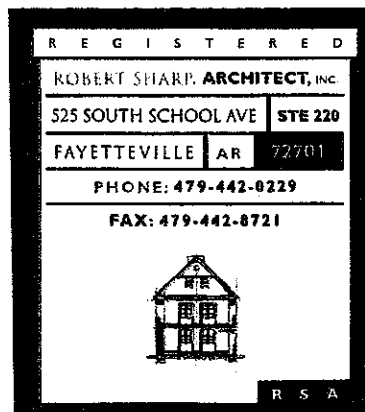
Owners and Developers-There are no sales pending on this property.

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



**CITY COUNCIL
APPROVED**

DATE: FEB 07, 2006

Millholland Company
Engineering & Surveying

Project Representative

Hall Planning and Engineering
Traffic Engineers

CC approved 02-07-06

Handed out at Uglinda Session
2/13/07. C.4. Wedington Circle Appeal

B.2
Wedington Circle Appeal
Page 39 of 42

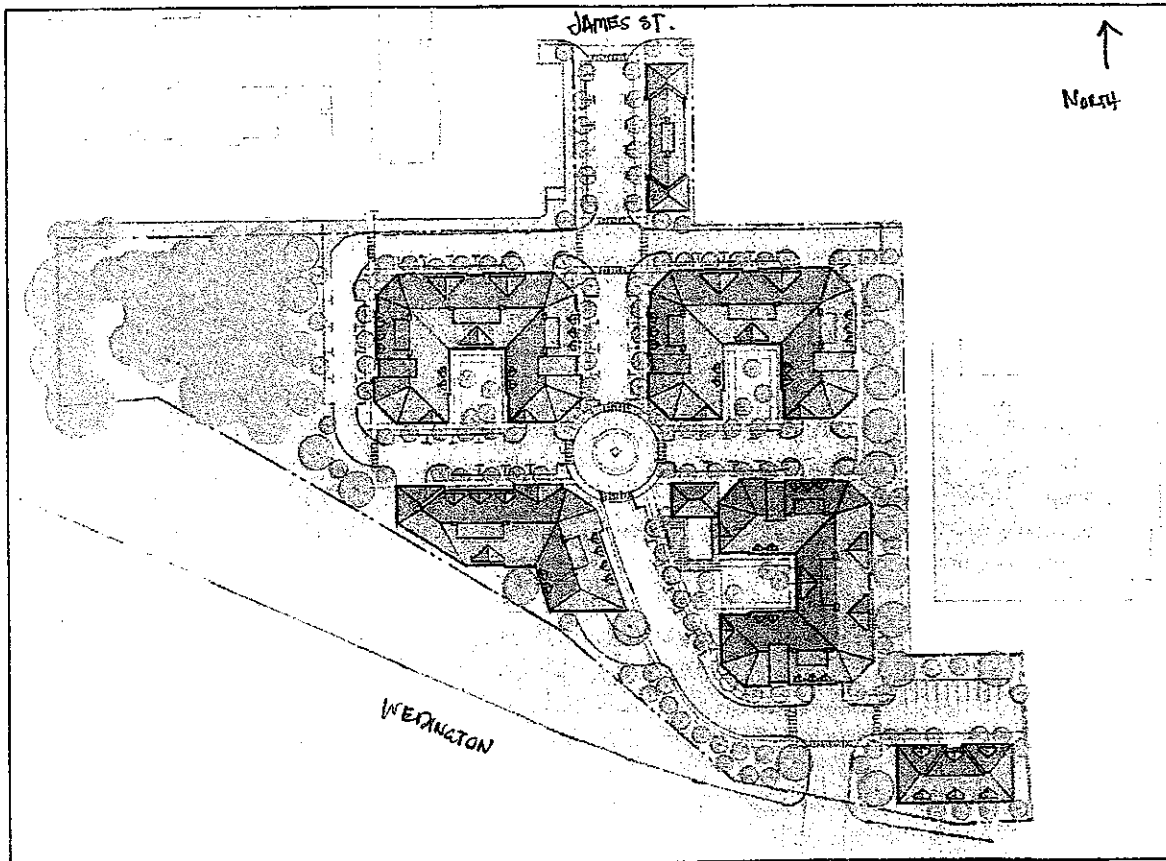
WEDINGTON CIRCLE

A Mansfield House, L.L.C Development

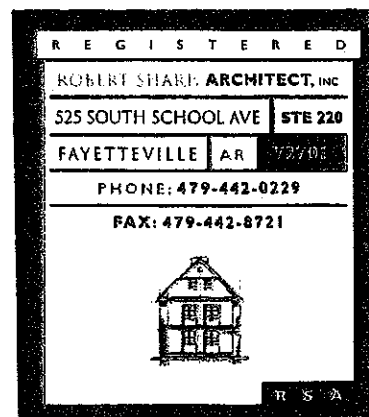
Owners and Developers-There are no sales pending on this property.

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



**CITY COUNCIL
APPROVED**

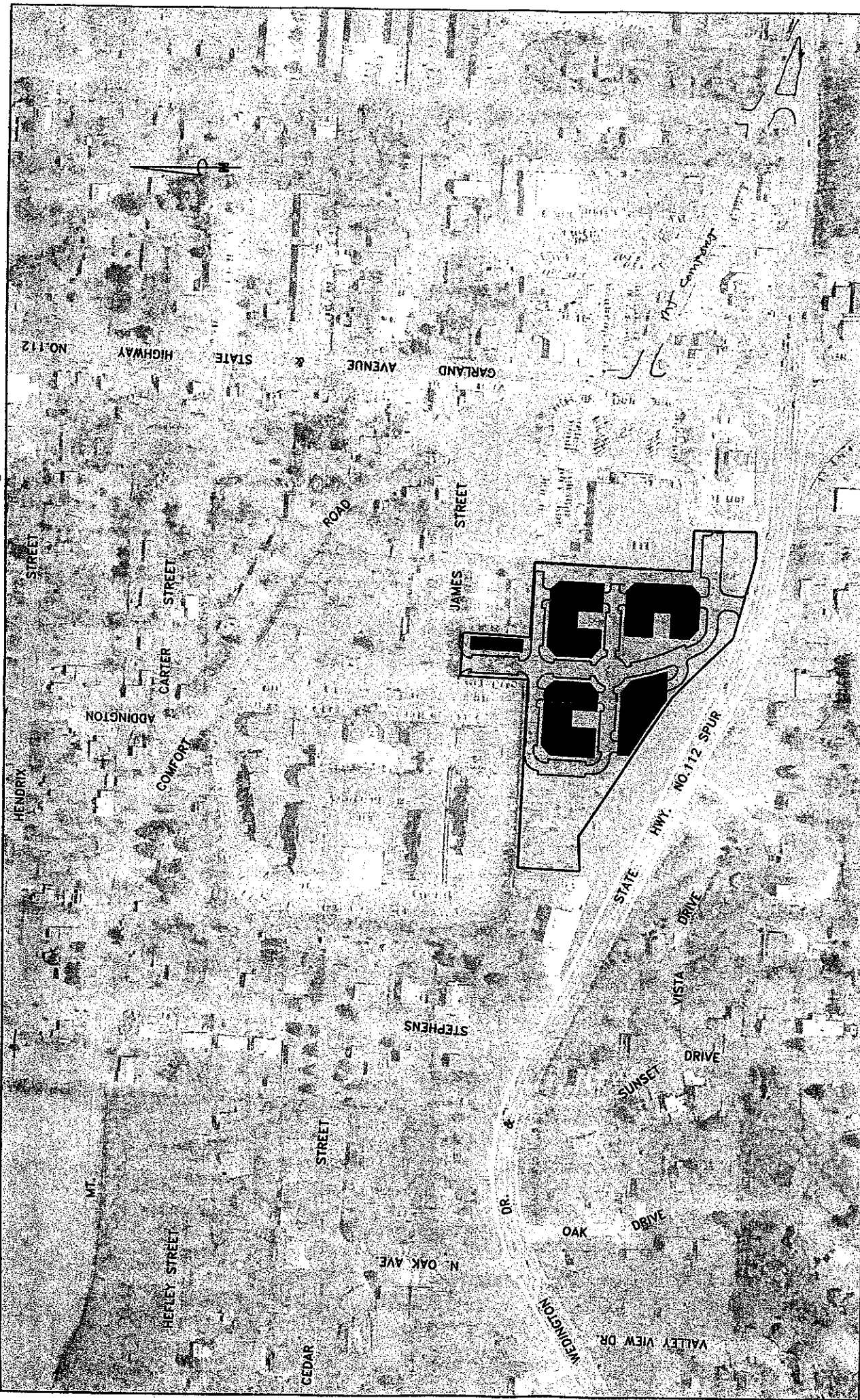
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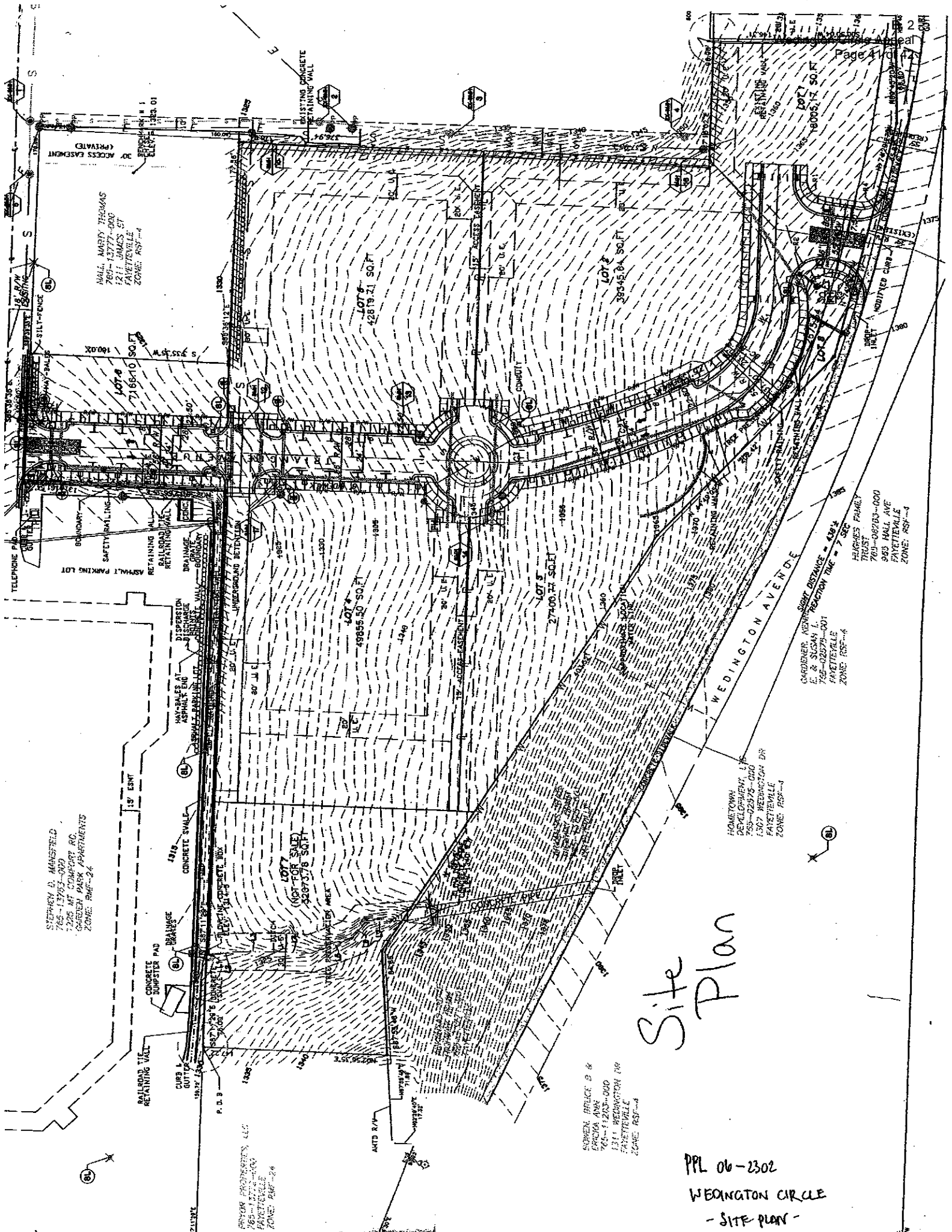
Millholland Company
Engineering & Surveying

Project Representative

Hall Planning and Engineering
Traffic Engineers

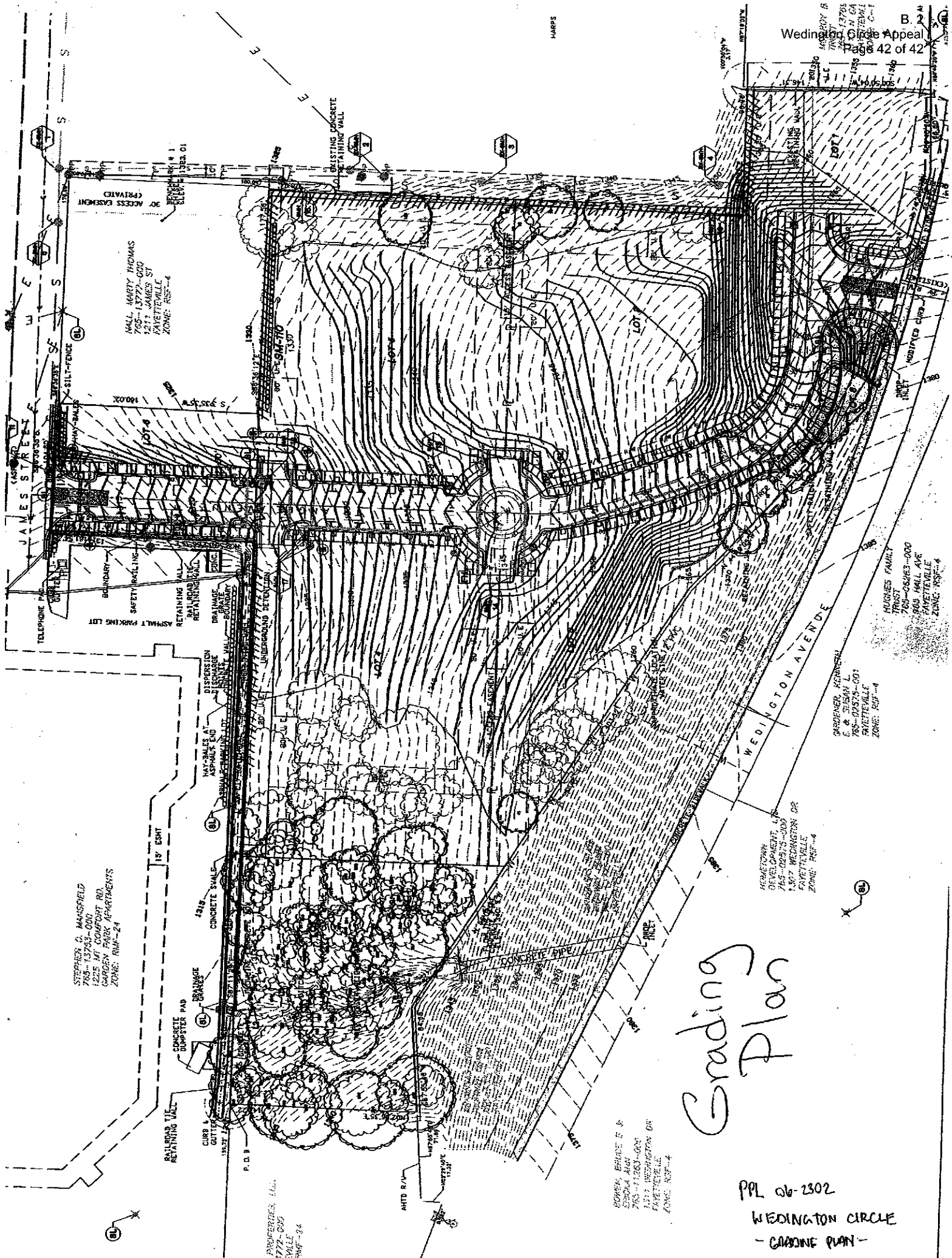
CC approved 02-07-06





Site Plan

PPL 06-2302
WEDINGTON CIRCLE
- SITE PLAN -



Grading Plan

PPL 06-2302
WEDINGTON CIRCLE
- GRADING PLAN -

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

B. 3
R-PZD 06-2299
Ruskin Heights
Page 1 of 254

20-Feb-07
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
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

\$

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature]
Department Director

2-1-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney

2-5-07
Date

Original Contract Number: n/a

Paul A. Becker
Finance and Internal Service Director

2-6-07
Date

Received in City Clerk's Office



[Signature]
Mayor

2/6/06
Date

Received in Mayor's Office



Comments:

Left on the first reading 2/20/07

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: _____
DAN COODY, Mayor

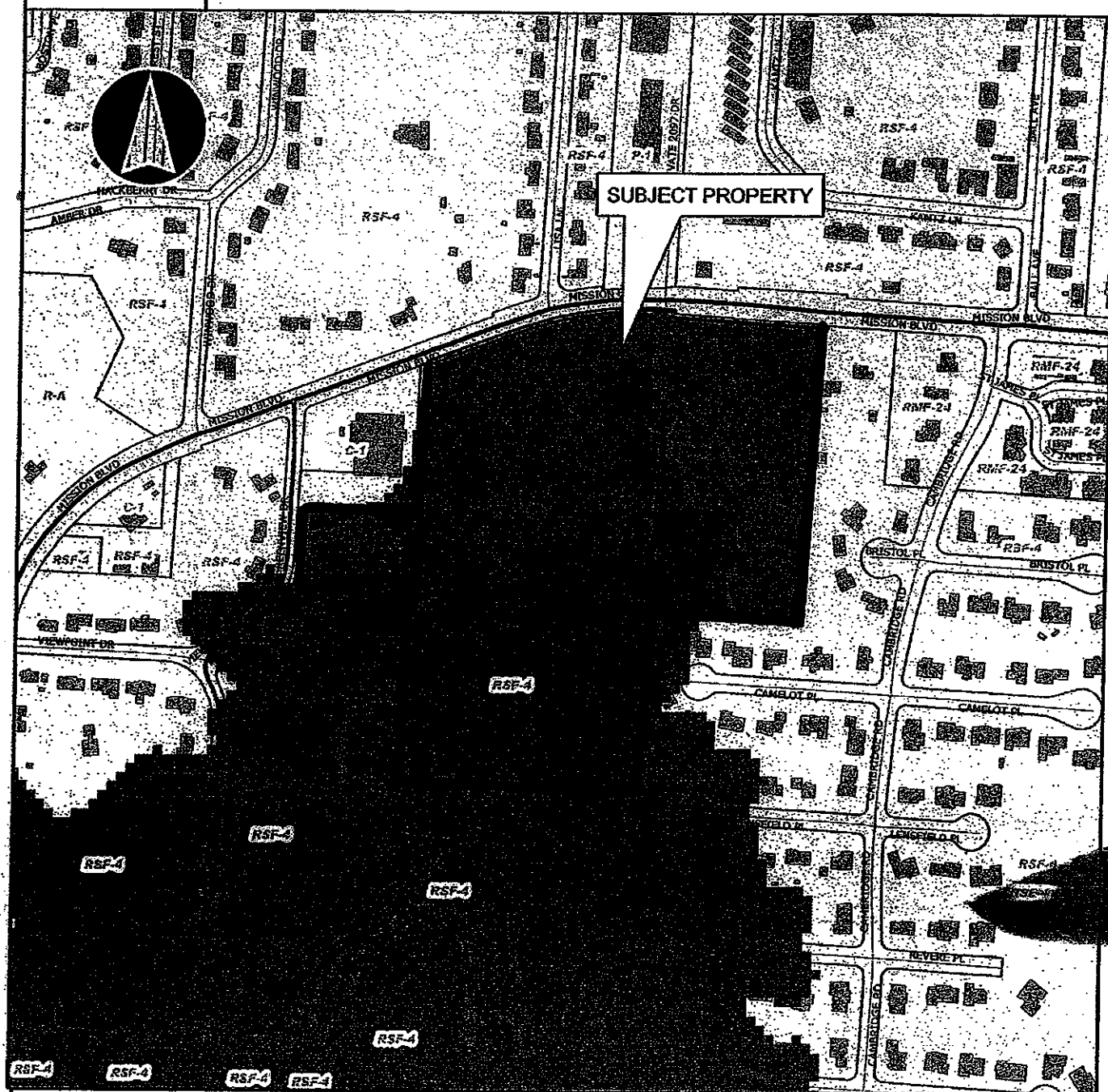
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD06-2299

Close Up View

RUSKIN HEIGHTS



Overview

Legend

- | | | | |
|-----------------------------------|------------------|------------------|----------------|
| Hillside-Hilltop Overlay District | Overlay District | FLOODWAY | 500 YEAR |
| RPZD06-2299 | Fayetteville | 100 YEAR | LIMIT OF STUDY |
| vector.GOB.Footprint_2004 | | BaseLine Profile | Outside City |

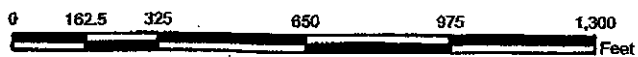


EXHIBIT "B"
R-PZD 06-2299

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 NORTHEASTERLY 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-IV 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:

R-PZD 06-2299

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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:

R-PZD 06-2299

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Ruskin Heights
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- 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:

R-PZD 06-2299

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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

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Ruskin Heights
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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*

CONDITIONS OF APPROVAL:

R-PZD 06-2299

Page 6 of 10

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).

<u>Phase No.</u>	<u>Year</u>
Phase 1	2007
Phase 2	2008 <u>2007</u>
Phase 3	2009 <u>2007</u>
Phase 4	2010 <u>2008</u>
Phase 5	2011 <u>2010</u>
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 DEVELOPMENT 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

CONDITIONS OF APPROVAL:

R-PZD 06-2299

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B. 3
R-PZD 06-2299
Ruskin Heights
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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:

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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*

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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).

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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 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 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 than \$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;~~ 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-IV 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. 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.

- 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 provide 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).*

<u>Phase No.</u>	<u>Year</u>
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 DEVELOPMENT 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 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 ☒ 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



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	T-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 Submitted	Final Submitted	
		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 <i>Side and rear property lines (5' landscaped)</i> <i>Shade trees as described in street tree planting standards,</i> <i>Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)</i>
		Overlay District Requirements
NA		Greenspace adjacent to street R.O.W. (25' wide)
NA		Large street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscape)
NA		Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards (time of L.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 L.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.



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 significant 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 Design 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 Ruppel Road.

It is 2.3 miles from the station with an expected response time of 6 minutes.

The Fire Department anticipates 2 (2 EMS – 0 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1500 gallons/minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

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

R-PZD 06-2299 (Ruskin Heights)

These 21.91 acres is covered by Engine 5 located at 833 N Crossover.

It is 1.6 miles from the station with an expected response time of 4 minutes. When the new Station 5 is opened at Old Wire and Crossover the response time will stay approximately the same.

The Fire Department anticipates 13 (8 EMS – 5 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1500 gallons/minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

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

RZN 06-2366 (Wonacott)

These 21.91 acres is covered by Engine 7 at 835 Ruppel Road.

It is 2.1 miles from the station with an expected response time of 5.25 minutes.

The Fire Department anticipates 1 (1 EMS – 0 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

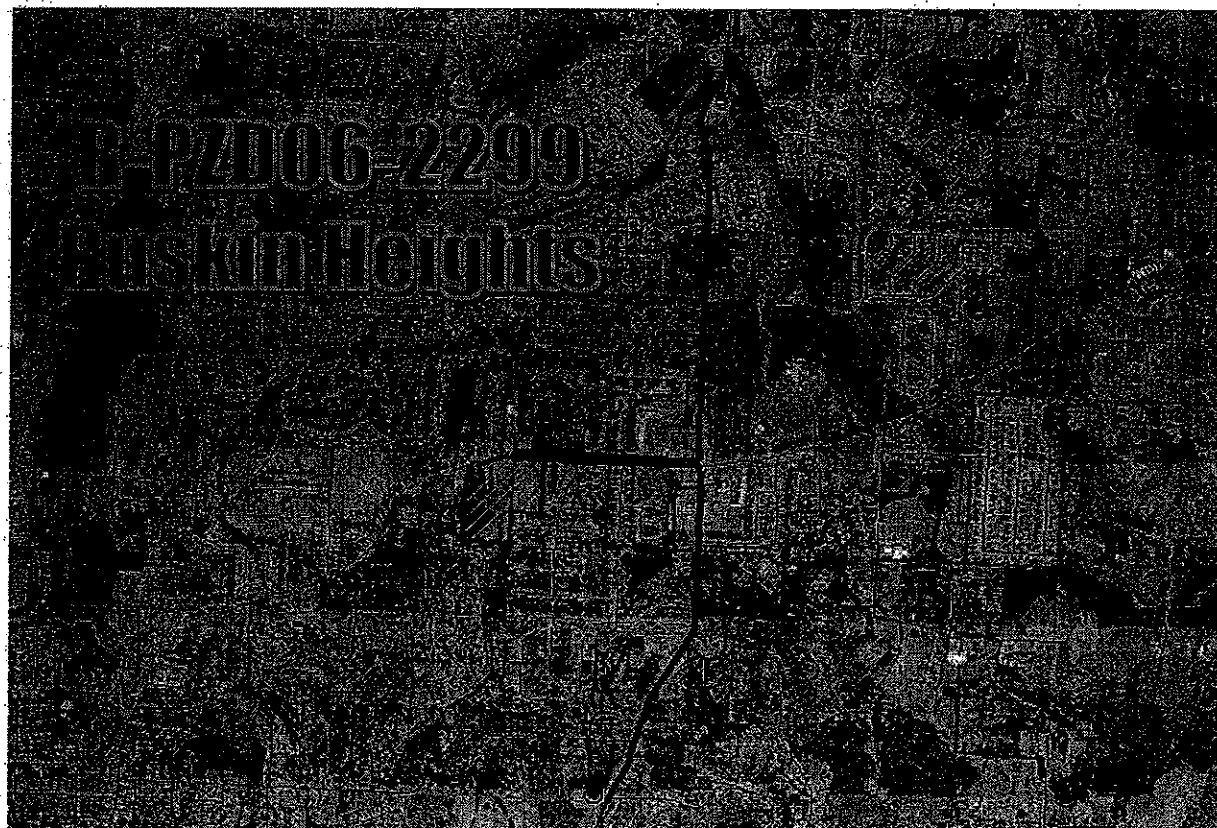
There is no Measured Hydrant Flow recorded in this area.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

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

Please feel free to contact me if you have any questions concerning any of these comments.

★ a. d.
Dale Riggins
Captain



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



 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

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
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 (.11 acres) - 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.



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,

A handwritten signature in dark ink, appearing to read "Ward Davis", is written over the typed name.

Ward Davis

December 4, 2006

Brian Teague
President
Community by Design, LLC
38 W. Trenton, Suite 201
Fayetteville, AR 72701

RECEIVED
DEC 7 4 2006
PLANNING DIV.

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 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.

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.

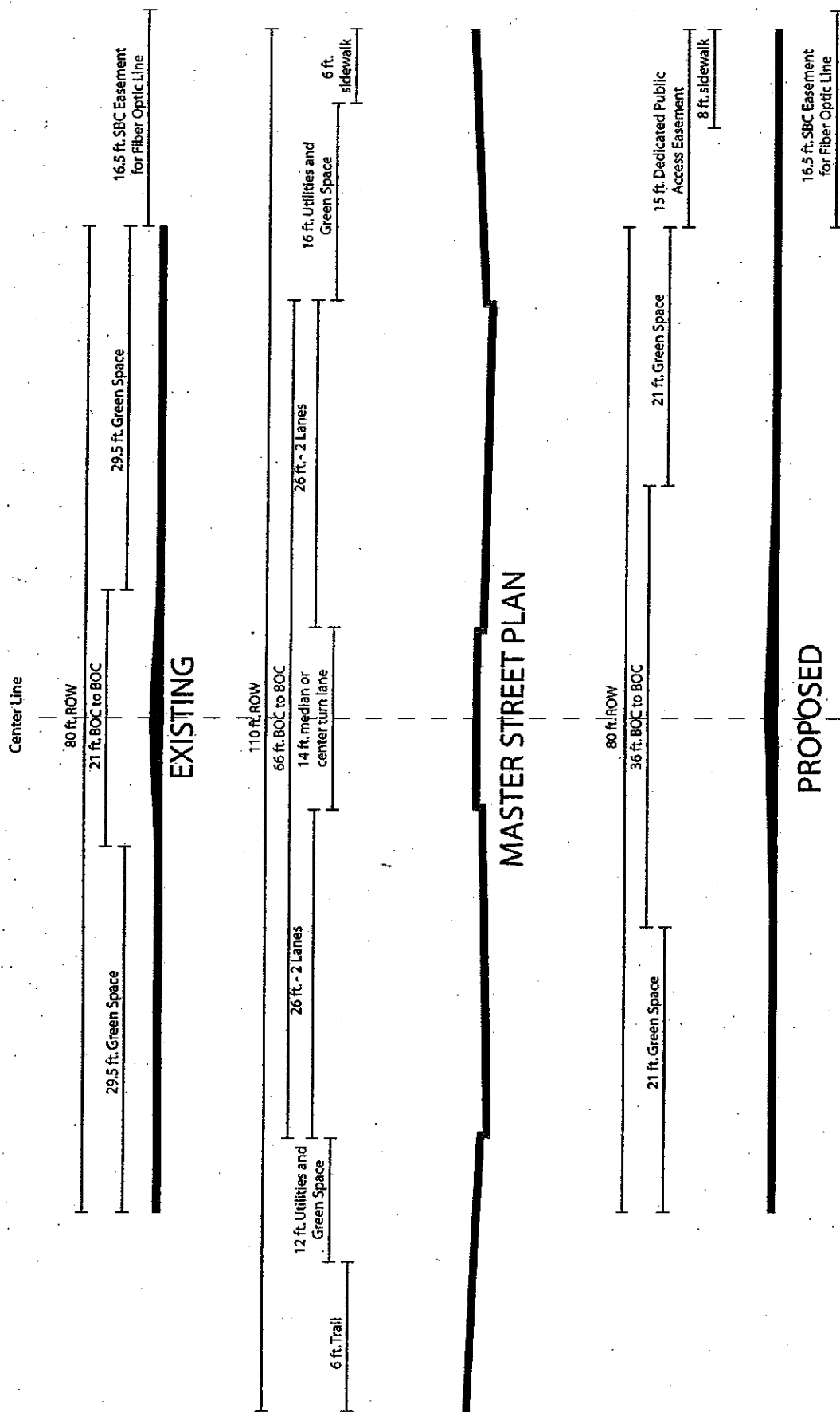
Sincerely,



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 want 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

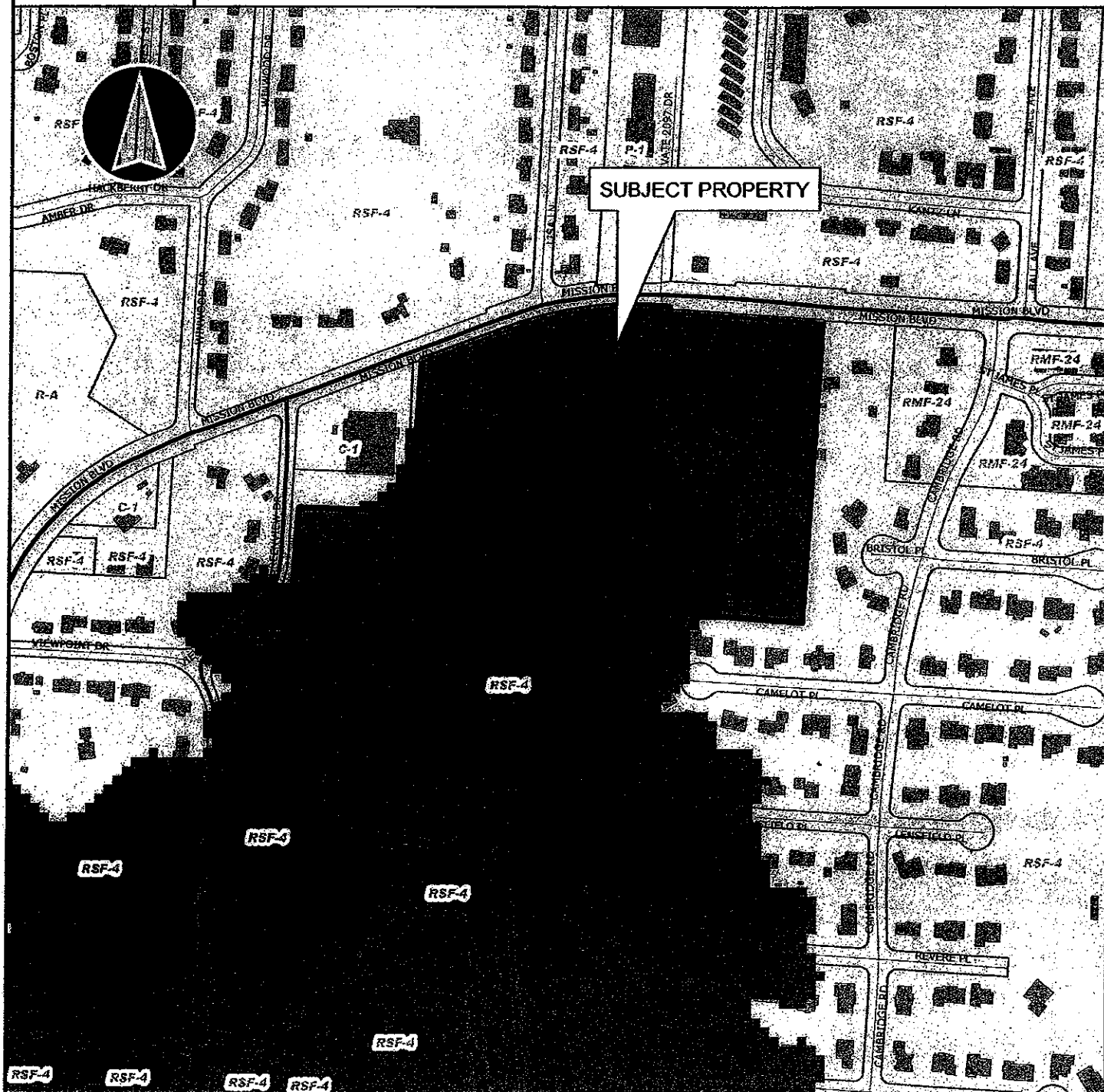
President

Community by Design

RPZD06-2299

RUSKIN HEIGHTS

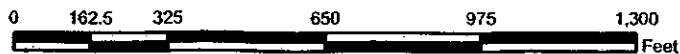
Close Up View



Overview

Legend

- Hillside-Hilltop Overlay District
- Overlay District
- RPZD06-2299
- Fayetteville
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Outside City



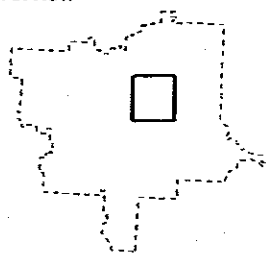
RPZD06-2299

One Mile View

RUSKIN HEIGHTS



Overview



Legend

Subject Property



Boundary

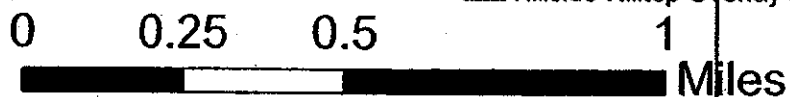
Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



Ruskin Heights Facts and Concerns

Neighborhood Concerns

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

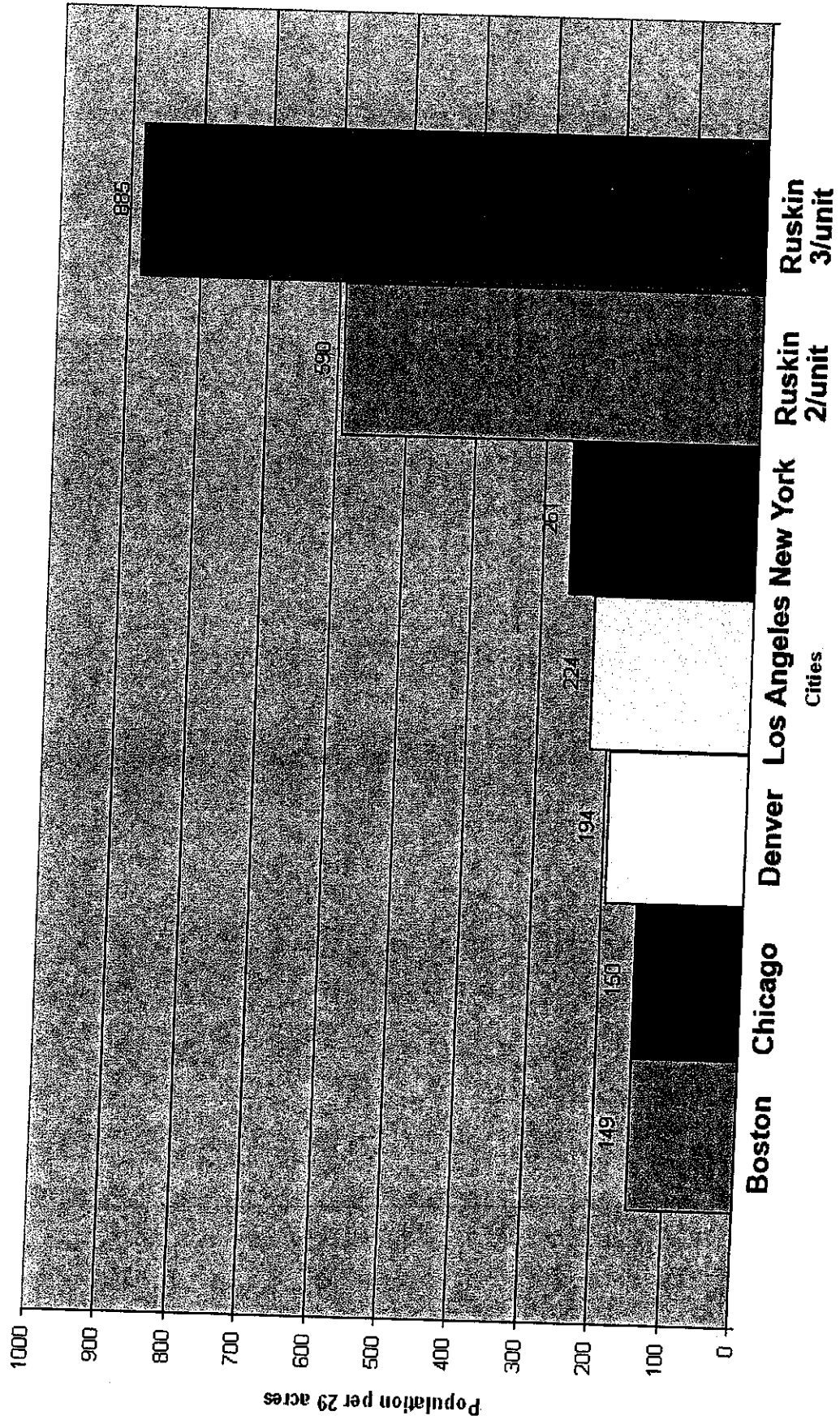


City Density per square mile

• 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

Population Density Comparisons

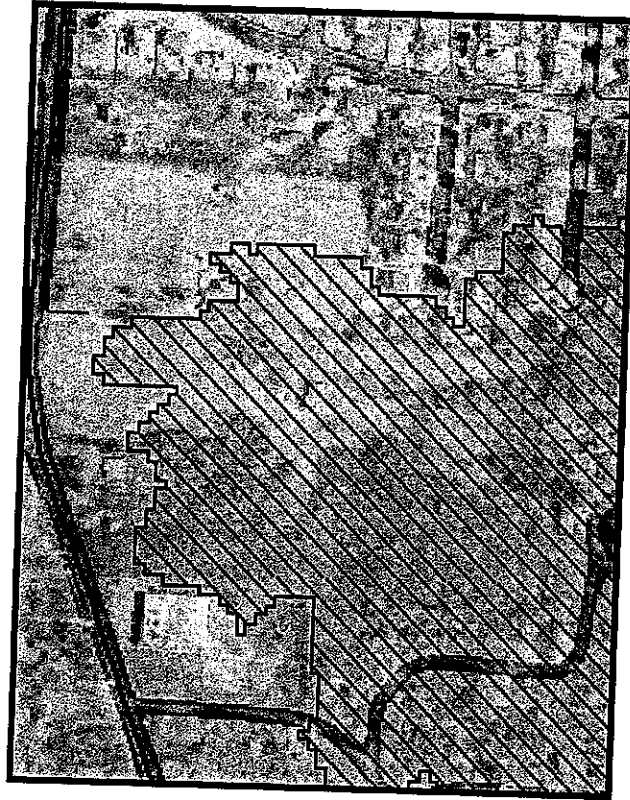
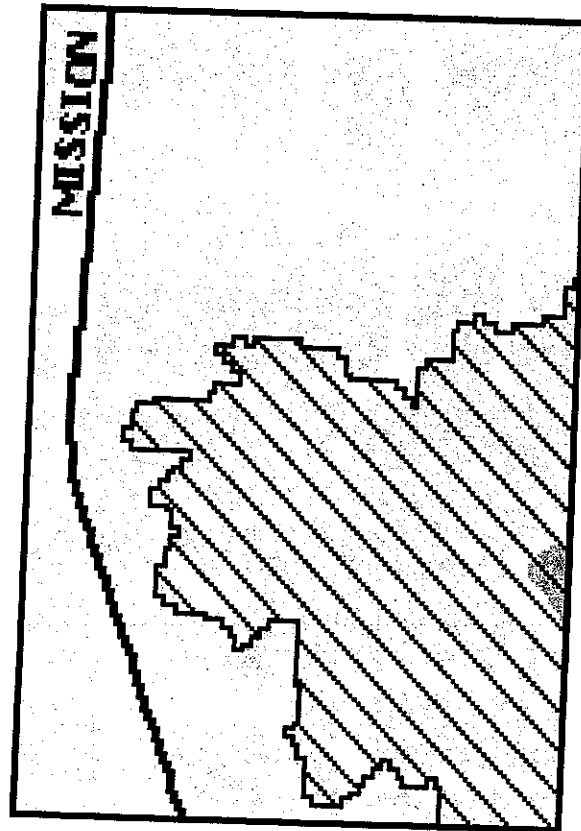


Traffic

- 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

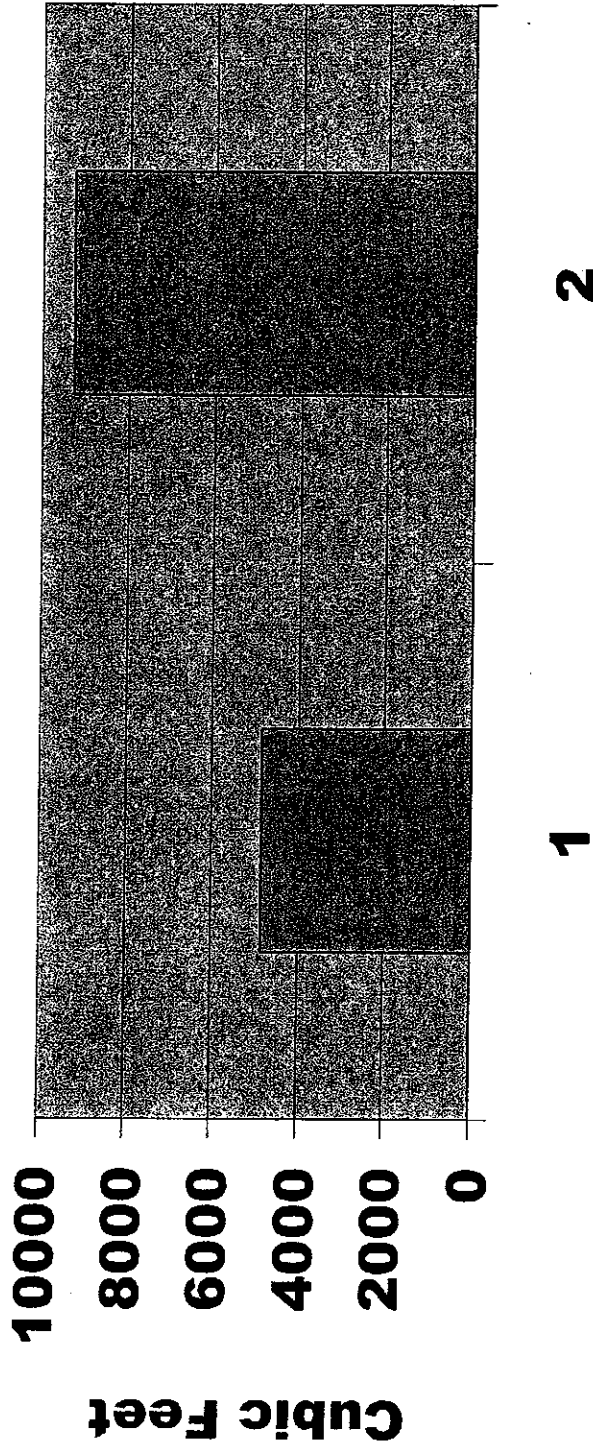
Note: Yellow is RSF-4 zoning



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



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

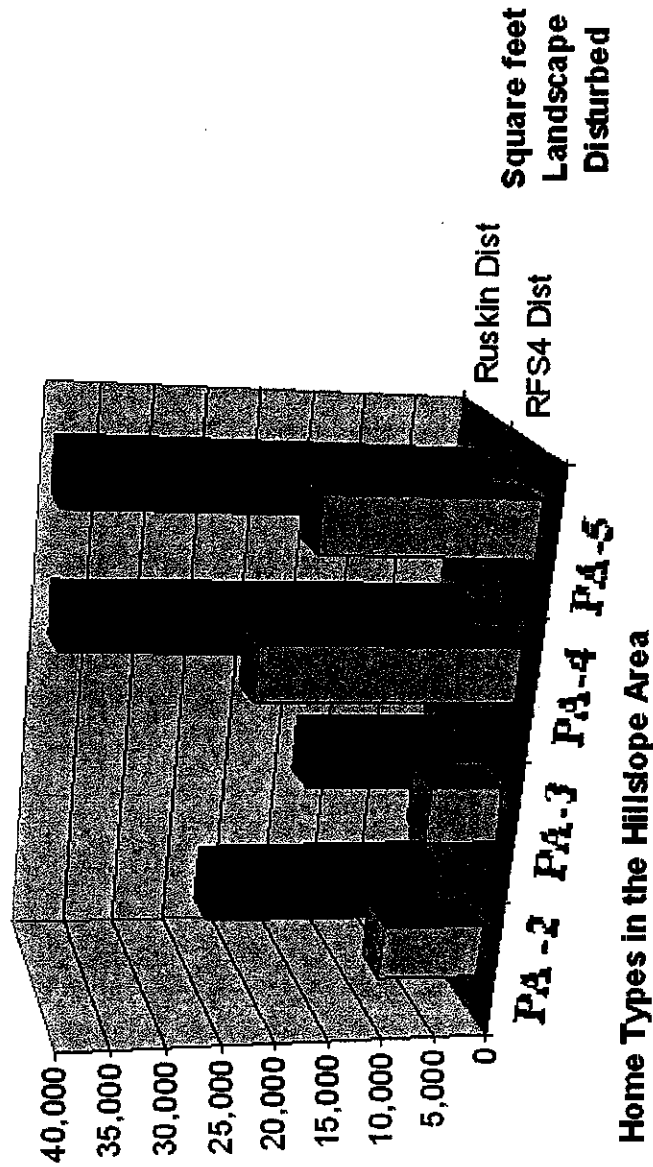
City Plan 2025

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

Disturbed Landscape Comparison



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.**

RECEIVED

FEB 16 2007

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

B. 3
R-PZD 06-2299
Ruskin Heights
Page 92 of 254

*Planning Commission
January 22, 2007
Page 1*

**MINUTES OF A MEETING OF THE
PLANNING COMMISSION**

A regular meeting of the Fayetteville Planning Commission was held on January 22, 2007 at 5:30 p.m. in Room 219 of the City Administration Building, 113 W. Mountain, Fayetteville, Arkansas.

ITEMS DISCUSSED

R-PZD 06-2299 (Ruskin Heights)

ACTION TAKEN

Forward

Draft

*Planning Commission
January 22, 2007
Page 2*

MEMBERS PRESENT

Jill Anthes

Candy Clark
James Graves
Hilary Harris
Audy Lack
Christine Myres
Sean Trumbo

STAFF PRESENT

Matt Casey
Jeremy Pate
Suzanne Morgan
Jesse Fulcher

CITY ATTORNEY:
Kit Williams

MEMBERS ABSENT

Lois Bryant

Alan Ostner

STAFF ABSENT

Andrew Garner

Glenn Newman

*Planning Commission
January 22, 2007
Page 3*

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 16,636 s.f. of non-residential space.

Anthes: Alright. I need everybody to move inside or outside. We've got to get the doors closed.

Anthes: Our final item this evening is RPZD 06-2299. A planned zoning district for Ruskin Heights. I would like to remind that members of the public are permitted a maximum of ten minutes to speak. Representatives of the neighborhood will be allowed twenty minutes if they are speaking for a group. And the applicant and representative of an application before the Planning Commission will be permitted a maximum of twenty minutes per application. If you are going to speak tonight please keep your comments organized and concise. If somebody has already said something that you agree with please don't repeat if you don't need to. We will try to hear everybody and get out of here in a reasonable amount of time. Alright. Staff report, Mr. Garner.

Garner: Yes, Ma'am. This property contains just under 29 acres. It's located on the south side of Mission Boulevard, State Highway 45. It is about a half a mile west of Crossover Rd. The site is zoned RSF-4 and has not been previously developed except for some large lot single family homes. Approximately 62% of this site is located within the Hillside/Hilltop overlay district. Other natural features on this site include a tree canopy on the perimeter property lines and along some of the old fence rows, and along the south and west portions of the property. The property is surrounded by a variety of uses including a church, a plant nursery, single family residences, multifamily residences, a commercial strip center, and as mentioned it is also located about a half mile from one of the larger commercial nodes in the City at the intersection of Crossover State Highway 265 and State Highway 45, Mission Boulevard. The applicant proposes rezoning and preliminary plat and partial development approval for Master Development Plan for a residential planned zoning district. This proposal would change the zoning to allow for 295 attached and detached residential dwelling units as well as 58,500 space of nonresidential commercial space. The preliminary plat would result in a total of 67 lots at this time. The general style of the development is proposed to be a traditional neighborhood development including a variety of housing types

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and land uses in a defined area. Rather than a typical sprawling subdivision this development attempts to create eclectic urban neighborhood with a various of uses connected by a network of paths, sidewalks, streets, alleys, and lanes suitable for pedestrian as well as vehicles. The proposed zoning criteria over this site allows for a more dense layout of single family residences mixed with multifamily dwellings on Mission Boulevard. The mixed use flats would also be interspaced with live/work town houses. Overall density of the site, as shown on Table One of your staff report is approximately 10 units per acre. As mentioned in the preliminary plat approval it is for 67 lots and the development is directly off of Mission Boulevard with three public streets and a fourth point of ingress and egress off of Greenview Drive to the west. Access to the east and the south is not feasible due to existing homes and the conventional subdivision pattern without street stub-outs or other means of connection to this property. 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 and smart code. These do not meet many of the city's typical street design standards, and they are requesting waivers for all of their street cross sections, as well as other street waivers. We are recommending in favor of the waivers for all the street cross sections. Parking for this proposal is provided mostly through on-street parking. They are proposing, as well, one parking structure for the mixed use area and planning area one. As mentioned, the amount of off-street parking provided does not meet the Unified Development Code requirements. Planning Commission approval is required in order to allow on-street parking to count for some of their required off-street parking. We have those parking numbers listed in Table Three of your report there on page 4. The applicant is also requesting a waiver to vary the amount of right-of-way that would be dedicated along Mission Boulevard. Master Street Plan shows Mission Boulevard as a principle arterial which requires 55ft from center line right-of-way to be dedicated. 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 55ft from centerline right-of-way. And the justification that the applicant has provided for that waiver is because there is a very large trunk line, utility line, for SBC that is located in the vicinity there. So we can get into that detail if you need us to explain that further. Staff does recommend several street improvements with this development. One of the main ones is that a three lane section should be constructed along Mission Boulevard complete with sidewalk connection on Mission, where it does not currently exist, to Greenview Drive and all the way where it connects to the existing sidewalk to the east. The three-lane sections are shown on your plats, showing where they would be proposed. In addition we are recommending a traffic signal at the intersection of Lisa Lane and Mission Boulevard. That is at the central intersection as well as to this development. We have also added the condition that

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the applicant shall pursue State Highway Department permits to construct these improvements to Mission including the traffic signal. They have met with the Highway Department and they can tell you more details about their meetings, but they feel like they are fairly far along in being able to construct those improvements with the build-out of this first phase of development. We are also recommending street improvements to Greenview Drive to build that street out to Master Street Plan standards. 14ft from centerline with curb, gutter, sidewalks, and storm drainage on the east side of Greenview. That would be extended from Mission Boulevard south to View Point Drive. The Parks requirement for this project is a little bit different than some of the other ones that you have seen. The Park and Recreation Advisory Board recommended to accept Ruskin Tower and surrounding land. .11 acres, as depicted and described in the project submittal. Ruskin Tower is a 30ft by 30ft Tower to be built at a cost of no less than just under \$260,000. The design and the development of the tower shall meet the approval of park staff. We have also had a condition that this tower, when it is built, has to come through the Planning Commission again as well. Staff has received a large number of emails, phone calls, letters, and in-person visits from the public throughout this whole process. Many of the public are opposed to the project. Many of the public are supportive of this project. Some of the main issues of concern or objecting to the project concern the density, that it's too high. Many people have said that the intensity of the development is not compatible with the surrounding existing single family development. Many other concerns were expressed with traffic and pedestrian safety, adverse visual impact, hillside and erosion impacts, among many others. We have included all written copies of the comments we have received and included those in your packets that you received on Thursday. In addition, at the Subdivision Committee we did have several members of the public who spoke. Their main issues of concern were summarized and were also provided to the Planning Commission in a chart. Staff has gone through the city ordinance PZD findings for this project, and we have found in favor of this project. I will highlight some of the main findings based on our city ordinance. One of the first ones is that staff finds that this project is compliant entirely with the City Plan 2025's six major goals. Those findings are included on page 19 of your staff report. That is finding number one. We have included a table there that lists each of the 2025 goals and an analysis of how this project complies with those goals. One of our other main findings was that staff does find that this project is compatible with the surrounding land uses that are existing and the surrounding and existing zoning. That finding is on page 20 of your staff report. Finding number 4. We do acknowledge that this is a different type of development pattern and as you will see in the finding we also find that it is compatible and it is agreeable and harmonious with the surrounding land uses. One of the other main findings we made was that this project is suitable for the natural environment. As mentioned, the main two natural features on the property include the existing natural landform, the hillside, as well as some of the trees.

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The development does comply with all of the requirements of the hillside/hilltop ordinance. It does meet our Urban Forester's approval for a tree preservation plan. One of the other main findings I wanted to bring your attention to was the projects impacts to public services and traffic. Planning staff, engineering staff, Police Department, and Fire Department have all reviewed these and found that this project would not create any substantial adverse impacts to infrastructure or public services. We have discussed the impacts to traffic, as well, on page 21, finding number 6. Finding that with the incorporation of the conditions of approval that we are recommending for street improvements that this project would not create an adverse traffic safety condition. Those are the main highlights that I wanted to bring to your attention about the project design and also the PZD findings. We have a number of conditions of approval. I won't go over those in detail. The main ones that I mentioned were the street design waivers, and as mentioned staff is recommending in favor of all of these. One of the other ones I'd like to mention as well is Planning Commission determination to allow on-street parking to count for some of the off-street parking. We are recommending in favor of those as well. There are a number of other determinations in here and I would be happy to go over those in detail if you wish.

Anthes: Thank you Mr. Garner. Is there a sign-up sheet at the podium?

Garner: Yes, there is a sign-up sheet.

Anthes: Obviously we have a lot of members from the public here to speak tonight. If everyone could kind of keep the flow going and come up to the microphone and sign in and state your comments. So, I will open the floor to public comment. Will you please come forward?

Shelton: Hi. My name is Rick Shelton. I live at 1963 Lisa Lane, two homes from the intersection at the entry of this project. I am within 200ft of the property line. First of all, I can tell you that from the point of view of... Well, I'm a project designer and trained in landscape architecture. I currently am occupied as a subdivision and commercial development designer. I have looked at this very carefully and found that it is very interesting in that it does have a great diversity of housing types. Great diversity of uses. I really like the idea of the mixed opportunities of the commercial space infiltrating the residential spaces and the walkability of it. That is something we really lack in subdivision design today. Walkability not only in the subdivision, but outside the subdivision. One of the key features that planning staff has recommended is an intersection with a light at the entry. In my experience, having lived at that location for 5 years and seeing the number of accidents that happen at that location, and accidents that happen within a quarter mile of that location because of the stream of the traffic and the

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speed of the traffic the stilling measures that this presents are very, very important, I think in that location on Mission. I've had many incidences and near misses myself, and have reported many incidents at the intersection over the 5 years I've lived there. So I think that is a very important aspect of the project, is providing that opportunity on Mission for a very important stilling measure. As far as the subdivision in general, I like the addressing that they did to the hillside. I like the fact that access is not just strictly up and down hill, but it crosses across the hill preventing erosion in the future of the hillside. I think they've done a great job in addressing the shape and the form of the land in the subdivision. So I am totally in favor of the project, and I just thought I would let you know that.

Anthes: Thank you, Mr. Shelton.

You don't need to write anything but your name.

Story: Ok. Thank you.

Anthes: Thanks. Good evening.

Story: Hi. I'm Jonathan Story. If this is too loud, just let me know.

Anthes: We usually have the other problem, so

Story: Ok. I'm here to speak on behalf of a project that I believe will benefit Fayetteville. I've lived in Fayetteville my whole life and in East Fayetteville for the last 20 years. I remember a time when there was only a stop sign on the corner of Mission Boulevard and Crossover Road. When wild flowers grew in fields where ugly blue storage buildings now stand. Needless to say, things have changed since then. While many of us may long for the past, especially when we see old post cards of College Ave covered with trees or pictures of the half of the square that was bulldozed for urban renewal. I have come to realize that if we take what we have now, and build well for the future our city can be even more beautiful and livable than it has ever been. I first heard of Ruskin Heights when a friend of mine who works at Common Grounds solicited my signature on a petition supporting the development. I thought it was strange because petitions are usually against something. I was not inclined to sign it because I am generally not crazy about sprawl. But after looking at some of the drawings of the facades and the general layout of the development, I quickly signed the petition. Several days later I met with some of the people involved with the project and I was even more impressed with what I saw. There are several reasons to support this development. First and foremost in my mind is that it puts into practice the principles which we have endorsed in terms of future development and growth. Ruskin Heights is not just another cookie cutter, cul-de-sac type of development.

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It is a blend of unique architecture, optimum and mixed use of land and incorporation rather than destruction of natural resources. I have always been amused of how it seems that developments are named after what was destroyed in order to build them, such as Tall Oaks, or Spreading Pines. (Laughter) Ruskin Heights, in my mind, represents a positive departure from that method of doing things. There are people who are taken aback by the proposal because, frankly, it's pretty unique and it hasn't been done much in Fayetteville in the past. But I would like to remind you that several of the same things, which are now being said about Ruskin Heights, were being said about another development a few years back. People complained about the traffic it would create, questioned the density of the homes, and just generally...

Anthes: Mr. Story. I need you to address this development and not any others please.

Story: Oh, ok. I hope that as you consider this excellent proposal that you will put trivial matters aside and think about the future. Ask yourselves: do we want a city with well built attractive architecture, a community which conserves and makes use of natural resources rather than obliterating them. And most of all a community that through it's very design brings people together rather than separating them. If your answer is yes, I would encourage you to approve Ruskin Heights.

Anthes: Thank you. Good evening.

Wade: Hi. My name is Kathy Wade. I live in Park Place, one of the neighborhoods immediately adjacent to the proposed development. I am not for or against this development. I think there is a lot of really good things about it. I like the walk ability. I think a lot of it is really wonderful. I am concerned about the density. I think that 10 units an acre is more than I would like to see, and more than I think would be beneficial for the area. I think in the neighborhood of 7 units per acre might be more acceptable to a lot of the people in the area. My other concern is how that density affects not just the traffic but the schools in the area. I am planning on sending my child to Root and it is already pretty full. If there are a lot of children in this neighborhood then that potentially changes the drawing of the school lines. Not that I don't think the other schools in town are good schools. That is one of the reasons that I have a home in Park Place. My last concern is the proposed tower. I think that that tower sounds really cool, but when you think about the public access to it and the possibility that people who have less than good things on their mind could be getting into that tower and looking into my backyard and seeing what my son does in the backyard and when I come and go during the day. That makes me very nervous, and I am not typically a nervous person. The public access to that tower, that people can see on Hillside, is of much concern to me. Thank you.

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Anthes: Thank you Ms. Wade. One quick question for staff. I know that we have seen a lot of emails about the impact on schools, but I understand that that is not something that we can review with the planned zoning district. So, while we understand that there may be an impact to Root school and others, if you would refrain from discussing that as it is not something we can consider here. Mr. Kellogg.

Kellogg: My name is Dick Kellogg. I taught architecture for 40 years, 26 of them here at the University. Almost 45 years ago I was a graduate student at Columbia University studying urban design, and this kind of development was current then. The hope to build more dense housing and so on, and leave other land there, other than one huge house per 2 acres, or something like that as we see in most subdivisions. I am really excited to see, finally, something that I have almost never seen happen since that time. It was a proposal way back.

Anthes: Thank you Mr. Kellogg. Hi.

Kavamme: Hi. My name's Joanne Kavamme, and I am one of the adjoining neighbors. I had some very specific questions. Well, first I would like to make a statement. This evening we keep hearing that new people moving here want to live in more urban settings. Actually, most of the people I know moved here because they want to live in a small town setting as opposed to a large urban setting. First of all I am very concerned that the developers asked for narrower streets but they want on-street parking. You can't have both. I live on Greenview which is the street right next to it. Our street is not that narrow, though it is narrow, and I believe they are even asking for narrower streets. If we parked on our streets and emergency vehicle could not access the area. Especially on that hill. It is not possible. I think you can't have both. You can't have really narrow streets and street parking, especially on those hills. This development is not compatible with the neighbors. I think, as Dr Kellogg, or Mr. Kellogg, said I agree that the mixed use, there are some very good points to this. But what they could have done, I believe they are allowed to have 112 or so units with the R-4 designation it is now. If they would cluster those and save the area...

Anthes: Ma'am, I need you to talk about this proposal as proposed. Not...

Kavelone: Yeah. The forested area here is actually on the Fayetteville Natural Resource Heritage Commissions area of places to be saved. Out of the 8 acres of forests that are on that hillside right now, less than one acre or about one acre will be preserved. This is very important. This is the forested area. First of all they would have to have a dam. That is a very steep slope. To make that hold water you would have to have a pretty substantial dam to make that work. Secondly, all the trees in that pond area will die. So those trees will not be protected. I have a

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question for you, and this is partially my lack of understanding. I thought the idea of a PZD was to make it more compatible with the neighbors. Yet we have had all the neighbors come out multiple times saying that we don't feel it's compatible. So I don't understand exactly how that works. It is just too dense. One thing I think is important, we have a huge number of people here to speak and I won't speak long. But it would be interesting to have people raise their hand, the people who actually live around it. Because we have a lot of people who have a lot of great ideas, but the ones what it is affecting are us, the ones who live next to it. I think if that is ok, could we ask people who live right around the property to please raise your hands or stand up.

Anthes: It looks like a whole lot of them.

Kavelone: Yeah. And how many of those have very serious concerns with the project?

Anthes: Joanne?

Kavelone: Ok. Sorry. That's fine. The other point is we do have very serious concerns about is the slope erosion. Because if you take off all by 18, last I say it was 18% of the trees would be saved. If you take all by 18% of the trees off that slope we are going to have slope problems because it is on the shale. If you look on the hill slope ordinance, they have the King, King and Boss report that talks about the areas that are most susceptible to that. We are there. Ok? We also have water issues at the chaerrette, we went to the charrett that the developer had, and we had the same concerns. The density was too deep. We wanted to keep the trees. We were afraid of runoff and slope issues. I was told personally by the head person from Florida, "don't worry about it, we have technology". That concerns me a lot. The other issue I have is at the charrett, one of the people developing this property actually said at a public meeting, "why should....

Anthes: You can't say.

Kavelone: Well. They are not taking this seriously. It affects us everyday. And if they make a mistake they go on to something else. I have one thing and I will quit. If everyone is so sure that this is not going to negatively impact us with slope problems and with water runoff. I would ask that if this is going to go forward, that the City please ask that they provide some sort of a performance bond, like an insurance policy, that if they do create runoff problems or slope problems to our properties that their insurance policy will cover it and it will not become a problem for the city like (name).

Anthes: Thank you. The next person, just come right up. Would any other member of the public like to speak? Good evening.

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Heinsman: My name is Pete Heinsman. I am speaking on behalf of Fayetteville Natural Heritage Association. The previous speaker referred to. I just want to correct any misunderstanding. As an organization, we do not intend to have an opinion about an approval or disapproval of any planned development coming before the Planning Commission. So if there is any misunderstanding about that, that is just not our venue. We are not into what the construction of these areas or the architecture. We are about, generally, green spaces and natural areas in another context. So, thank you.

Anthes: Thank you Mr. Heinsman. The next person just cue-up right behind him. Good evening.

Harder: Good evening. My name is Alison Harder. I had to bring the gang because I am single parenting. Sorry about that. My concerns have briefly been mentioned it density. I spoke with Andrew Gardner and he sent me to many different locations that would be similar to this. I went to Ruppel Rd, Charleston Place, the historic district, and a location next to the Fayetteville Athletic Club to look at something like it. None of these locations were on a steep slope of 15% or more grade. None of those locations, abutted next to a neighborhood like our neighborhoods. None of those locations that he said were similar had extremely small lots like this is proposing. In Ruskin Heights, in phase one and two that they are talking about, they will be developing 32 lots. My son here is going to help me. 14 of these lots are going to be 24ft wide. That wide. Imagine a home on this with 5ft lines on either side. I had someone tonight say to me, well, it might depend on who I live next door to, if I were to live on a lot that small. Well, you can't control who you live next door to. And there are 14 lots in the first development that are that small. Park Place. None of these lots are compatible with the community that we currently live in. All of the locations I went to had off-street parking. Ruskin Heights has very little off-street parking. A lot of the lots that I am talking about have only a 3ft apron. Whatever that is. I think it is a little parking bay. I went to my friend's house in Charleston Bay and she told me that her neighbors find their homes too small so they are using their garages as living space. Now they are parking their cars in their driveways. So if that happens in this development they will then be parking on the street and using their garages as living space. All of the locations that I went to visit had greater setbacks than Ruskin Heights is proposing. None of the locations I went to had alley ways next to existing neighborhoods. A member of the law enforcement describes alley ways to me as an access point for criminal behavior. If you look at the map up there, the first street coming in off Mission Boulevard is very close to the alley way that abuts east side development all along Park Place and then on the south side. I have a vision that one day the mountains of Fayetteville will not be overcrowded. As stated in the 2025 Plan, the steep slopes are not suitable for urban forms of

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development. The slopes of 15% require special treatment. An ordinance was passed that provides additional protections of these slopes, Mt Sequoyah, and most of this project. It was stated earlier that some of this project. But really most of this project is in the protected ordinance area. I have a vision that the Planning Commission will follow the ordinance that is in place and protect the tree covered mountains that everyone admires from afar, and not stick tall buildings on this hill and a tower. I ask you, what will happen if these developers go out of business or get their money and leave this land.

Anthes: Ms. Harder.

Harder: Will the rezoning be done something different? Will we be protected with a covenants?

Anthes: This is a planned zoning district, and this plan goes with the zoning. This is the only plan that can be built on....

Harder: But it is currently planned and zoned as an R-4, and I heard tonight...

Anthes: Right. But I am just saying that will go with it. I just don't want you to speculate.

Harder: Ok. The density of this project is greater 10 units per acre means a lot more cars, a lot more traffic on Mission Boulevard. We already have a rating, as they have told us, of a level E. This level of density will push things over the edge. I have a vision of driving and walking safely along Mission Boulevard and not having to deal with all of this. Nothing has changed since the last Subdivision Planning meeting in November. There is still extremely high density. An unbelievable number of waivers are being asked for, for small streets, a high number of parking on the street, excessive amounts of street parking, multi-use retail and live/work space. Those red boxes in the front there are three-stories high, and you know they will have fronts on them to cover up their air conditioning units and heating units which push those buildings to four-stories high. Privacy and security problems exist with the tower, which we have fondly named the "peeping tom tower". The hillside ordinance states that trees are to be recognized for the foundation of storm water filtration, absorption, etc. and they are cutting down every tree that is less than 12in around. Why? It never states anywhere that trees should be bigger than 12in. I don't understand that. And then trails. In our 2025 plan it says trails should be connective and within half a mile of everybody's home. If you look at the map they provide us there is one trail on the western edge that is about a block long. Could that trail possibly be extended along the south side and the east and remove that alleyway? Maybe make it a little dense and thus connect the trail up to Mission Ave and the sidewalk area? This is a possibility making it more compatible to the neighborhoods around it. In closing,

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I ask you to have a vision that was planned for this land not to be so dense and so highly developed. This would help the traffic, privacy, the care of the mountain folk, and the view of the tree covered mountains that Fayetteville and so many others admire. Thank you very much.

Anthes: Thank you.

Harder: Hello. My name is Ian Harder, and I will be speaking about how would I get to school off of my street? If it is so busy, how can I get out? Would I be late all the time? How many of you own a dog? Could they own a dog? Will they even be able to own a dog? Will I be able to play soccer with my brother in a field? Or will I be able to go able to go out and play fetch with my dog without being spied on? There is just... It will bring in criminal activity and a lot of other bad stuff.

Anthes: Thank you. It takes a lot of guts to get up and talk in front of that mic.

Harder: Hello. I'm Isaiah Harder. I may be young, and I may be small, but my words are just as big as big as the rest of yours. I will use a quote from the Bible. "If salt loses it's saltiness men will throw it out. People will throw it out to trip on". Ruskin Heights has lost it's saltiness. It is like salt that has lost it's flavor. The houses are like the grains of salt because they are so small. The yards on the lots are 5ft. How will kids be able to play on that? Today the news people were up there filming and their car got stuck in the mud. Imagine what a house would do to the ground. I would like to ask Ruskin Heights a question. How big is your house? Is it bigger than the lots that you are building? I would not like to look at an alleyway behind my house. And with the tower you can see into private residences. Crime will go up. What if Ruskin Heights goes bankrupt? What will happen to the land out there? Why are you trading a green space for bricks to build a tower? That is all.

Anthes: Thank you. Hard act to follow.

Parker: I'm Cynthia Parker. I'm an adjoining property owner on the south side. I live at 1680 E Shadowridge Drive. I am opposed to this project mainly because of the density that could go into it with the PZD-24 zoning district. The traffic on Mission is horrid, and also having access onto Greenview, which is a very narrow street with big ditches, no curb, gutter or sidewalk. They say they are going to improve it to View Point, but really with all the cut through that is going to occur it ought to be improved all the way over to Locklord and down. I don't see how this compliments the natural nature of Mt Sequoyah when the hillside is obviously going to have to be shaved to put all these houses in. My main concern with this is the density and the traffic on Mission. The traffic on Greenview, the cut through. I think it should stay four families per acre. That is what it is zoned

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now. You don't have to change it. You could leave it four families per acre.
Thank you.

Anthes: Thank you Ms Parker.

Enrique: I am Enrique Unknown, and I am speaking on behalf of our place behind the fence of the mountain. I am also a new American and an old European. I remember in America the colonial towns were in flood land, and the sterling towns of Europe are in flood land, never in mountains. In the mountains in Europe we have 45 towns on granite. Now, I am talking about the geology of this mountain. When Ruskin Heights removes the small trees, bushes, over 90% of our trees, it will accelerate the erosion by removing the filtration powers of the canopy. Our bedrock, according to the Arkansas Geological Commission, has multiple sedimentary ledges which include limestone, Fayetteville shale, which is a very strong sandstone, the Batesville sandstone, and the Hensfield limestone. Sandstone is an acceptable rock to build in a watering landscape, but not in a steep sloped terrain like ours. Sandstones have large porous spaces and thus allow for the water to move easily long distance underground and accumulate through pores, wholes, cracks in the bedrock. Because many of these openings are closed by welding and increase by welding. The bedrock gets deeper. There are so few openings that the movement of water becomes impossible increasing the water table above the ground. Rocks and soils that contain and transmit water like (unclear) are called aquifers. Beneath these aquifers there is a solid rock that has become water tight with the pressure of overlying materials. The water slipping down from the rain soaked surface collects above the impermeable layer filling all the pores and cracks of the aquifer. Our place lies on top of a quarry blocking the natural drainage of Mt Sequoah. In the winter the upper layers of the water table freeze and expand. The frozen water, soft clay expands against the foundations and retaining walls, the basements, the swimming pools, the sewer pipes, contributing to the cracks and displacement of these structures. In the spring time the water table is very high in Mt Sequoah. Due to the combination of heavy rains and soft clay and sandstone leaking through the cracks and damage the structures. We experience both problems in winter and in spring in our properties. The problem will accelerate rapidly and destroy private and public structures in the path of the runoff. According to the (quadrangle) 7.5 (unclear) of Fayetteville, my house is about 200ft below the proposed development and only 1,000ft away. There are neighbors that are only 1ft away from this subdivision. This alone is not an acceptable distance on this slope to allow the development and to build 295 housing units, or even 4 units per acre while removing the natural landscape of Mt Sequoia forever. The proposed Ruskin Heights development will be an excellent idea in a different urban landscape with no drain problems in our community. Particularly if integrated with city, regional, and state urban designs incorporated with public process, retail, office, and public buildings with 21st century urban

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technology, contributing to a more sustainable and livable community, integrating more pedestrian facilities, eventually facilitating a north/south clean public transportation system. Thank you very much.

Anthes: Thank you. Would any other member of the public like to speak? Please come up.

Bishop: Hello, my name is Tamarin Bishop. I live at 1825 Cambridge which is in Park Place. My property almost directly abuts the Ruskin Heights development. I really think this is a neat development. I am excited by the possibility of mixed use. I like the proposed walk ability that it seems like this project may have. I think there are a lot of neat things to it. When they have discussed with us, and I appreciate the effort they have gone through to include our neighborhood and I am sure the surrounding neighborhoods they have done the same, in their planning process when they have talked about the proposed commercial. I think there are a lot of neat ideas and some things that I think that I would personally benefit from. I think that, quite possibly, this would be more beneficial to my property interest than having a really large, huge home right behind me than a more suburban type neighborhood. I understand that getting the benefit of the uniqueness of this type of neighborhood and some of the blessings that that would effort requires an increased density. I think they go hand and hand. I am concerned that the density level here is too high. As I said, I accept that if we are going to get some of these benefits there is going to have to be more people to create this type of development. It is my understanding, and I think of Park Place, we have about a 3.2 ratio on the homes. To have a greater than 3x that ratio right next door gives me some concern for the existing infrastructure for the right-of ways.... I know that they have gone to a lot of effort to try to do what they can for traffic. If that density could be lessened, even double, I think I could be more comfortable with. Another area that I can see that this could be a lot more compatible with the neighboring families is, that tower is a problem to me. You can see from that tower, directly to my house. And from the pictures that I have seen, you can actually see in the nursery window that we have for my child. I am concerned. As has been mentioned before, I am not the kind of person that is normally a real worrier. I don't worry about people watching my goings and comings. But the school bus intersection lets off right in front of my house and I believe would be visible from this tower. I think that you would have a really good view of when a lot of the people, particularly some of the moms who stay home, are home along. And that gives me pretty great concern, just because we aren't really going to have any limitation over or restriction or accountability of who is up there or what they are doing. So that does give me concern as a neighbor. I would like that to be considered. Thank you.

Anthes: Thank you Ms Bishop.

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Ostrowski: Hi. I am Sharon Ostrowski. Three months ago my husband and I moved from our home in Glib Brooks subdivision which is just east of Ruskin Heights property. We loved our home. We loved living in Fayetteville, and we loved our neighbors. However, my husband has stage four bone cancer and is currently being treated. We decided to sell our home and move into a more maintenance-free environment. We still consider this neighborhood our neighborhood. We know the people who live there. We shop at the stores and eat at the restaurants. Our bank is down the street. Our church is just a few blocks away. We only want positive things to happen. When I first learned of Ruskin Heights I found it really intriguing. The thought of a work/live situation would be ideal for my particular situation. I could open my boutique on the first level, but easily run up whenever need to our home on the second level and be with my husband if he needed me. It sounded like a really wonderful solution. However, I also wondered how it would affect the community. I was nervous that such a development could possible impose on property values, our beautiful views, and our sense of belonging to this area. My husband and I studied the plans. We met with the gentlemen of Ruskin Heights. We asked a million questions, drilled them on the phone and in person, and after extensive research I believe (tape flip) change for Fayetteville and this neighborhood. There is no question that this community is different than anything in Fayetteville currently. However, it promises to be charming and unique much like Fayetteville and the citizens that live here. I realize that my situation is uncommon. The hope of opening my own boutique in Fayetteville is greatly eclipsed by my desire to be able to provide care for my husband at a moments notice. Finding an environment that would offer me that is my greatest concern. If you will allow Ruskin Heights to move forward you will see a positive growth and increase in community pride, and the atmosphere for distinct local businesses. Thank you for your consideration.

Anthes: Thank you, Sharon. Good evening.

Wilkins: Hello. My name is Charles Wilkins, I live at 318 W. Isles St near Wilson Park. I also own the commercial building there to the west with the pizza store in it. I put about a half a million dollars into that building a few years ago to fix it up. Unfortunately I will probably have to spend a lot more to get it up to snuff with what it looks like they are going to do. I am really impressed with what it is going to look like. I am struck, too, how it seems to fit perfectly with City Plan. I was struck when I looked at the artist's concepts of City Plan. It looked like they stole it from the artist's conception of what Ruskin Heights is going to look like. It looks exactly to the T, even with the common green and possibly even the tower in there. I am also impressed with the hillside ordinance. When that first came about in the past couple of years I really thought it was a red herring that people, anti-development people, had advocated that in order to stop development. And

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really when I first saw it, it seemed like it would be impossible to develop anything with all the restrictions. And the fact that Ruskin Heights fits perfectly with the hillside ordinance, I think, it really quite amazing. So I am absolutely in favor of Ruskin Heights. Thanks.

Anthes: Thank you Mr. Wilkins.

Heck: My name is Paul Heck. I am an architect. I am also a Park Place neighbor. I am actually in favor of this project because, quite frankly, we need a change like this. I lived in Tulsa for ten years in a house that was under 1100sq ft. I had two kids in that house and it was perfectly fine living in that amount of square footage. I think there are some lots in this neighborhood that are going to fit that model quite well. I also think that there originally were some houses up on Mt Sequoia, some little cottages, that fit that model and that size pretty well. They weren't quite so close to each other, but definitely the size was about the same. The main point that I want to make tonight is that this project is different. It is not going to address every person's need. It is not something that most people have experienced, probably. We know that it is not going to solve the traffic problems, but it may actually help it down the road if we can get the traffic count number up to get some improvements on 45. Maybe a light in front of this will help as well to help with the pacing of the traffic. I think the thing that this project does is it addresses the important issues. It addresses the health, the safety, and the welfare of the public. I think that they have taken a lot of input from the people and put it to work on this plan. I want to just urge that the City of Fayetteville, if you are ready to move forward on the vision of the City Plan 2025, this is the first step. I think that we need to approve this tonight and that will also demonstrate some additional things to developers in the future. That there is a process that we have to go through here. We have an initial project, a first start of a model to use. Something to help guide them through developing a traditional neighborhood in the future. Thank you.

Anthes: Thank you, Mr. Heck. Next person, please come up right behind him. Good evening.

Cameron: My name is Caroline Cameron and I live on Viewpoint Dr. We are just right up from where this development will come out on Greenview. My concern is the traffic. Viewpoint has always... We've lived there for 18 years and it has always been a cut-through street. Especially in the morning. People drive up there and then they go down Rockwood and go on Sequoia to avoid all the school traffic. My concern is all the traffic from there that will cut through on our street, and no improvements have ever been made to any of the roads up there. They can't handle the increased traffic. They are narrow and it is hard for even two cars to pass each other on them. So that is my main concern.

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Anthes: Thank you, Ms Cameron. Again, please, the next person come on up.

Sherman: My name is Latrice Menasco-Sherman. I boarder on two sides of the property that Ruskin Heights will be developing. I hate to sound redundant, but I want you to know that I am speaking from my heart and I am not trying to sway you in any way. I just want you to know that we have lived there, and again I know this is redundant, I am mostly concerned about the traffic problems, the density, not having enough parking. I know that I have spent \$10,000 already on the foundation of my house. I know the intelligence of Dr. Kabbello talking about the soil and the content, and I have mentioned that there is a spring between my house and the next house and during this last ice storm the ice completely covered the top of the cul-de-sac where I live. I know that any time you do something to a hilltop you are going to have dramatic problems and I know that since I am right up next to that hill that a lot of those problems are going to come down on my house. I just want you to bear in mind that the property they want to build is beautiful. I think it would be great on a flat area, but not behind my house. I don't want restaurants behind my house where there is music and garbage cans. I am just trying to let you know that I am very concerned.

Riley: Good evening. My name is Marie Riley and I am representing my husband Art Hobson and I. We are kind of jointly represented by me tonight. We feel very strongly about this development, in case you didn't already know that. I just want to point out a few things. I live in the Washington Willow neighborhood. We have small lots, very small houses. We have alleys. We have narrow streets. We have on-street parking. I would suspect that we are considered to be a very desirable place to live in Fayetteville. If you have looked at the land prices recently? So Ruskin Heights incorporates a lot of these ideas in their development, and that is what makes it very exciting to me. It makes it scalable at the human level. And what we don't have in our neighborhood that Ruskin Heights does have is mixed use. I would like to be able to get home, run down to the cleaners on foot instead of by car. I think this development really falls in line with the vision that we have with the Master Plan. Density. We feel pretty strongly that we can't have density and control sprawl. You can't have it both ways. I mean, you have to make a decision. I think we do as a City, on how we are going to control sprawl, and this kind of development helps us. So that's it.

Anthes: Thank you, Ms Riley. Welcome.

Backus: Hello. I'm Anita Backus and I live at 1984 Greenview. It is right behind where going up the hill off of Mission. And right now in our backyard there are some really tall hickory trees. It's beautiful, and when we go outside it is like going out in the country. We've lived there for close to 23 years now. We knew that it

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probably would change and there would be houses up there, but we had no idea that so many homes would be put up there now. We only ask that you really think about it. Think about what is right. Is 295 homes put up in 28 acres? How would you like it if that many homes was popped up in your backyard? I live on Greenview and we have spent a lot of money on the foundation at our house. We have also spent a lot of money on the drainage. You have to have this all done. You can't just pop the house up because they have to come back and work on that. The front of our street the other day was ice half the day. So we are always contending with that. We have to pick up our mailbox and put it in our yard because people always hit it. So we like our house. We like our neighborhood. It is really a nice neighborhood. And we are not totally against this. It is just way, way too many people. I understand that some revisions have been made on this and we were wondering if you could table this decision right now because we don't know what is going on about the different revisions. Thank you.

Anthes: Thank you. Would any other member of the public like to address this Planned Zoning District for Ruskin Heights? Hello.

Wilson: Hello, my name is Charles Wilson. I am a resident of Park Place. I have lived for the last 12 years or so on the adjacent property to the east side of the Ruskin Heights development. Now, one of the first things we had to do once our house was built there was we had to spend a lot of money putting a curtain drain in because it absolutely floods down the hill every time it rains. It is not on our property, but other properties adjacent. This is a serious concern. I haven't seen in the plans any convincing argument with how that will be dealt with in the development. It is something that really ought to be considered because with the density of development that is proposed what will happen is you will make the run-off worse not better. So remediation of some kind has to be built into it if this goes forward. Another concern that I have is once you make the favorable zoning change, what happens if the developers take an interest in something else for various reasons like not selling their properties fast enough and someone else takes over? Would they have the ability to put in something totally different? Is this particular case would be restricted only to this plan? I am just arguing the plan ought to consider geological features that a couple of people have mentioned before. I know many people in Park Place have spent a lot of money on foundations, piers, and other ways to keep their houses from sliding down the hill because it is clay under there. All of it is. Thank you for your attention.

Anthes: Thank you.

Stephens: Good evening. My name is Marvin Stephens. I moved here from south Florida in 1995. I first lived in Park Place, and then I moved to Lovers Lane, and now I live on Meandering way. I have been retired and we are looking to downsize. Ruskin

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Heights is the only first class project that we have in the eastern part of Fayetteville. It is imperative that I stay in the eastern part around 265 and Mission. Ruskin Heights meets all the requirements of the 2025 Plan. Although there will be a traffic problem, because I drive 28 times a week on Mission Boulevard to Root School. But I think Ruskin Heights has addressed that portion of the traffic problem in that area. I hope that you will approve the plan. Thank you.

Anthes: Thank you, Mr. Stephens. Would the next person please come up?

Hanson: Hi, I'm Jennifer Hanson. I live in Park Place. I have been asked to make it clear that I will not benefit in any way from this project. I think there are a lot of people here who are simply here because we live next door to it and it is our property values that are at stake. When I first attended the charrett I was absolutely thrilled, and I stood up and commended everyone involved for taking so much time to listen and be open. I don't see that openness. I haven't seen that openness since November 30. I am disappointed that close minds seem to be reigning here in terms of what the developers are expecting.

Anthes: Could you please address the development plan itself?

Hanson: Yes. It was our understanding that this was an open process and that there would be changes. And so the changes that we are supporting and I want to be clear again that we are not all opposed to Ruskin Heights. There are some wonderful features of Ruskin Heights. It is a few specific changes that we are hoping people will be open to. One of which is the fact that for the past year I have been making calls to the city trying to figure out how improvements could be made along 45. I was told over a year ago that the city staff had recommended the city go ahead and make improvements because of the, and I quote, hazardous traffic situation along a heavily traveled artery. Since then I have talked to everyone about this from the mayor down. The mayor himself used the word hazardous. I have been told, and no one, not one person I have talked to in the city has ever disagreed with that assessment of our traffic situation along Mission. Not just in front of Park Place, but along that whole section. With five schools we have real problems. We have been graded an E, the next to worst. If we put another 250 some odd units there, 2.5 cars per unit you are going to dump a thousand cars there. When I have asked what can be done, I have been told that what can be done to ameliorate, not address completely, but just the minimum requirements needed to address the traffic problems that we have now were a turn lane and a traffic signal. That is what is being proposed here. The minimum requirements to address the traffic problems that we have now. In a conversation with Andrew Garner I was explaining what it's like to try to get your kids along this corridor, and he said to me "Well, I don't think there is any point continuing this conversation because

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your mind is made up." and I said "Well, is yours not?"

Anthes: Ms. Hanson?

Hanson: Yes.

Anthes: I will not hear comments that are derogatory about any member of this staff, this Planning Commission, or the public.

Hanson: I am not trying to be derogatory. I am trying to address the issue of openness to specific concerns. I have also been told that our concerns about the tower are a mom issue. I can't tell you how true that is. The concern that putting a tower there directly affects the security and the privacy of all our kids. We have latch-key kids. We have stay-at-home moms. We have single families. The density is way beyond... As the Commissioners who heard this last time one said, and I quote, "ten units per acre is way too dense". The extreme density, the concerns about density, we share those concerns. We are not asking necessarily, for the entire project to be turned down. Simply that there be a willingness to continue the process of hearing it. When I first moved to Park Place I was told it was built as a traditional neighborhood. Now I am told that this is a traditional neighborhood and we are a non-traditional neighborhood. But our non-traditional neighborhood doesn't address the needs of American's emerging majority of non-traditional families because it was built for a mom, a dad, and two kids.

Anthes: Can we please talk about this project and not Park Place?

Hanson: This project is being billed as the answer to that. I am a single parent. I am a representative of that non-traditional majority, and I can tell you that the traditional neighborhood that we are in is going to be severely and adversely effected by these issues of density, security, privacy, and traffic problems are real and justifiable. We actually are hoping that those issues can be addressed. Those of us who are asking for changes are not opposed to the entire project. It is very frustrating to be billed as completely anti. These are real concerns for people who have lived there, voted there, paid taxes there for years and years. The effect to us, I'm afraid, is really being overlooked if some of these changes can't be made. Thank you.

Anthes: Thank you. Would anyone else like to speak? Good evening, Ms. Reese

Reese: Good evening. I'm Karen Reese. I am here to voice my support for the Planned Zoning Development called Ruskin Heights. Several years ago I spent a weekend and a good portion of a week attending some charrett addressing the Downtown Master Plan in the Fayetteville Town Center. Over and over and over hundreds of

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Fayetteville citizens said was "What we want is in-fill. What we don't want is sprawl. We want to stop the sprawl, we want in-fill." I live in the middle of in-fill. I am in a downtown neighborhood, and some of the things that people are bringing up and the things that they are scared about are really things that I deal with every day. You can successfully live in 1,000sq ft. and you can successfully live on a small lot. You can raise families and have dogs and play catch and all that. I think this is the perfect in-fill project. I think that 29 acres meeting in the middle of town, meeting developers who are sensitive, and progressive, and innovative is a very good mix. In the plan the developers have thought about the bordering neighborhoods in that they have put the single family homes that they have plans for and preserving green space next to those existing single family neighborhoods. They have been innovative in the ways they have addressed the storm water run-off in storm water retention ponds or gardens. I shouldn't say ponds but gardens. This plan provides for a variety of housing types which I can assure you is much needed in Fayetteville. It provides some interesting community spaces. You know, I would just like to say that we can then be ourselves, "not in my backyard" all the way to Hindsville or Huntsville or Harrison or Pocahontas, but this is our opportunity to actually put into motion what we say we want. If we say we want in-fill and we don't approve this project, then what does in-fill look like to you? Downtown is a very finite area. There is not a lot more space to put in-fill downtown. This is an area in town that calls for this sort of project, this sort of really cool project. I am asking that you not make this a long arduous project for the developers. I am not connected with the project, but I think that what they are doing... When we put the plans in place for Downtown Master Plan, developers were then clear about what they could do and what they couldn't do. And in the same way, when we say we want in-fill we need to quit making it such an up-hill struggle. So I am hoping that you will pass this tonight, and I am hoping that you will pass it overwhelmingly. Thank you.

Anthes: Thank you, Ms Reese. Would anybody else like to speak? Please come forward.

Conner: My name is Pamela Conner. I live at 1686 Shadowridge, and my property directly abuts the Ruskin Heights. When my husband and I bought our home in 2000 we carefully checked all of the surrounding area and we didn't anticipate that suddenly Disneyland was going to be built in our back yard with towers and restaurants. It was RSF-4 and anyone can live with that. When you are buying a home, you can live with that. But all of these houses and restaurants, that is really too much to ask of people who bought in good faith in a neighborhood where it was RSF-4. Another problem. I keep hearing about this walk ability. Unless the US Olympic track team is moving into these houses they are not going to be walking anywhere. Do you realize how steep 21% slope is? I mean, carrying your dry cleaning and your groceries? That is not going to be happening. Another thing that I have a problem with is the traffic. Trying to get out from Greenview

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is a problem. Trying to get out from any of the other outlets near my home is a problem. And if you put a stoplight there, all that is going to happen is the traffic is going to back up and then we are surly not going to be going anywhere. In case you haven't noticed in Fayetteville anymore some people would die before they would stop their car and let you into traffic. So I don't see the traffic light solving any problems that we are going to have here. People come out of Greenview. They turn to the left. They head right down Winwood. People come out of Winwood, they turn to their left, and they head right up Greenview. There is just a little path through there. A stoplight is just going to simply back traffic up back in front of Park Place, and those people won't be going right or left. So the traffic light is not the answer. The answer is don't add so many more cars by letting this housing development go in at this density. The average home, anymore, has at least two cars. So when you start doing the math you are looking at a heck of a lot of automobiles. People are not going to be walking all over this neighborhood, they are going to be driving down to the corner to eat. They are going to drive to the movies, just like we all do. Driving their kids to school. So I don't see the traffic signal as being an answer to anything. The only thing that is an answer here is to lessen the density. Our house is up on the hill. The other subdivision we got to hear about the fence that was going solve their issues of having to look at the new development. That won't solve ours unless you intent to put a 12 or 15 or 16ft fence, our back windows, we are going to see it all. There is no other way. We are going to look right down on all of that and see it all. And anyone who is up in the tower is going to be looking in our house. I don't like that and you wouldn't like it either. So I would just please ask you to really consider the ramifications for the people that were there first, who bought in good faith and will have to live with a PZD. I would like to say one other thing. I believe when I was reading the rules and regulations for asking for PZD one of the first rules was that the surrounding neighbors had to buy into this. And I think it has been proven tonight that those people who have spoken that live close area probably not buying into this. Thank you very much for your attention and consideration.

Anthes: Thank you Ms Conner.

Murray: My name is David Murray. I live on Assembly Drive, sort of on the other side of the hill from this. I guess I really wish someone would build this in my backyard. There is no space for it. But I think there are so many benefits to having something like this adjoining your property. Now, I understand all the concerns and I understand they are all coming from surrounding property owners. I think that the comment about this not being walk able. I don't know, when you look at Eureka Springs it is fairly hilly and a lot of the residents there choose to walk everywhere. I could definitely see that happening here as well. When you talk about traffic issues, are you going to have traffic starting here and going downtown? Or are you going to have it starting in Elkins? Are we going to build

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another thousand units out highway 45 and then bring them in. They are still coming to the same place. The cars are going to be on the road one way or the other. It looks like they are providing a way to pulse the traffic so people can get in and out a little more easily. I understand that there are a lot of concerns, but in my opinion this is great for Fayetteville and it the right direction. It's in-fill and there is not a whole lot of it left. We need to make use of what we got or Fayetteville is going to be spread over 12 times the area it could be. If we are smart about how we use our existing land we can keep Fayetteville a nice dense, compact, beautiful, unique town. If we just let it spread out, yeah let's be the next Dallas or Atlanta or whatever it is. Obviously we are not growing that fast, but we have a great opportunity to use this land to its highest and best use. It is one of those deals, like everyone has been saying, the 2025 Plan, this is what it says to do. If we are going to do it we need to commit for the sake of Fayetteville and future generations. I think it is the right thing to do.

Anthes: Thank you, Mr. Murray. Would any other member like to speak? Good evening.

Conner: I'm Don Conner. I live on Shadowridge. First off, this area is RSF-4. It is designated as residential neighborhood area in the 2025 Plan on the maps. They knew it was RSF-4 when they bought it. So much for that. It is not compatible with the neighborhood. We are currently about one house per acre in the surrounding neighborhoods as opposed to RSF-4. We are more R-1. RSF-4 is going to be plenty dense. The walk ability of the neighborhood that they are proposing is just not very good at all. And this type of traditional neighborhood design, or new urbanism, or whatever you want to call it. It requires that a mass transit be in place before they build this. A walk able neighborhood that is flat and easy to walk around and commute in without having to use a car. They also propose that you should have large park and green areas and we have traded off the green areas with our Parks Department for money so we can build them a tower with money we are supposed to get.

Anthes: Mr. Conner.

Conner: We did protest that, by the way, as part of this development. We protested after we found out that they had the meeting and the neighbors weren't told about the meeting. We weren't notified so, you know. As far as the 2025 Plans, you know, they tried to plan for affordable housing and this sort of thing. There is not going to be any affordable housing here. Their smallest lots are looking at \$90,000 for a lot. They bypassed the neighborhoods. They did not approach the neighborhood organizations until they just recently, last Saturday, approached Park Place neighborhood organization. So they haven't been very communicative. They did invite us to a charrett. We gave our views at these charrett and they told us that we will just agree to disagree about density, traffic, all those things. They told us

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that we are basically wasting our time coming here to see you guys.

Anthes: Mr. Conner, please. Please direct your comments towards the development itself.

Conner: That is toward the development.

Anthes: No, you are talking about hearsay. Please.

Conner: Oh, it is not hearsay. When they say it to you it is not hearsay.

Anthes: Please.

Conner: Ok. By rezoning the whole area we have walked into this dense development here, and if it fails we are stuck with a partially built out development. These guys are just selling lots. They are not going to build it out. So we don't really know exactly what it is going to look like. The plans that we've seen so far they have been just a few pretty drawings. We shouldn't have to pay for a tower as a city. That is part of this development. Well basically, the moral of the story is never trust a developer. New urbanism is nothing but a buzz word that has pretty pictures and people strolling through leafy marketplaces. Developers don't create the village. Only a person can create the village. Thank you.

Anthes: Thank you Mr. Conner. Would any other member of the public like to address this RPZD for Ruskin Heights? Going once... Going twice..... Good evening.

Basset: Hello. I'm Mary Basset. I would just like to say that I was in some of the meetings with the City of Fayetteville with our goals for the 2025 plan. The in-fill that we have in this project is fabulous. I think it is a perfect in-fill program that Ruskin Heights has for Fayetteville. It meets all the criteria of our 2025 plan. I have talked to other developers who are very interested in putting this plan in action to Fayetteville as well. I believe they have met all of our criteria that we have for Fayetteville in our 2025 Plan. I know that has been said many times tonight, so I don't want to go into more detail on that. I do own a house on Mt Sequoia, and I am thrilled that Greenview would be improved to get to that property as well. Thank you. I am for this subdivision.

Anthes: Thank you Ms Basset. Would any other member of the public like to address this RPZD. It is item 06-2299 for Ruskin Heights? Mr. Terrell.

Terrell: Hey, how are y'all doing? First of all I would like to say that in full disclosure I have worked...

Anthes: Please introduce yourself.

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Terrell: Oh, I'm sorry. I'm Luke Terrell. In full disclosure I have worked with these guys on this project in some capacity. I no longer work for them, but I am closely associated with the different aspects of this project and I am well educated on this subject. I am also a property owner in this area on the east side of Fayetteville. I have a property on Kant Street which is a very dense neighborhood. I feel like this project will definitely add to the City of Fayetteville and corresponds with the City Plan 2025. I personally would like to live in this neighborhood. And as a young person living in Fayetteville I feel like many more people who have similar background and interests as me would want to live in a neighborhood such as this. I feel like this neighborhood is just what the City needs as far as it's development. It corresponds with the plan, and I am strongly in support of this project. I would like to say that I would like to recommend this project and for it to be approved. Thank you.

Anthes: Thank you. Would any other member of the public like to speak? Hi.

Madison: I'm Phil Madison. I live there for 17 years in one of the houses there, and I just want to say that the sunrises and the sunsets and the beauty of that place is unbelievable. I think there is a big demand for small homes. We had about 6,000 sq ft and we've moved into 1500. A 1000 sounds better the older I get with too much stuff. We had no drainage problems when we lived there in the second house. There are two there, one on the top and one in the middle. We never had any drainage problems. It is a beautiful place and I think everyone would enjoy the sunrises and sunsets there. Thanks.

Anthes: Thank you Mr. Madison. If anyone else wants to speak, please come up now. Anyone else? Going once....twice.... I will now close the public comment section and ask for the applicant's presentation.

Chesser: Madam Chair, members of the Planning Commission, good evening. My name is William Chesser and I am the senior planner for Community By Design. We are the engineers and we did some of the planning for Ruskin Heights. If you would indulge me I would like to briefly go over the format plan for our presentation which I have just handed to Mr. Pate and I think he may be handing around. We have three speakers tonight. Mike Watkins is the Senior Town Planner for DPZ. DPZ is an international leader in the field of traditional neighborhood design. Mike will be speaking about TND's and the City Plan 2025 in general and about Ruskin Heights in particular. You may remember DPZ and Mike from the public charrett process about the neighborhood this past summer. It was during this process that the concept for the neighborhood was developed. Following Mr. Watkins will be Dirk Vanveen. Mr. Vanveen represents the group who is developing Ruskin Heights. He will talk to you about their vision for Ruskin

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Heights and why they wanted to do a TND neighborhood in Fayetteville. Finally, I will speak to the significant progress we have made since the Subdivision meeting and will address some of the public comments made tonight. I also want to talk a bit about the feel and the function that Community By Design was trying to achieve by this neighborhood. TND's are designed for both form and function. They not only feel great, but they work well too. And Ruskin Heights is not exception. With that I would like to turn the podium over to Mike Watkins.

Watkins:

Madam Chair, members of the Commission, I am Mike Watkins with DPZ a Miami based architecture and town planning firm. My firm is committed to building traditional neighborhoods as an alternative to sprawl. One of the reasons that we were most interested in the opportunity to work here in Fayetteville was the fact that you had passed the 2025 Plan. The goals for that Plan align exactly with those that inform the planning principles that stand behind our work. In fact, the firm that you hired, Dover Kohl. I think is an excellent firm and are colleagues of ours. So we completely understand, I think, the intentions behind that plan. In the meetings when we review which projects to take on it was one of the major considerations of why we chose to accept this particular commission. That, and also your Hillside and Hilltop Ordinance and Best Management Practices manual because that looks at addressing not only the built environment that the 2025 Plan addresses but also protecting the natural environment as well. Something that is important to our work. It is interesting to me, and I think impressive, the crowd that has turned out tonight. I realize that at times it can feel as if it makes the job more difficult. It certainly adds a sense of importance and urgency to the decision that you all face. But it is a direct result, I think, from the fact that people love Fayetteville. That you all are fortunate enough to live in place that people care passionately about. And they care passionately about it's future. We are hopeful that this project, and if we are given the opportunity to develop it, it will be a manifestation of the goals that you have set out for the future. It is clearly an in-fill site. I don't think anyone this evening has suggested otherwise. It is also of the traditional town plan variety, a network of streets, a mix of types, a mix of uses. Narrow streets, tree lined with parking and so forth. There has been considerable talk about density and concern over the degree of density on the particular property. If one were to accept four units to the acre on this property it does raise the question of where the other units go? And the only place for them to go would be to other in-fill sites to the extent that you have them or further out. It seems to me that it would require... This site is 29 acres so to go to four units to the acre would require almost 45 more acres of developable land. Presumably undeveloped or forested land, or certainly if not land further out compounding the traffic problems that we have heard about also this evening. So there is a certain importance to developing the in-fill sites with some degree of density. It is also important to support the mixed-use nature of the property. So

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the shops and so forth have the opportunity to thrive in that environment by having more people within walking distance. The site itself won't solve the traffic problems in the area. It in fact didn't create them. It was the sprawl that preceded it that created those traffic problems that you have. But mixing uses in a tight area will begin to address the traffic issues by giving people the opportunity to walk and meet some of their daily needs within walking distance. The enduring green network that is part of your goals, we did our best there to set aside the most beautiful parts of the property to be preserved and extend a green system working with some of your residents in the public charretts that were held. In fact, the land that was identified as being the most important came not from us, anything we imposed, but actually by inquiring of the residents of the city which would be the most important green connection to preserve. The issue of affordable housing and the size of the lots here is one that got some attention, including some from the young gentlemen who spoke about just how small are the lots? And could one really live there? In my neighborhood, I happen to live in one of the neighborhoods that we built, and I live on a lot that is under 1000 sq ft and have a small commercial property on that lot that allows me to pay down my mortgage and live above the shop in the neighborhood that we designed. It is not the smallest lot. Mine happens to be under 1000 sq ft, but there is one actually less than half the size of my lot. The smaller lots are important because not everyone can afford the larger lots. And further more, not everyone wants the large lot. There is a huge trend, a growing trend for smaller houses and smaller lots with less maintenance and lower mortgages. In fact, I have neighbors who have downsized twice. Once when they moved in the neighborhood to enjoy the smaller lot and then realizing that they in fact preferred a smaller house still and they moved again. Lots in our neighborhood, the question came up about the width of the lots. We have single family, detached houses that are 19ft wide. It is essentially a townhouse that is detached. But the floor plan is very livable in the townhouse fashion. There were a number of issues detailed technical issues about street width and so forth. Fortunately now, unlike 20 or 25 years ago when we began designing and building these traditional neighborhoods, there are many places to go and actually see these things implemented. Narrow streets with parking on the street where emergency vehicles have no difficulty maneuvering through the streets. Moving vans, trash trucks, the same. So there are places to go to see those answers, those things addressed. The tower was a concern that many people raised. In fact, the tower doesn't exceed the Hilltop or Hillside Ordinance height requirements. The reason for the unfortunate term referring to it as a tower has more to do with its small foot print, but its relative to its height, but not relative to the buildings around it, and to your own, your Hillside/Hilltop ordinance. Several people raised the issue of what happens if the developer leaves, for whatever reason. One person mentioned going bankrupt, but for whatever reason what would happen if they left? And certainly it is the plan that you are approving, or may be approving and not the developers. In fact, the

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neighborhood that I live in was built out by a second developer. The first developer did leave and a second developer came in. And they didn't have a choice. They came in knowing that they would in fact build out the plan that had been approved. The issue of closed minds and not being open to what the public has had to say is one that disappoints me, frankly. We disagree, obviously in some instances, but I think the development team has gone to great length to hear from the public. And when those thoughts and ideas are consistent with the principles that are informing this design we have incorporated them. When we didn't believe them to be consistent which is the reason for some of the disagreement that you hear tonight. Another important thing about the density is how it is arranged. It oversimplifies to simply say this is 10 units to the acre. Because on average it is and it is easy to consider it in that way. But the fact of the matter is that it varies. The center of the neighborhood is actually more dense than 10 acres. And not only more dense, but it is mixed use and is going to have even more traffic than the edges of the neighborhood that are actually less dense than 10 units to the acre. The organization of the plan is intended to feather from the single family homes on larger lots to single family homes on smaller lots to attached homes to the mixed use in the center. So I think it over simplifies things to a little bit to say simply that it is 10 to the acre without understanding or appreciating what we think is the sophistication behind the design. I don't know the exact protocol for your meetings as this is my first formal Planning Commission. But I would be happy to answer if there is an appropriate opportunity later, to answer any questions that you may have. But I certainly hope that you will give us the opportunity to demonstrate to be a built manifestation of the principles and goals that you have set out for the city. Thank you.

Anthes: Thank you, Mr. Watkins. Just want to caution the group that you are about 11 minutes into your 20.

Vanveen: Thank you. My name is Dirk Vanveen. I am part of the development team for Ruskin Heights. We will try to make this as quick as possible. We practiced. Anyway, we are going to start with a slide show. A picture is worth a thousand words. We will go through a few things. You can see an overview of the site as well as surrounding areas over to the northwest to Wal-Mart.

Anthes: Dirk, you might want to move that top poster because none of us can see anything.

Vanveen: Ah, thank you. Ok, so we have the Wal-mart Super Center to the west colored in red. We have multi-family, we have single family detached, we have town homes in green on our site which is different because there were no town homes to compare to. We chose maroon since we had no mixed use to compare to either. We feel that the project is compatible not only with the immediate area of say Park Place which has 40 multi-family units, but also the surrounding area that is

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mixed with commercial and multi-family. We have some additional views here looking at Lisa Lane. Looking at a cross section toward Mission south/west line of Mission Boulevard. Of course this is a sugar cube model so we are looking at ridge height and it is plus or minus 5ft in accuracy dealing with pictometry. Next. Looking from Park Place west you can see the multifamily in the foreground. The single family of Park Place in between and then our project.. Actually, it may be a good time to call out the tower. If you look in the upper corner you see the top of the tower. It is the yellow hat roofed building up there. It has a 31 1/2 ft viewing height. Next slide. Another cul-de-sac on Park Place. Looking up to our site you see again the roof of the tower. Next. Yeah, looking up Cambridge. Next. Looking down from Shadowridge and Lensefield. Ok, Shadowridge. You may recognize this area. Also I should point out that the larger trees are existing trees and the smaller trees are to be added. So you are distinguishing between the two. Next. East of Greenview back through our site. Of course you are looking through the tree preservation area so your view is very impeded. Parking, both on street and in house shows all of our standard parking. Even the small amount of compact parking immediately around the square, well within the limits. And also showing that we will have structured parking in all of the large scale buildings which have to come back through Large Scale Development. We have adequate parking. We designed for on-street parking both for it's traffic calming. And it allows you to have fewer deep cuts, larger cuts that are required in a hillside or most of Fayetteville for parking lots. Next. Some views from the proposed tower of 31 1/2 feet looking north and what it would look like with buildings in front of it of two stories. Basically you maintain your high level view. Next. Looking east toward Park Place you can see the valley. Also, you know what is interesting here is that from this distance, with the leaves down you are not really looking even currently in anyone's windows let alone post development. Next. I have some other interesting ones of what looks south behind us. Next. This is another showing of compatibility for the project. Basically it is showing the types of units we have here in the foreground and the other units that you will see. It doesn't show all the commercial that is out at Crossover, but it does give you an idea of how we relate in terms of unit types. Ok. Whenever we started this process we started with a tree survey and a grading analysis. We sent out 1200 invitations and a public process in July. Since then we have held over 40 private meetings with neighbors as well as public meetings with their groups. We are thrilled with the turnout both for and against the project. I am happy to see people in Fayetteville taking an interest in how their built town is developed. I guess to describe some of the living areas that we have: Of course we have the bungalow, of course we have town homes which have proven to be very popular among the empty nesters. We have kind of an oddity right now in that only 23% of the families in America are nuclear families with children and parents living at home. Most of what we build is traditional subdivisions to address only that group, yet the largest house buying segment currently is the baby boom generation, the

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empty nesters. The second largest is the millennium generation who have been out of school for 3 to 5 years now and are also vying for those more urban units. So there seems to be a lot of competition for the smaller more urban walk able vibrant things going on. It is also important to note that the Urban Land Institute has found that you can reduce vehicle trips in a mixed use environment by up to 25 to 50% per day. We would expect to be on the lower end of that being that much of our retail is (unclear) retail with the exception. It is all 800 to 1200sq ft. The exception of the one Large Scale Building that would come through in a few years which would accommodate a 6000 to 8000sq-ft whole foods market is what we would hope for.

Anthes: You have got about 2 or 3 minutes.

Vanveen: Three minutes? Ok, as materials board which are not currently here, you saw that they are brick and with wood details made of stone. We had a few things come up in terms of people that said the tree preservation area was part of the natural resource. We actually had the gentleman come out and talk to us and came to find out it was not. Never the less we did set most of that area aside and we are not cutting down trees less than 12 in. One of the net effects, actually, is that we have more trees on the site. As for the slopes, most of our grades are 78%. As you'll notice, our design does not go up the hill so much as it goes around the hill and steadily increases as it goes up. That is also part of the HHOD practices manual to not make those perpendicular cuts. You will find that most of our cuts are very short. You will find many 3 and 4ft stone retaining walls which are so attractive on Locust and many of the other city streets in Fayetteville without impacting with large lot homes that require larger cuts. I am going to leave this to William Chesser, and he will take it from there.

Anthes: I believe we are about out of time. I'm going to ask the Commission what their wish is about extensions because we are allowed to do that by consent if we like.

Clark: Madam Chair, since we are to the part that I really wanted to hear about the changes from Subdivision, I will move that we extend the time 5 minutes.

Trumbo: Second.

Anthes: Everybody agreed? Alright.

Chesser: Thank you for indulgence Madam Chair and members of the Commission. First on a personal note let me say that I have lived 2/3 of my life in this town. I was born here. All of my time spent in this town has been spent in close proximity to the University of Arkansas where my father was a campus director.

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Anthes: You might want to tell us about your project.

Chesser: I will. The only think I want to tell you is that I have a personal involvement in this because for the first time I decided I would move away from that area, my wife who is an architect and I are planning to build a house in this area. If you will indulge me I would like to approach the illustrations here.

Anthes: Take the microphone with you if you would. You can use this one. You can take it out if you don't want to...

Chesser: I heard a very interesting thing mentioned which was that 7 units per acre would be acceptable, not 10. It has been kind of mentioned, but I got the graphic out here and I wanted to mention because a lot of people had a problem with the density, that it is a little disingenuous to just see it as 10 units per acre over the entire project. We have tried very hard to make this fit in with the surrounding area. If you look at the yellow portion at the bottom, that is 7 units per acre. We have interfaced like to like properties. So we have even made a change recently to move some town homes to make sure that single family always matches up to single family with the surrounding neighbors. We then moved slowly to the equivalent of RMF-12 with some commercial. That is the mixture of the town homes and the live/works. And then we moved further up to what would be the equivalent of RMF-19 with some commercial. As Mr. Vanveen mentioned that is where we had hoped for, at some point, maybe a whole foods market and other commercial of that type. If you look just to the east you will see that...

Anthes: Mr. Chesser? Can I have you talk about what the progress and changes you've made since Subdivision are. I think that the audience is really waiting to hear that.

Chesser: Absolutely, and for that I will move back. Briefly I will say that I believe I can safely say that we have addressed all of the issues that were had. Is that correct Mr. Pate? We worked very hard to.... I think there were 33 issues after Subdivision Committee, and we have addressed every single one of them. I believe Mr. Garner mentioned that there were a couple of somewhat standard conditions of approval and that is all that is left.

Anthes: Are you going to elaborate on those changes?

Chesser: Yes Ma'am. One of the big questions was about traffic. We have spoken to AHTD And they have told us that two conditions must be met for a signal. I think a signal is what will help the traffic situation along Mission. Number one is the city must request such a signal, and I believe that request has already been made. Number two is an existing traffic study must show that such a signal is warranted. And what that means is that a traffic study that has the counts that meets the

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warrant must happen. Our traffic study that we currently have shows that after the build-out of the first three stages, which is you look at this graphic here is the stuff that is in color, we'll be just a smidge under. I won't tell you we'll be there, but we will be really close to going ahead to meet the warrant to put in the light. So that means that with the next phase we would meet that warrant. And we will put in the light as soon as AHTD allows us to. And they have expressed that they will allow us to do this.

Anthes: So that is 2010?

Chesser: No Ma'am.

Clark: Your phasing says phase four is 2010.

Chesser: Full build-out of phase four wouldn't be required. Again, that is not taking into account any increase of traffic that occurs not because of our development. Phases one, two, and three of ours come just within a hair of meeting the warrant by themselves which would allow that intersection to be signalized.

Graves: I know we will get a chance to ask questions later but how many residential units is that? In the first three phases?

Chesser: In the first three phases? 71. Part of the parts that meet the warrant have to do with the commercial space which is also available. That is taken into account. Can you give me an idea of how much time I have left?

Anthes: You have about a minute.

Chesser: Ok. The other major issue that was brought up by the neighbors, one I heard a lot of was drainage. I think engineering can confirm that we have exceeded all of the requirements of the Fayetteville Drainage Manual. We will not be putting more water on our neighbors. We will be putting less water on the neighbors. I have a graphic that can show that can show that if you would like more explanation of that.

Anthes: We may get back to you with that.

Chesser: And I am available for questions.

Anthes: Is that the end of your presentation? Thank you. Commissioners.

Graves: Madam Chair.

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Anthes: Commissioner Graves.

Graves: I was on the Subdivision Committee that saw this along with, I believe, Commissioner Harris and Commissioner Clark. We forwarded it at the time with a recommendation for denial. Primarily based on the issues that we have heard the public echo tonight which include traffic and density. The Subdivision Committee, in fact I think the quote that was made earlier about somebody, quote/unquote said that 10.2 units was too dense. I think I'm the one who said that. The idea of 7 to 8 units, I think that is something that came out of that Subdivision Committee Meeting. I believe that what we said was that we weren't married to RSF-4, which is what that is currently zoned. We are mindful of course of the city's vision and goal of in-fill. But at the same time how much infill is obviously something that needs to be addressed on each one of these projects that we see come forward. The Subdivision Committee, as you see going through the report, went through all of the different findings that we would be looking at tonight. I think there are 15 findings that we would have to make on this. And generally was in favor of the ones we had information at the time about. We were in favor of those should the project go forward. We forwarded it with a denial recommendation primarily on the fact of the density which was really tied to the traffic. It wasn't necessarily that the density of 10.2 or 18. Whatever was too dense in all cases or was too dense in this location. Although it might be. The main concern was the traffic in the end. It was just that when you build out this number of units and they are all trying to get out on Mission Boulevard that it causes concern. My comments right now about this are along the same lines. We've heard over and over the supporters of the project and the applicant that the goals and visions of the 2025 Plan are for in-fill. Well, that is one of the goals. But other goals are to protect hillsides, and protect our trees and things like that. So when you see a large development going in on a hillside like this then there are things besides just the goal of in-fill that you have to look at. The city spent a lot of time and effort developing a hillside ordinance which included, generally speaking, when you develop on hillsides larger lots and more canopy preservation. So when you see this project and you look at it, you have to think about that. That is another one of the city's goals. Another one of these goals is protecting hillsides with those types of measures. The applicant has in general done a very good job. And we were supportive of that at Subdivision and I am still supportive of the narrower streets to keep there from being big, large carvings going up the side of the hill. But it all boils back down to protecting our hillsides, protecting our tree canopy, and the traffic. In the interest of full disclosure as well I told the applicant at Subdivision that I live on Kings Drive which is just a stone throw from this development as well. I am very familiar with the area. There are two schools there. Root School and Fayetteville Christian School which are both right there on Mission, essentially. The difference when I hear folks from other parts of town and specifically downtown or the historic district talk about how they live in

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an in-filled area and now this promotes walk ability and this promotes the goal of in-fill. Well, the historic district is a lot flatter than this particular piece of property is. The historic district has lot more things distributed through it that attract people to park their car and walk to them. Aside from the fact that if you see a parking spot you've got to grab it when you can anyway with your car. And there are a lot more main arteries to drive on to get in and out of those neighborhoods than there are for the folks who live in the area where this proposal is. If you are getting in and out of this area like we talked about in Subdivision, a lot of folks have to make a left turn onto Mission Boulevard. And this is that many more folks who are going to be trying to get out and make a left turn onto Mission Boulevard. I know there is connectivity proposed, very good connectivity proposed, but you are going to have to do a lot of twisting and turning and jogging up though the existing neighborhoods to get to another place where you have to turn left onto Mission, Rockwood Trail. So it is essentially, eventually and essentially you have to get on Mission to get out of these neighborhoods. Where as in other neighborhoods there is not just one major road that you have to use to get in and out. Part of that is driven, it's our own bed and we've made it ourselves with the city's concerns with having a connection over the mountain. The city has a policy and has had a policy of not connecting over that mountain. Be that as it may, and whatever the reasons are, everybody has to get out on Mission. And so Mission is very crowded. And, you know, one principle arterial is not the equivalent of another. Mission is narrow. It's got a lot of curves to it and blind alleys as you are making those curves. There is no shoulder on it. There are ditches falling right off the edge of it. So Mission itself is not the safest road in the world compared to maybe some other principle arterials in town which are wider with better site-lines and shoulders and that kind of thing. And so my concerns are still the same as they were at subdivision. I appreciate the applicant going and visiting with the Highway Department, which is one of the things the Subdivision Committee wanted done. But I think, I know I personally said at Subdivision, unless I knew that that signal was going to go in and was going to be there that I had a difficult time supporting it just based on that density getting out on that road at that location. If the density was a little bit lower I start maybe getting a little more comfortable with it without knowing whether we are going to get the signal or not. So as it stands now, my issues are the same. Overall, I think the project is very attractive. I know a great deal of work has gone into it over a long period of time. More than I have probably ever seen on a project like this. But at the same time, it seems to me like this is kind of packing a lot of residences into an area where the current zoning wouldn't support it and then dressing it up with very nice attributes and hoping that the bells and whistles help us forget that we are packing a lot of homes into a piece of property on a hillside with only one way into or our of the area on Mission Boulevard. For those reasons my vote will be the same here that it was in Subdivision which is to deny or to oppose a motion in favor of it.

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Anthes: Thank you Commissioner Graves. Commissioner Clark?

Clark: I actually have some questions.

Chesser: If it is acceptable I am going to yield to the developers to answer.

Anthes: We are discussing. If we direct a question your way you can...

Chesser: Yes Ma'am.

Clark: I appreciate the fact... One of my concerns are the rear lanes which are called out on page 4 of your development packet. The rear lanes 1 through 14 have bound turn one-way, right?

Chesser: Yes, Ma'am.

Clark: Because they are narrow. They are like 12ft wide? But there is no parking on those lanes. As I look at the rendition of the lanes they are very long and some of them are dead ends. Not that I don't oppose a dead end being one way, but how is that going to work?

Chesser: I am not aware of any that are dead ends. If you don't mind...

Anthes: Lane 6/7?

Clark: There are a bunch of them.

Chesser: I would yield to our engineer to answer that question if that is acceptable.

Clark: Sure. Page 4. For those following along, page 4.

Teague: Yes, I am Brian Teague A civil engineer with Community By Design. I believe the question was how is it going to work? The dead ends?

Clark: Well, and so long a stretch being one-way. How is that practically going to be effective?

Teague: Let me familiarize...

Clark: Page 4. Nice picture. Page 4.

Teague: I guess originally our plan was to have those rear lanes be two-way traffic. I

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think...

Clark: But we decided 12ft was really too narrow. I remember this.

Teague: Yeah. The Planning staff and Engineering Department recommended that we make those rear lanes 16ft wide so they could be two-way. We think that 12ft wide is wide enough for two-way traffic. We conceded that fact and said ok we will make the rear lanes in phases we are asking for development of right now we will make those one-way. It is my opinion that that will work. There is an exception right there. At the end of rear lane 1 right past rear lane 4 where there is about an 80ft stretch of it that would have to, until future development it would have to function as a two-way rear lane.

Clark: Ok. How are the dead ends going to function as a one-way? I think from Subdivision here, you have gotten narrower. You stayed narrow, but you turned them one-way. But I still don't see how that is going to work.

Watkins: May I speak to that? Sure, I don't care who speaks. Just anybody. Sure.

Chesser: The dead ends will have to be two-way.

Clark: So they are still going to be 12ft and two-way?

Watkins: Yes, Ma'am. But the neighborhood that I live in is about 350 acres, 2200 units and we have 12ft wide two-way alleys.

Clark: This is on a hill that is going to get icy and snowy and gross, and you are going to put 12ft two-way. How exciting!

Watkins: Well, we do have snow in Maryland and the alleys are plowed. They are private so they are plowed by the community association, not by the city.

Clark: Do we have covenants yet that says that? Chairman?

Pate: No we don't usually get covenants at this point.

Watkins: But you don't plow other private streets, presumably, so...

Clark: Ok. And my next question. How much of this development proportionally falls into our Hillside Overlay District, Chairman?

Pate: 62% of the overall subdivision.

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Clark: And my next question is, and I have heard rumors and it is nothing but a rumor, that you have a letter from the Highway Department that says you are going to be able to widen Mission. From what I understand from what was just told us... And first of all let me underscore this by saying that the Highway Department is wacked if they don't think that Mission already meets the warrants to get more lanes. But that is unofficial. It is going to be until 2009 in your projected build out that will come close to the warrants to get the widening.

Watkins: Correct me if I'm wrong, but I think the assumption is that there is no change in traffic outside the neighborhood.

Anthes: Mr. Teague, if you would come to the microphone if you are going to speak?

Clark: Because my big issue at Subdivision was traffic and the fact that everything is going to dump out on Mission. Which in my opinion is one of the most over traveled streets, especially in that area that we have. And I don't see a change. I don't see that. We also had concerns about the narrow 12ft streets. We wanted them to either be wider and two-way according to what our engineers rightfully told us, or narrow and one-way. And I don't see how you really affected that.

Watkins: I think Brian is going to address the traffic and the light. But one more comment on the 12ft and the one-way. The reason for the dead ends is the topography. The more places you have to connect the more change to the topography is necessary. So in some cases we did propose dead end alleys that would be two-way. But it essentially works like a shared right-of-way. It is only the people living in there who use them.

Clark: I understand that. But in the booklet, which is what we are bound by, it has rear lanes 1 through 14 one-way. Now all of a sudden I have "Oh, buts" coming up and we are going to have some two way. That concerns me. 12ft is narrow. The final question that I can think of off the top of my head right now is parking numbers. That was something else that we were concerned about. Thank you for not trying to use the compact spaces. You have gotten away from that. Jeremy, did you not say something in Agenda about on-street parking the city is going to move to amend ordinances to let that count?

Pate: We have been looking at that, actually, as part of your Urban Residential Design Standards I think that you saw tonight.

Clark: I don't even remember when we did that.

Pate: Yes.

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- Clark: So it is legitimate? Because I still think this is a little bit of voodoo numbers for the parking requirements.
- Pate: Most of our streets are ready to allow on-street parking when they are utilized and neighborhoods don't establish protective covenants that disallow you to park on those public streets. So I think we are looking towards letting on-street parking account for those numbers. That is what we are moving towards, yes.
- Clark: Because the only way they make their parking numbers is by allowing... Was it 82 spaces or something?
- Pate: That is correct. I am not sure if that number is correct, but...
- Clark: And that is just coming up to the 160 which is still 30% below.
- Pate: It is actually above that.
- Clark: Is it going to hit the 228?
- Pate: It is going to hit... there is a chart in here.
- Clark: I did the math yesterday, but it eludes me now.
- Pate: Page 4 of 58. It will come up to 112 off-street provided and 82 on-street provided. So 34 spaces above the 30%.
- Clark: 228 is max. 160 is 30% below that, which is allowable. So they are going to come up to 184, or 194.
- Pate: Correct.
- Clark: Ok. And that is by allowing 82 on-street. I am still troubled by that as well.
- Anthes: If I might, I would like to go through some of the concerns expressed by the neighbors and have staff address those so we can kind of clear that up while people are in the room. Before we lose people. First thing I would like to talk about is the Hillside/Hilltop Overlay District and the Ordinance requirements. Can someone from staff elaborate how this development is complying or not complying with that ordinance? I believe there have been comments to both tonight.
- Pate: As we started this project we handed the applicant and the developer team the draft Hillside Overlay District manuals as well as the City Plan 2025 drafts, and

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that is what they utilized in developing this plan. We, of course, have not reviewed a lot of this area. The concept there that is faded out has not been reviewed in detail. That is what we do, much like in other planned zoning districts that are concept level, we review the street cross-sections, whether they connect through as two-way or one-way, all of the drainage concerns, the tree preservation numbers, those come with the development of that site. We did review in detail the north east corner of this site which is where much of the tree canopy is not located. So, in terms of the overall plans we believe the zoning criteria and street design standards are following our best management practice manuals and meeting those criteria as well as the zoning criteria.

Anthes: Jeremy, lets just talk about the Hillside/Hilltop

Pate: Correct. Sure. The zoning criteria that was established also with staff meets those requirements of maximum height of 45ft, decrease of setbacks, all of those things that we are looking for in a Hillside Overlay District.

Anthes: OK. And about slopes, erosion, grading, and drainage. Mr. Casey, can you talk about how that is reviewed?

Casey: Those are things that will be considered in the construction plan in development and review. At that time, we will review that and make sure they propose methods that will stabilize those slopes and prevent that from happening.

Anthes: And have you reviewed the first phase that they are asking for development review for tonight?

Casey: Not for erosion control no. That comes with the full construction review. We have reviewed it for the drainage and the street layouts.

Anthes: Ok. And do you believe the drainage meets current city ordinance?

Casey: Yes, Ma'am. Our current policy is no increase in the peak runoff from the side. They have provided a detailed study showing that the ponds that they propose and the drainage system that they propose meets that requirement.

Anthes: Thank you, Mr. Casey. Mr. Williams, there was a mention tonight about a request for a performance bond that deals with slope and erosion. Is there any precedence for such a procedure in the city?

Williams: No, I don't think there is. Instead we rely upon our Engineering Department and our Building Inspection Department when they go out and inspect the infrastructure that is being put in by the developers to make sure that it meets City

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standards. And that is what the city relies on instead of trying to require insurance from the developer.

Anthes: Ok. Thank you, Mr. Williams. About traffic, I am a little confused about... There was a couple of comments made, and I am not sure which one is right. I believe that the signalization has to meet a warrant. Assuming that no other traffic feeds into this area, and that is a big assumption, that would come at the end of phase three of this project. What about the turn lanes that have been recommended by staff?

Pate: We are recommending, again, full construction of those. They also have to meet Highway Department criteria and I am not sure what those warrants are to provide those turn lanes or in what direction the Highway Department has instructed the applicants for that. But that is, again, part of our conditions of approval.

Anthes: Can someone from the applicant team discuss that? Thank you Mr. Teague.

Teague: If I could just go back real quick. At Subdivision Committee there were concerns about the traffic. There was one turning lane proposed then and a traffic light. We went to the state after that. They recommended that we actually put three turning lanes in, in front of our site. Three 100ft turning lanes. We have those on the plans. We are proposing those to be paid in full, and those would be built for sure. The state has told us that we would build those with construction of phases one through three. Also, to the traffic light. The state is really hard to approach about a traffic signal for a residential subdivision. Basically they looked at our site plan and said yes if we have traffic that meets warrants, existing traffic... And let me say existing again. It has to be based off of existing traffic. That existing traffic has to be from our site. Existing traffic generated by our site. Our traffic study projects traffic that will meet those warrants. That is required by the state. So I guess my answer to that is that this traffic signal will help the situation on Highway 45, but we aren't going to get anything from the state telling us that we will for sure be able to do it. If you read the traffic study it also goes into some options. Maybe building the traffic light with phases one through three. Putting bags on the light until we have the existing traffic coming from our site onto Highway 45 that warrants the light. Now, our traffic study, again, does project that we will have those traffic counts very shortly after phase three. He did go ahead and recommend that due to the nature of the development and nature of the situation on 45 that we go ahead and put that light in. We will have to have the state approve that, but they are not going to tell us anything further.

Anthes: Can you provide any documentation about what they have recommended or approved about the turn lanes, the three turn lanes?

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Teague: They recommended three turning lanes, the ones that we have shown on our plans.

Anthes: So that is the recommendations from AHTD?

Teague: Uh-huh.

Anthes: So we can assume that if they are recommending it that they are going to allow it to be built?

Williams: It is not nearly as difficult to add a turn lane to a state highway as it is to put a traffic light on. Everybody at this area is familiar with the turn lane there at Root School, which the city did once the Highway Department said we could do that. Those sorts of improvements are not very difficult. You still have to get approval of the State Highway Department, but they are very much more amiable to allowing you to put turn lanes in. It is the traffic signals where they are very much more sticky and definitely require a specific warrant of amount of traffic intersection at that in order to stop the state highway. Because they don't like to have the state highway stopped unless you can prove that you have a real need to do that.

Anthes: Ok. Thank you, Mr. Williams. Question of Mr. Pate. The tree preservation areas and the Parks recommendation? Can you fill us in about how those areas were set up?

Pate: They are somewhat separate and distinct. However, in this situation Parks and Recreation Board is recommending a trail corridor to be allowed within that tree preservation area. The majority of the tree preservation area on this property is actually again in the shaded area, because most of the tree canopy is located up on the hill in the south west corner of the site, which is where the larger tree preservation area is. So that is why you see so much mitigation on this particular phase, is because most of the tree preservation is not being counted and is not being counted for the developer in this case. With regards to the Parks and Recreation Advisory Board recommendation the developer and the Parks and Recreation Board has agreed to construct a viewing tower, a viewing platform on this property which is allowed by our current Parkland Dedication Ordinance. It is basically a facility or a service in lieu of a park land dedication. Actually there is some park land dedication occurring with this as well. And then there are conditions listed that require easements for trails, the trail corridor, public access easements for the village greens and numerous other smaller green space areas that are shown in planning area number six. The green space/civic space area.

Anthes: So there will be a trail connection through the property with easements, that is a

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City easement that will be obtained for that, and there will be public access easements to green spaces on site in addition to this feature?

Pate: That is correct.

Anthes: And as far as I understand from the Planning Areas, the maximum height proposed on any of these planning areas... Well I think one on the street is at 60, but everything else is at 45?

Pate: Yes.

Anthes: And this tower feature was also 45?

Pate: That is correct.

Anthes: So that would not exceed the height of any other structure on the property?

Pate: That is correct.

Anthes: Has staff evaluated views from that element to any of the surrounding neighborhoods?

Pate: We have not, and that is something that is part of Planning Commission number 20. "Ruskin tower design shall return to Parks and Recreation Department for review. I think it was mentioned in Planning Commission for your review earlier. "Parks and Recreation Department for review based on the concepts and criteria presented here and the Ruskin Tower shall be a maximum of 45ft in height as depicted in the project booklet." We added that last sentence, I believe, since the last meeting just to clarify that because there were a lot of questions.

Anthes: And is that to the roof?

Pate: Yes, it would be as we would measure any other building height.

Anthes: Ok. And then I am also looking at staff's Findings of Fact. You found this project to be in compliance with the six goals of City Plan 2025, and you have also found that this project, unlike what some of the neighbors have thought tonight, to be compatible.

Pate: Yes.

Anthes: Can you elaborate on that from staff's perspective?

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- Pate: Very shortly. From a staff perspective we did feel that it met the six goals of the City Plan 2025, and identified why we felt they were in compliance on page 19 and 58. For making in-fill appropriate, discouraging suburban sprawl, encouraging traditional town form as a standard or a norm, growing a livable transportation network, assembling an enduring green network through the site, and hopefully creating some attainable housing by the variety of housing choices within this neighborhood. In terms of compatibility, that is again one of the many findings that we make beginning on page 18 and continuing in your 58 page staff report that we are required to make with any Planned Zoning District. Compatibility, as we have heard from Subdivision Committee and at the Planning Commission meeting, it is subject to the person who is discussing it or thinking about it. We felt that it was crucial to have a project that used like uses adjacent to like uses because of the single family residential neighborhoods surrounding the property to the south and to the east. Accordingly, across the street are non-residential uses which are very much single use, A nursery, a church, commercial uses, multifamily uses to the east, commercial uses to the west. So a mixture of uses in this area we felt was compatible amidst an overall area of zoning that includes RMF-24, RMF-12, and other zoning districts. So in terms of compatibility we felt the transition of density within the site, as other PZD's have transition within the property itself was crucial to approval of this project.
- Anthes: Ok. Lets see if I have anything else. Would you just set the record straight about how many units are being proposed and how many units are in phase one that you are asking for development approval. I think it has been said, but it's just...
- Pate: The overall Master Development Plan which is both a combined development project and a concept level project would be an maximum of 295 dwelling units. Change that by rezoning the property. And a maximum of 58,500 sq ft of non-residential or commercial space. Those are again maximums. In this phase one, the area that is delineated there in color on your map. It is exactly 57 residential units, a maximum 16,636sq ft of non-residential space within the first phase.
- Anthes: Ok. With that I have some questions of the applicant. On page 12 of your booklet and in other places there is some signage referred to, and signage is referred to even in the residential areas. Do you intend to place signs in the residential areas?
- Teague: No. We don't. I think our intent there was just to follow all City of Fayetteville codes with respect to signage.
- Anthes: Ok. What is your intent? There is a lot of neighborhood concern about the alleyways. And I know that we are only looking at approval on this first phase, but I was looking at illustrations on page 14 to 17 on the booklet, and there are some alleys shown with very little articulation and double garage doors facing

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those alleys. Which doesn't look like too friendly of a pedestrian environment to me. Are you proposing that for alleys throughout this proposal?

Teague: I will say that the developers do want to make these alleys look very nice. I may, I guess, want to let the architect speak to the garage doors in the alleys.

Anthes: Please do.

Watkins: It is the convention these days that the garages not face the front. In that we don't find that the garages necessarily the most attractive of the residential structures we have placed the garages to the rear. And the idea with the alley is that the things like telephone pedestals and electric transformers and those types of things that we typically later have to shrub up in the front yard and pretend they disappear all go in the alley. So it is in fact the case that the alleys will be less attractive than the streets and to some degree less pedestrian friendly in that the streets have sidewalks dedicated to the pedestrian and travel lanes dedicated to the automobile. But the alleys in the neighborhoods that we have built have sufficiently slow moving traffic and sufficiently slow volumes of traffic that in fact are widely used by pedestrians. In some of our neighborhoods we actually have people living in the alleys above garages and so forth. People find them equally as charming as the streets.

Anthes: But just to be clear, on page 14, 15, 16, 17 - particularly on page 15. I thought there was another sheet too. This is not part of the development proposal at this time, correct? These elevations?

Watkins: No.

Anthes: Ok. It's not. One additional question about city services? And that is, can somebody from engineering or staff talk about have you confirmed these impacts in terms of our water, gas, and electrical services in the surrounding areas that are called out on page 28 and 29 in the booklet. I guess it is water, storm sewer, sanitary sewer, etc.

Casey: Yes. The applicant has preformed the proper studies on both the sewer and the water to make sure that the impact of this development would not have a negative effect on the system. The studies have identified areas and specific things they can do to improve the system and make sure that there is not negative impact on the system.

Anthes: So there were some comments on the fire flow on Mt Sequoya being inadequate. Will that be changed at all by this development?

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Casey: That was one of the specific studies they did. They hired McGuinness, Williams and Gates. Who has the master water model for the city. They worked with them to identify improvements that would be needed to facilitate the fire flow in this area. So those are proposed with the development of this property.

Anthes: Ok. So engineering is satisfied.

Casey: Yes, Ma'am.

Anthes: Ok. Shall we work through conditions?

Clark: No, I would like to...

Anthes: Ok.

Clark: Engineering, what about these rear... I am obsessed. What about the rear lanes. They are still 12ft. Now they are one-way. Is that going to work?

Casey: I share your concerns with the dead ends, of course. From day one I have asked for these to be widened to meet our standards. I feel that for two-way traffic they need to be wider and the dead end ones definitely need to be for two-lanes. So I would share your feelings and can agree with you on your previous comments.

Clark: It is a way in and out for these people to get to some of their homes, and it is also an in and out for the trash trucks and possibly for emergency vehicles. So 12ft is just narrow. And now it is going to be one-way, and I don't see how in the world, unless you have little traffic cops it is going to work? I just don't.

Anthes: Would you like to propose a change to those two alleys?

Clark: No. I am going to vote against it.

Teague: May I just say?

Anthes: Mr. Teague?

Teague: Commissioner Clark, you are absolutely right. We proposed two-alleys. 12ft two-way alleys. Staff recommended the change that we make those one-way. I failed to overlook that we do have some dead end alleys, and those dead end alleys do need to be 16ft two-way alleys. We propose that as a change to be made.

Anthes: Thank you Mr. Teague.

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Clark: Thank you Mr. Teague.

Pate: Madam Chair. I am going to add to that also. The area that we have reviewed for development proposal for which these standards are proposed is only that area in color there that you see. You, hopefully, don't have any dead end alleys, so all this other shaded will come back before you as individual projects. Just like Park West, or just like Wellsprings. If you remember, the concept was passed and then the development proposal looked at all of those things in very great detail when it came back before the Planning Commission as a preliminary plat and a final plat. I just wanted to confirm that.

Anthes: Ok. Mr. Pate, normally we see a Master Development Plan with no development approval, with just zoning approval and a Master Development Plan. Or we see the whole package where we are approving development. We have a little hybrid here.

Pate: Yes.

Anthes: Will you tell us the criteria that we are to look at for the Master Development Plan area only versus the development review site? Because I think we are getting kind of stuck.

Pate: Sure. There is a hybrid proposal here. There is a development proposal that is shown there in color, and then the muted area or screened area shown for concept approval only. That does not give any entitlement for development approval, so development approval is not granted. If the Planning Commission and the City Council approves this project the only development approved would be the 57 lots and 16,000sq ft of non-residential use. The rest would come back before you to meet the criteria established by the zoning. So you are indeed correct that the zoning criteria, everything about the booklet and the plats that are presented establish the zoning criteria and then the Planning Commission measures that development proposal against the zoning criteria to insure they still meet that. He used that drawing there as a concept to look at those plans. But if you remember it Wellsprings, things had to shift to accommodate that. There are drainage calculations that aren't made on the concept area there. There are grading and retaining walls and tree preservation areas. Lots may have to shift. Lots may be lost to preserve a significant tree. So those are the types of things that we would look at at that time of development. We have not gone into that level of development in the concept area, but we have in the eastern quadrant of the site.

Graves: Madam Chair?

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Anthes: Commissioner Graves.

Graves: But are we not, even if we are approving the concept only with regard to the layout and the way it develops and the way the lots lay out. There is still, correct me if I am wrong, we are approving their ability to build 295 residential units tonight if we approve this?

Pate: Sure. Yes.

Anthes: Commissioner Harris.

Harris: Madam Chair, are you going to start going through the conditions? Or are we still having further conversation?

Anthes: I think that would be great unless you would like to do something else.

Harris: I can hold my conversation for later.

Anthes: Alright. Lets look at Condition of Approval number one. Planning Commission determination of street improvements. Are there comments?

Graves: Madam Chair?

Anthes: Yes Commissioner Graves.

Graves: Just to the extent of my opening comments which are, I am not comfortable approving tonight 295 units. Even if we feel like we are probably going to get the permits from the Highway Department, I am not comfortable approving 295 units tonight when we don't know that for sure. We would be granting them, or confirming them the night tonight to build 295 units with everything contingent on the traffic signal. I am just not comfortable doing that in that location on that particular road, Mission Blvd. I think whenever we look at number one, you know it has got lots of references and subparts B and C with regards to if this happens then that happens, and I am not comfortable with that.

Anthes: I understand. Let me ask Mr. Pate. If the Condition of Approval reads that the three turn lanes must be approved by the Highway Department prior to construction is that something we can do in a Condition of Approval to meet Commissioner Graves concern?

Pate: I believe so. If you establish the timing of the construction with the actual development then it cannot begin construction until such time as they got approval permits from the Highway Department. Which I guess in essence would stop the

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project until it could meet the warrants to satisfy the Highway Department.

Anthes: For the turning lanes?

Pate: Right.

Anthes: I understand from what Mr. Williams said that the light might be more problematic.

Williams: No, the light is certainly going to be one that would take actual traffic coming out of this subdivision before they could ever meet their warrants. Unless the other cross-street that intersects there increases very rapidly in traffic.

Graves: And that is just a concern even without the traffic signal if it developed out. I forget how many units you all told me. Ok. So we are probably talking about 140 more cars getting out in the morning right around the time it is already bad with Root School. That time in the morning with all the cars backed up clear passed where you are going to be putting this development in on Mission Boulevard. People just have to kind of let you in when you are getting out on Mission Boulevard, and you are throwing 100 odd more cars on there before we even might get a traffic signal out there. I just have a concern about, regardless of what the manual says down in Little Rock, if the Highway Department on the average state highway and the average number of vehicles we need before we can put a signal on there, that state highway along that stretch is very curvy, very narrow, and no shoulders with a couple of schools and a lot of folks who have to get out using that road. I think we are not creating a dangerous traffic situation, but we are definitely compounding one. With that particular finding, I am not comfortable with the way it reads right now.

Teague: Can I respond to that? I do understand the concern there. We would have to put a small amount of traffic onto highway 45 without a light. But the State, they are not going to... No matter what develops there they are not going approve a light there without the existing traffic to warrant it.

Anthes: We understand that.

Teague: They are just not going to give a permit.

Trumbo: Madam Chair.

Anthes: Commissioner Trumbo.

Trumbo: We have 29 acres and it is currently RSF-4. If this was built out to three units per

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acre it would be 87 units which is more than the 71 we are talking about that are going to be built in phases. Essentially are we saying that this property is left RSF-4, will we allow it to be developed to even a less density of RSF-3 considering the traffic situation? Or is this property stuck with the current zoning and not going to be allowed to be developed?

Graves: Madam Chair. I would not be in favor of a Large Scale Development based on the same traffic reasons. Traffic is definitely one of the criteria that we can consider at that point. And with the topography on that piece of property they couldn't build it to that density anyway. They can't build it to the current zoning because of the topography. I think the applicant would tell you that. They couldn't build 4 units per acre on that piece of property.

Trumbo: I said three.

Graves; Or even three. I doubt they could even do three.

(General talking and disagreement)

Anthes: Lets think about this. Because obviously if this was a city street we could require the improvements. It would be our standard conditions of approval with our Street Improvement Findings, and we would know what was coming. But we have other developments that are on State Highway, and it is kind of a leap of faith when we get to those situations. How does staff weigh that in making your recommendations for improvements? When you have a state highway that we cannot completely control.

Pate: I think we would look at it as any other principle arterial and collector street. Look at the traffic that is being generated and make a recommendation for those improvements. In this case we simply have another permitting body our ordinance actually has a section under required off-site improvements, state highways. Any improvement required of the developer by the Planning Commission shall be coordinated with the Arkansas Highway and Transportation Department as part of our ordinance requirements for any development. We sometimes, as we noted on another project recently just down the street with a bank to look at a condition of approval, we told you we would likely start putting in the language subject to AHTD permits if those can't be granted an assessment would be required in lieu thereof. Simply because what happens when we don't put that then the project comes back to the Planning Commission and requests an assessment simply because they couldn't develop without the permits. That the AHTD is not granting the permits. So I think it is a... It is not something that we have the ability, you as the Planning Commission or the City Council has the ability to control to be honest with you.

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- Anthes: So I guess I am trying to figure out the order of magnitude of impact. I apologize because I read through the traffic study, but my eyes were kind of crossing at that point. Can somebody decipher for me, from the total traffic load that is on Mission currently, as opposed to phase one through three of this development. What percentage increase to the current traffic is this development creating?
- Teague: I could speak to that. Existing traffic counts on Highway 45 are roughly 14,000, 15,000 vehicle trips per day. Phases one through three would generate at 57 units, 400, 500 trips onto that.
- Anthes: So that is what percent?
- Williams: That really is not that relevant to the traffic light. You are looking at cross traffic. That is what must be generated before the State Highway Department will issue a traffic lot warrant. They look at the major highway itself but then they look at the cross-traffic and there has to be so much cross-traffic before they will allow a light to go in.
- Anthes: I understand that with the light. I am trying to get the turn lane thing and sort of get an idea of what we are requesting for off-site improvements and the impact this development will have to the existing traffic situation. From what it sounds like, until we think the warrant will be met for a traffic signal we will be increasing the total number of traffic on Mission by... By how many?
- Pate: 3%
- Anthes: 3%. I don't know. It is just tough because it is a tough situation. But we have looked at it before at developments that add onto Mt Comfort Rd, Huntsville Rd, Highway 16, other situations and we say yes we acknowledge there are traffic problems that exist. Can this development bare the responsibility for an already bad situation? And are they exacerbating it to such a degree that they bare responsibility for it? I don't know that 3% meets that magnitude.
- Harris: It doesn't seem so to me.
- Lack: Madam Chair.
- Anthes: Yes, Mr. Lack.
- Lack: I would agree with that, and I would also add that we are seeing even from staff's comments an assessment for the light. So the City has money for the light if something happens and the developer drags their feet, or the developer offered, if

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I read it correctly in their information since Subdivisions, to install the light with phases one through three and bag it. At which time Arkansas Highway Transportation Department who has all authority on the situation says "Ok you can take the bags off" then it is a done deal. So that helps me to be comfortable with the fact that the light will be provided as soon as the road can be warrant. And the 3% of the traffic that you have to put on the road to get that light is something that you just have to have to trigger the light. So I think as far as an assurance, if you are asking for an assurance as to whether or not we can get the lot, I think there are two methods proposed. One from city staff which is an assessment, and the other would be just full installation and bagging.

Williams: I would recommend that we accept the applicant's request that at the end of phase three if not before, if there are no warrants issued before but concurrent with the build out of phase three that they go ahead and the traffic signal with the bagging over it so it will be ready. Because obviously it takes a while to engineer something like that. If it is already ready to go it would be in operation much quicker if it has already been constructed. If that is what the developer is offering.

Lack: And has the state agreed to that?

Teague: Yes. We are definitely offering that. We would love to build the light with phase one through three and have it fully operational. Again I can't guarantee that the state will let us do that. But we have full intent to try to do that.

Graves: Madam Chair. I guess the difficulty that I am having is with subsection C. The way that reads right now is that the applicant shall pursue the permit and if after application it is not allowed then assessments will be determined to be paid at that time. We are approving 295 units tonight if we vote in favor of this. And this is saying that those can still be built even if AHTD will not allow the traffic signal. I am saying that 295 units shouldn't go out there without that traffic signal. So I would prefer it read some other way that allows them to build the first three phases and then everything stops. You get the traffic signal you go on. If you don't get the traffic signal then you don't.

Anthes: Ok. Would you like to amend the Condition of Approval?

Motion:

Graves: I don't know if that is sufficient language. I don't know if I can restate it. But I think staff surely understands what my point is. When we are approving it by way of Master Development Plan tonight I understand that it is just conceptual to where lots are located. But we are approving the number of units tonight if we vote in favor of this. And the way the language reads right now you could still

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build 295 units and not have that signal. So I would move to amend the language in subsection C to coincide with what I just said.

Anthes: Mr. Williams.

Williams: I have one question of the developer before you go through with that. You said earlier that you were going to be that much short before you finished phase three. How many units are included in phase four of yours? That would be enough to put you over the top? Have you computed it that closely?

Teague: Phase four would put us over the top.

Williams: How many units are in phase four?

Teague: I can't tell you exactly, but there are probably 30 units in phase four.

Williams: My only thought on that is you might let them have enough before...

Graves: I would like to clarify anyway because you said 57 units a moment ago in phase one through three, and I heard 71 earlier. So I don't even know how many we've got through phase three right now.

Teague: I apologize for that. In phase one through three it was 57 residential units.

Williams: 57?

Graves: So we are talking about through phase four will be 87 units? Is that right?

Teague: Approximately. I would have to count them. I don't have the..

Graves: Well, I think you need to count them before trying to put them up together.

Williams: I would let them count and go somewhere into phase four to make sure they would be able to get their warrant.

Graves: Have you all done a calculation of how many units you would need to meet the warrant?

Teague: It basically comes down to one warrant that is based upon street A intersecting Highway 45. Its based upon a peak hour volume on Street A. That peak hour volume has to be 57 vehicle trips. After phases one through three, after 57 units we would have 51 vehicle trips. So we would need 6 more to absolutely meet that warrant.

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Graves: So after six more units then.

Anthes: Well, we have so many platted subdivisions that are building out in that area. I am pretty confident that the traffic on Mission will increase as a result of those developments.

(General talking)

Lack: Is that taking into consideration traffic on Lisa and the existing traffic?

Teague: Yes it is.

Williams: So it is possible that Lisa could supply the extra but... I would make your motion where they would have some of phase four at least.

Graves: Ok. Well, now I am trying to find out how many units we've got through phase three. And how many was the total through the first three phases for sure?

Chesser: It is 57.

Teague: Ok.

Graves: So 57 units phases one through three, 30 units phase four. 87 total.

Lack: Round it up to 90?

Anthes: It's 57 plus 6 right?

Graves: They need 63 units, it sounds like to hit the warrant.

Williams: Maybe you could structure it in a way where they would have to build it at the end of phase three, assuming they could. But they could not build beyond phase four unless it was in operation.

Anthes: Very good.

Graves: What he said. That is my motion.

Trumbo: Second.

Anthes: We have a motion to amend Condition of Approval 1. That motion is by Commissioner Graves, with a second by Commissioner Trumbo. Will you call

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the roll?

Roll Call: **The motion to amend condition of approval number one was approved by a vote of 7-0-0.**

Anthes: Condition of Approval number 2. Planning Commission determination of a lesser dedication of right-of-way for Mission Blvd.

Clark: Madam Chair.

Anthes: Yes, Commissioner Clark.

Clark: I hate to be lagging behind. But I have to go back to 1 for just a second.

Anthes: Oh, I'm sorry.

Clark: I am just, it's late. It is Tuesday for that matter.

Anthes: It is Tuesday.

Clark: You can build the turn lanes now? Or do you have to meet a warrant?

Watkins: The explanation that you heard earlier...

Clark: It is just a yes/no. Can you do it?

Watkins: Yes.

Clark: If we approve this tonight, when you start selling lots you can put those turn lanes in it?

Watkins: Yes.

Williams: Even before they are selling lots. While they are doing the construction.

Clark: Then I am good with 1. Let's move on.

Anthes: Dedication of the lesser cross-section. That is accommodate the existing utilities off along Mission Blvd. Staff finds in favor saying that the information presented by the applicant indicates Mission Blvd can be approved to the principle arterial designation within the existing right of way. Do we agree?

Clark: Yes. (Several voices)

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Anthes: Is everybody ok?

Trumbo: Yes. (Several voices)

Anthes: And that also includes a right-of-way dedication along Greenfield. Everyone is ok?

Harris: Yes.

Anthes: Condition of Approval number 3. Planning Commission determination of a waiver of minimum street design standards. These are varied return radius. Different street cross-sections that are required by this Master Street Plan. From what I understand staff had originally recommended denial of some of these waivers, particularly for street J. Mr. Casey, have you reviewed the latest submission by the applicant and are you in agreement and support of these waivers?

Casey: Yes, Ma'am. The changes that I requested have been addressed by the applicant's design engineer and they have redesigned street to be acceptable. So the waivers as requested I can support.

Anthes: We have heard that the alley cross section, that is for the development area and those are one-way only alleys.

Casey: Yes.

Motion:

Clark: I'm going to... It may fail, I don't care. I am going to make the motion because engineering is for it I am for it. 12ft one-way is not going to work. I will make the motion that we amend that 12ft to 16ft two-way traffic in the alleys.

Anthes: In all alleys?

Clark: Yup.

Teague: Can I speak to that?

Anthes: No. Not yet. Is there a second?

Graves: Second.

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Anthes: We have a motion and a second to amend to change the alley cross sections on all alleys within the...

Clark: Well, now wait. Time out. I am talking about the rear lanes. I think it is confused in this as the alleys. I am talking about the rear lanes specifically.

Anthes: That is an alley.

Clark: No, I mean in the book alleys are 1 through 3 and these are lanes 1 through 14. I am talking 1 through 14 in the booklet. In the design That is what you are talking about isn't it Mr. Casey? That is what I thought. My motion is specific to the rear lanes which in Subdivision we wanted 16ft so they could be two-way. Now they are at 12ft, they are one-way. It's not going to work so lets just make them 16ft.

Anthes: I have a question for staff about the Hilltop/Hillside Overlay District and the impact of the street section? Does staff view that additional 4ft of paving as detrimental to the tree canopy or will it actually fit?

Pate: It will because all of their... In order to have solid waste access they all had to be 26ft wide access easements cleared free and clear. So that 16ft can be accommodated. It will reduce the green space obviously, adjacent to those properties. Especially along the south east side but it can be accommodated.

Anthes: I guess my concern there is by putting an extra 4ft of pavement along that much. First of all we are adding impervious surface. We are reducing green space. And we are reducing that green buffer between the adjoining developments and this development. And I am not sure that we are really gaining too much functionality, living on one of those little historic streets as I do where you have to pull over to let someone go past.

Lack: Madam Chair.

Anthes: Commissioner Lack.

Lack: May I ask the motioner and the seconder if they would compromise to say that if two-way traffic is required due to dead ends, then the cross-section must be 16ft. If one-way traffic is acceptable then a 12ft wide section would be acceptable.

Clark: You are such a diplomat. My concern is on the eastern side along the rear lane 1. I just feasibly don't see how it is going to work. So...

(unclear discussion)

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Anthes: The motion is for 16ft is there further discussion? Will you call the roll?

Roll Call: The motion to amend condition of approval number two was denied by a vote of 2-5-0, with Myres, Lack, Trumbo, Anthes, and Harris voting no.

Motion:

Clark: Ok. Now I will make the motion that the rear lanes, if they dead end be 16ft, or whatever Audy said, which would allow for two-ways.

Anthes: IS there a second?

Graves: Second.

Anthes: A motion by Commissioner Clark, a second by Commissioner Graves. Is there discussion? Will you call the roll?

Roll Call: The motion to amend condition of approval number three as re-stated by Mr. Lack was approved by a vote of 6-1-0 with Anthes voting no.

Anthes: Item C on that condition. The waiver for the retaining walls. Can staff explain this a little better?

Pate: Sure. The retaining wall waiver Condition number C. This is for following our best management practice manual for a Hillside Overlay District to attempt to narrow the cross section that is disturbed much like we have done by right-of-way and easements. In every case this would not impede pedestrian or vehicular traffic. In most cases it is going to be adjacent to 9ft sidewalks that are going to be accommodated in this development. In some cases it will vary from that, but we will review each one of those in detail at the time of development.

Anthes: So Mr. Pate, you don't anticipate a safety concern for any kind of visibility or traffic issue there.

Pate: No, Ma'am.

Anthes: Is there any discussion on that?

Harris: Just one question, Madam Chair.

Anthes: Commissioner Harris.

Harris: Mr. Pate, who will review that at time of development? Staff or...?

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- Pate: We will see it, but we will forward those plans to you at time of development. Phase one through three is already being reviewed. The rest of those phases will come back before you guys at a Large Scale Development or Final Plat.
- Harris: Ok. Thank you.
- Graves: Madam Chair.
- Anthes: Yes, Commissioner Graves.
- Graves: I think that discussion that was had at Subdivision on this was just, we were talking about narrower street cross-sections with a lot of on-street parking and retaining walls right next to the street. We just wanted them to look at it. We just wanted staff to look at it and make sure it was safe.
- Anthes: Alright. Item D. Alternate Vertical K Values. Is everybody ok? Alright. Curb radii, street grades, and stand up curbs. Is that ok? Alright. The next item that we have determination on Planning Commission determination of a request to allow fewer than allowed off-street parking space and allowable ordinance for phases one through three. Instead providing an abundance of on-street parking to meet parking ratios. My question of staff is that we did not used to accept on-street parking, and we have started to do so. Is that correct?
- Pate: It still requires a waiver, and as mentioned earlier tonight or last night this will be coming forward most likely as a recommendation to amend our current parking code.
- Anthes: Ok. Is there any discussion on that item? Ok. Item 10. Planning Commission determination of design standards. Is everybody good?
- Myres: I am perfectly Ok with that one.
- Pate: Again I will mention that this is only for the areas that are being developed. So most of these conditions apply to that.
- Anthes: And these are the renderings that are down below here?
- Pate: Actually some of that is not even being... Those are the concept level drawings that are simply attached to the other...
- Anthes: So these are the phase one elevations that are in our packets. Ok. And Planning Commission determination of the proposed phasing plan, phases one through six

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in the years 2000 to 2012.

Myres: I think it is very ambitious, but I certainly would encourage them to try to do it.

Anthes: Ok. Now, Mr. Pate, the phasing plans. In other large developments that have come through that have multi-year phasing plans. If those need to be adjusted, how is that accomplished?

Pate: If they do not expire first, they can come back before you to request an extension to that phase. Usually to one year, I think is what our code states currently. So phase one, for instance, would have to get their permits by 2007 in order to meet their phasing. If they didn't after the ordinance is approved if they did not meet that it would simply be voided. The entire planned zoning district would be voided.

Anthes: Ok. Let's see. Conditions 13 through 20 have to do with parks. Are there any comments on the Park Board recommendations?

Harris: What about the...

Anthes: Yes, Commissioner Harris.

Harris: Just to go back to that tower, I guess that is included in this and also in 15, and 14. Somebody said about 6 hours ago, I was on the Subdivision Committee as well, and we have heard so much about the tower tonight. I want to make sure that that has really been spoken to. That first of all we have taken it seriously. I know that Commissioner Graves and Clark and I, I think when we walked into Subdivision, you know, the tower. It sounded like a nice accessory. And then obviously it became this large issue for people. A couple of things. In terms of... Mr. Pate, would you just mind walking me through again how the tower is being paid for?

Pate: The applicants are required to construct a tower. To physically construct a tower and dedicate the land underneath it to the City of Fayetteville and the facility that is on top of that land which is the tower to the City of Fayetteville. There is a maintenance contract that they will have to, which is part of the recommendations by the Park and Recreation Board to work through the details on the contract for that particular component for our Parks system. As each phase develops, this one for instance, says phase one through three has 57 dwelling units. That does not warrant a \$260,000 tower. So that money, in lieu, will be submitted to the city so that when this project is approved the Parks and Recreation Director can sign off on the final plat saying that all park land dedication requirements have been met because we have a check for that amount of money. It is phased in here, and I can't spout off the details, it is phased in here so that at a certain phase the tower

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has to be constructed or all money submitted for the project to the City of Fayetteville, we hold that money until the tower is constructed and then we will return the money. The development team has actually agreed, from my understanding from the Park and Recreation Board to actually submitting that. If they don't construct it until a later phase they will actually be out twice the cost of the tower. If they don't construct it until a later phase they will actually be out twice the cost of the tower because we will hold the money until the tower is completed and then return those funds. That is they way I understand the Parks and Recreation Boards's memos that came from park staff.

Harris: Madam Chair, I am going to ask another question if I may? Mr. Teague? Obviously the concern about the tower was that it would provide a platform for people to look down on children in bedrooms and so forth. I believe that you all have said that it won't be any taller than the buildings surrounding it. Is that correct?

Teague: Yes. We have said that.

Harris: And the tower is a part of which phase?

Teague: It is inside of phase four.

Harris: So phase one through three will have already been built by that time?

Teague: That is correct.

Harris: I am trying to look where the tower is exactly. So they do, in a sense also provide a screen? Is that correct? To the neighborhood, between the neighborhood and the... That is to say there won't be this tower sitting on that hilltop before anything else is around it?

Teague: Yes. That is correct. You know, we showed at the presentation at the start of the meeting that somewhat showed that you wouldn't be able to see very clearly into anybody's backyard and definitely not into anybody's window.

Harris: Ok. Thank you.

Trumbo: Madam Chair

Anthes: Yes, Commissioner Trumbo.

Trumbo: What about parking for the tower? If people are going to come from other parts of the city and want to go into the tower, do we have parking provided? Is it just

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the on-street spaces?

Teague: The area up there is still conceptual. We would definitely have on-street parking up there. We have talked about the idea of putting parking, putting structured grass inside the hilltop green to allow parking for the hilltop green and the tower. So on-street and then the structured grass inside the hilltop green.

Anthes: Are you talking about a grass paved system? Where you can drive on the grass?

Teague: Yes. Just for the parking area directly off of the street.

Graves: Madam Chair.

Anthes: Yes, Commissioner Graves.

Graves: That was one of the discussions of Subdivision as well. The fact that when we were looking at the traffic issue, just the idea that it is not going to be just people who live in this neighborhood who are going to be driving in and out of it because if this tower is there and it becomes an attraction, then people outside that neighborhood are going to be driving in and out as well. So that was another discussion with regard to traffic at the time, and just something that I would mention to the other Commissioners as something to consider with regard to traffic. It is not just the density involved with this specific project because it will be an attraction that people will presumably drive to. And the parking issue, because they are already relying to a great degree on on-street parking to help them try to get close to their numbers. They you have other folks driving in who have to park somewhere too. But my question, specifically to staff, is just with regards to the maintenance issues. Who is going to be carrying insurance, for example, on this tower and making sure it's safe? If the POA disappears and you can't find the POA and they are responsible on this maintenance agreement? Those are tow separate questions in my mind. Who is standing behind the tower if someone were to get hurt on it? And also, if the POA is gone who is maintaining it?

Pate: I will answer to my extent and Kit may want to jump in. To the extent of my knowledge the condition states that maintenance of the tower and the .11 acres of the land are the responsibility of the city and the POA is required by contract to pay a fee for that maintenance as part of this agreement. It is a non-amendable maintenance contract with an inflation clause as stated in the contract. That is verbatim from the...

Graves: But we have had situations, for example we have discussed where private streets are concerned that sometimes POA's go away or you can't find a contact person

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for a POA. At that point, I mean, this is similar in that respect.

Williams: What we have with the PZD ordinances now is that there are provisions that when there are private streets or other maintenance issues that the POA is going to be required to fulfill, we are allowed, and we actually require the developer to show us the restrictive covenants which must have a non-amendable restrictive clause that allows the POA and in absence of the POA the city, to assess the property owners if in fact there is maintenance that is required by the city because it has not been done by the POA and the POA does not reimburse the city. We will require that in this case too. Not only for private streets, but for the tower itself.

Graves: And then with regard to insuring or guaranteeing or protecting against liability. Is the city responsible for that, it being city property?

Williams: The city, as you are probably aware, has sovereign immunity. So we typically do not have liability insurance. If we have liability it waves our sovereign immunity.

Graves: Right, and so my question is that since it is on city property does that mean that it is not going to be insured?

Pate: It would be much like the castle at Wilson Park or the play grounds that we also install on city property.

Graves: There is not going to be a situation where the POA is required to carry, whatever, to insure the properties dedicated.

Williams: Right, it will be City property.

Graves: Ok

Anthes: Ok, tree preservation and landscape. In landscape, we have a determination of a waiver request to use the urban streetscape 9-foot sidewalk width option as opposed to the required 10 ft. Similar to the one tonight that we approved for a 8 ft sidewalk. Does anyone have any comments? Alright, and now we have General number 30. Planning Commission determination of zoning criteria. There is a staff recommendation for a setback of 10ft adjacent to any property line exterior to the overall 28.92 acre PZD boundary to provide a reasonable level of transition. No alley or other form of development shall occur within 5ft of the property line without the adjacent property owners consent. Applicant has indicated compliance with this recommendation. Have the changes been made to the booklet and plat?

Pate: That's what this condition is referencing. I think it is the only change to the

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booklet or plat that we have noted. The letter that was submitted states that all indications are in compliance with that. I think it was just overlooked in revision. That condition will cover that.

Anthes: Thank you, Mr. Pate. I believe that is all the determinations. Are there any questions about any other Conditions of Approval?

Pate: Madam Chair, I would like to note that the sign question that your reference is Condition number 34.

Anthes: Excellent, thank you. Alright. Is there further discussions or motions?

Trumbo: Madam Chair.

Anthes: Commissioner Trumbo.

Motion:

Trumbo: I would like to make a motion that we approve RPZD 06-2299 finding in favor with the Conditions of Approval that we just went through. I believe we changed one?

Graves: We changed two of them.

Trumbo: Two.

Graves: We changed the alleys too.

Anthes: So the Conditions as amended in the meeting?

Trumbo: Yes.

Anthes: We have a motion to forward by Commissioner Trumbo.

Myres: Second.

Anthes: Second by Commissioner Myers. Is there further discussion? Mr. Pate, will you call the roll?

Roll Call: The motion to approve R-PZD 06-2299 with amended conditions carries with a vote of 5-2-0, with Graves and Clark voting no.

Anthes: Are there any announcements? It's late! We are adjourned.

From: <Wisloan@aol.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 2/16/2007 1:35 PM
Subject: Ruskins Heights Development (For Council's Agenda Files)

My name is Winston Sloan. I live at 1807 E. Viewpoint Dr., Fayetteville. This is about three blocks in distance from where a connection from RH development wishes to connect with Greenview Drive. I just wanted to add one more voice in STRONG opposition to this development, at least the way in which it now stands. The density is HORRENDOUS!! A member of the Council has recently brought up the traffic problem(s) on Mission Blvd. What do you think is going to happen when another 300/600 cars needing to travel on that same road for school, shopping, work will do for traffic?? Yeah, they are going to put a light in at Lisa lane.. Big deal! That will only back up traffic the to intersections of Greenview and Mission and Winwood and Mission, so you can't get on there. Then traffic will use Viewpoint, both East and South which will take it thru the "old" neighborhood, certainly not designed for it. That traffic will wind up on Rockwood or Assembly Drive, if they go South. If you will not DENY, please at least REDUCE at least 2/3s. You cannot achieve INFILL in only one location!! I also support the citizens of Custer Lane in their battle!! It seems we have somewhat similar problems. The road improvements, such as they are, should be in place BEFORE any development is begun. If reducing number of units will not let the project "work", to bad! I commend Planning Comm. members Clark and Graves in voting against this because of DENSITY!!

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 Representatives,
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 existing homes.

The area is zoned 4 homes per acre and the developers are requesting approximately 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

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WASHINGTON — CRAWFORD — FRANKLIN — SEBASTIAN — LOGAN — SCOTT — POLK

February 15, 2007

Mr. Brian Teague
Community By Design
38 West Trenton Blvd., Suite 201
Fayetteville, AR 72701

Re: Ruskin Heights Development
Highway 45, Section 5
Washington County
Fayetteville

Dear Mr. Teague:

Reference is made to our meeting on February 7 and your subsequent submittal of a conceptual plan for left turn lanes on Highway 45 in the area of the proposed Ruskin Heights Development.

Based on the conceptual drawing provided, we ask that you provide detailed plans for review so that we may proceed with issuance of a permit for construction of left turn lanes and access permits for the planned street entrances.

As indicated at our meeting, a traffic study can be undertaken and submitted at anytime during development to determine if traffic at the time of the study warrants signalization of the street intersections with Highway 45.

Sincerely,

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

Joe Shipman
District 4 Engineer

C: City of Fayetteville, Ron Petrie, City Engineer
Assistant Chief Engineer-Operations
Roadway Design

Agenda Session
2/27/07
Ruskin Heights



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
Date: February 27, 2007
Subject: Ruskin Heights PZD (R-PZD 06-2299) Amendments

The applicant team for this project has submitted a revised drawing and table indicating amendments that are offered for consideration to the City Council for approval of the associated Planned Zoning District application, a rezoning and development proposal. Additionally, the applicants have communicated amendments for the project that have been offered for consideration. I have briefly outlined the amendments below, and included a revised set of Conditions of Approval for this project, should the City Council choose to accept them.

- 1) **Reduction in Density.** To provide additional compatibility and transition in response to concerns by neighbors and the City Council, the developer has offered to remove Planning Area 3 – Bungalow Courts from the Master Development Plan. Of the 24 dwelling units associated with Planning Area 3, 17 dwelling units have been moved to the interior of the project in Planning Area 2 – Livework Townhomes, while 7 dwelling units have been moved to Planning Area 5 – Single Family. This move reduces the density adjacent to both Broadview and Park Place Subdivisions (a net reduction of 9 dwelling units) while retaining the same number of dwellings more interior to the project. The attached table compares the changes in density, acreage and dwellings in each affected Planning Area; revised plats and booklets will be submitted to Planning reflecting these changes prior to submittal of construction documents, and these changes shall be binding to the zoning of the property. Any minor modifications resulting in the shift in units from one Planning Area to another shall be accommodated, with the approval of the Zoning and Development Administrator, with a full review of the revised booklets and plats.
- 2) **Removal of Ruskin Tower.** In response to numerous concerns voiced by the public, the developer has offered to remove the proposed construction of a viewing tower from consideration for this project, and instead requests to pay fees-in-lieu of parkland dedication, to be utilized for acquisition and development of parkland in the Southeast parks quadrant, pursuant to City ordinance. The fees-in-lieu will be based on the actual number of dwellings constructed; if the maximum 295 dwellings are constructed as indicated, the fees equal \$229,440.
- 3) **Engineered Foundations.** As offered by the applicant at the previous City Council meeting, the applicant will require all structures within this project – including those outside the Hillside/Hilltop Overlay District – to be designed and stamped by a licensed Arkansas engineer

or architect, with the exception of accessory structures of 100 square feet or less.

- 4) **Fence Installation.** The applicant has offered to construct a typical screen fence, with materials to be coordinated between property owners, along the rear of any residential lot in Park Place and Broadview Subdivisions that will be adjacent to an alley within Ruskin Heights.
- 5) **Greenview Limited Access:** The applicant has offered to reduce the potential for cut-through traffic onto Greenview Drive by installing a landscaped median at the intersection of Greenview and the proposed Street "L." This will require a right-in/right-out turning movement, and will further buffer neighbors across Greenview from future traffic. The landscaped boulevard median will be approximately 70 feet in length and will be landscaped with trees and shrubs, separating north and south bound traffic. Additionally, improvements to Greenview shall be required to include curb, gutter, sidewalks, stormdrains, etc. upon access to this street.
- 6) **Traffic Signalization.** The developer agrees to and shall be responsible for the payment and installation of a fully actuated traffic signal at the intersection of Lisa Lane and Mission Blvd, as soon as AHTD warrants are met and a permit for construction is issued. The developer shall contribute the full cost of the traffic prior to recordation of the final plat of Phases I-III, with the approved development of 57 dwelling units and 16,636 SF of nonresidential area. 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. This condition of approval has also been modified to reflect the above criteria, as requested by the applicant, for City Council consideration.

Table 1
Summary of Ruskin Heights Planning Area Revisions

	Proposed February 20th, 2007 City Council			Proposed March 6th, 2007 City Council		
	Dwelling Units	Acreage	Density (du/acre)	Dwelling Units	Acreage	Density (du/acre)
Planning Area 1 - Mixed Use	94	4.98	18.88	94	4.98	18.88
Planning Area 2 - Livework / Townhomes	81	6.52	12.42	98	7.71	12.71
Planning Area 3 - Bungalow Courts	24	2.15	11.16	0	0.00	0.00
Planning Area 4 Treehouses	20	2.91	6.87	20	2.91	6.87
Planning Area 5 - Single Family	76	9.21	8.25	83	10.14	8.19
Planning Area 6 - Green / Civic Space	0	3.11	0.00	0	3.14	0.00
Totals	295	28.88	10.21	295	28.88	10.21
Sum of PA 3, PA 4, PA 5, and part of PA 6 (All Planning Areas Adjacent to Park Place and Broadview Subdivisions)	120	16.92	7.09	103	15.73	6.55

AMENDED CONDITIONS OF APPROVAL:

R-PZD 06-2299

Page 1 of 10

The following conditions of approval are hereby approved for R-PZD 06-2299 (Ruskin Heights).

Streets and Right-of-Way

1. **City Council 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 and AHTD 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 agrees to and shall be responsible for the payment and installation of a fully actuated traffic signal at the intersection of Lisa Lane and Mission Blvd. as soon as AHTD warrants are met and a permit for construction is issued. The developer shall contribute the full cost of the traffic prior to recordation of the final plat of Phases I-III with the approved development of 57 dwelling units and 16,636 SF of nonresidential area. 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.

- c. At the time of connection with Greenview Drive: Minimum 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.

d. At the time of connection with Greenview Drive, the developer shall construct a limited right-in, right-out access on Greenview Drive. This shall consist of a landscaped median approximately 70 feet in length that separates north and south bound traffic, with appropriate improvements on both sides to ensure adequate access. The landscaped median shall be planted with trees and shrubs to buffer properties west of Greenview. Final design shall be approved by the City Engineer and Urban Forester.

2. The applicant shall dedicate right-of-way as follows:

- a. **City Council 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

AMENDED CONDITIONS OF APPROVAL:

R-PZD 06-2299

Page 2 of 10

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 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*

AMENDED CONDITIONS OF APPROVAL:

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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.

- ii. *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.

- 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*

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situation.

THE PLANNING COMMISSION FOUND IN FAVOR OF STAFF RECOMMENDATION.

DN: *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.*

AMENDED CONDITIONS OF APPROVAL:

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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).*

<u>Phase No.</u>	<u>Year</u>
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 DEVELOPMENT 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.

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Parks

13. The developer shall contribute money in lieu of parkland dedication for all dwelling units constructed on this property. Fees in lieu shall be submitted prior to final plat approval for subdivisions and prior to building permits for large scale developments. Fees shall be utilized for the acquisition and development of parkland within the Southeast Parks quadrant.

14. The money in lieu requirement for the proposed development at the time of City Council approval of the PZD is \$229,440 with 103 single family units and 192 multi-family units 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 \$16,880, due prior to final plat recordation.

15. All final contributions of fees in lieu of parkland dedication shall be determined based on the actual density that is constructed on the property.

16. Additionally, the developer shall provide the following public access easements at the time of development, 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, leading from the Greenspace/Civic Space north of Street "E" to the Greenspace/Civic Space south of Street "J," as indicated on the plat.
- c. A public access easement for the village green, the larger of the greenspace/civic spaces proposed in the project.

Tree Preservation Plan

17. 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.

18. 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.

19. 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.

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20. 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.
21. 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

22. 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.
23. A landscape plan stamped by a licensed landscape architect is required at time of construction drawings.
24. **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 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

25. 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

26. **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.

27. 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

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development, pursuant to the process identified in the UDC. A final plat shall be processed and approved prior to issuance of any building permits.

28. 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.
29. 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.
30. 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.
31. 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.
32. 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

33. 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).
34. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
35. 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.

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36. 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.
37. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.
38. 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.
39. Prior to the issuance of a construction permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Final plat for this project that shall include all easements and the tree preservation area.
 - d. Project Disk with all final revisions.
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

ADDITIONAL CONDITIONS:

40. All foundations for structures within the Ruskin Heights PZD shall be designed and stamped by a State of Arkansas licensed engineer or architect, with the exception of accessory structures that are uninhabited and less than 100 square feet in area.
41. The developer has agreed to and shall install a typical screening fence adjacent to any lot within the Broadview and Park Place Subdivisions that share a common boundary with a lot accessed by way of a rear lane (alley) located within Ruskin Heights, at the request of the property owner. Typical fence materials shall be coordinated between the developer and property owners and shall not exceed six feet in height.
42. To provide additional compatibility and transition in response to concerns by neighbors and the City Council, the developer has offered to remove Planning Area 3 - Bungalow Courts from the Master Development Plan. Of the 24 dwelling units associated with Planning Area 3, 17 dwelling units have been moved to the interior of the project in Planning Area 2 - Livework Townhomes, while 7 dwelling units have been moved to Planning Area 5 - Single Family. This move reduces the density adjacent to both Broadview and Park Place Subdivisions while retaining the same number of dwellings for the overall project. The attached table compares the changes in density, acreage and dwellings in each affected

AMENDED CONDITIONS OF APPROVAL:

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Planning Area, revised plats and booklets shall be submitted to Planning reflecting these changes prior to submittal of construction documents, and these changes shall be binding to the zoning of the property. Any minor modifications resulting in the shift in units from one Planning Area to another shall be accommodated with the approval of the Zoning and Development Administrator with a full review of the revised booklets and plats.

B.3,

Handled out at
the City Council meeting
by a citizen.

Ruskin Heights and the City Ordinances and Guidelines

Chapter 167: Tree Preservation and Protection

Fayetteville Code

Ruskin Plan

- To preserve the **existing** tree canopy
- Consider the impact of proposed tree removal both on **and** off site
- Considered **High priority** areas for preservation are those on canopied slopes
- Fayetteville tree code requires 25% for RSF-8 on slope and 30% for RSF-4 (current zoning)
- Eight acres of forest are being **reduced** to one acre on steep hillslopes
- Cash instead of trees
- Forested green space only protects less than 13% of existing tree canopy, all on hillsides
- Example: The single family dwelling included **in the forested hillslope** area are not preserving the required percentage of trees.
- (1.1 acre of trees proposed "saved" in green space - 0.13 acre easement area previously cleared of trees and part if it will be a detention pond which will not support trees)

Chapter 167: Tree Preservation and Protection

Fayetteville Ordinance

- **Must** reduce storm water runoff and the potential damage it may create
- **Must stabilize soil and prevent erosion**, with an **emphasis on maintaining tree canopy on hillsides defined as canopied slopes**

• RSF-4 versus Ruskin's

Design

- 48% more impervious surfaces on the hillslopes than allowed in the current RSF-4 zoning translates into **MORE** run-off potential
- Removal of 75% of the forested area will translate into a drastically **reduced canopy** on the slopes and **more soil erosion**

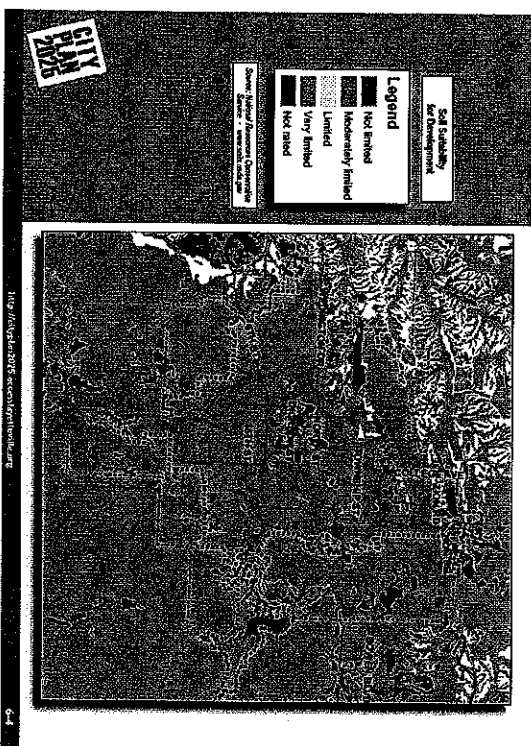
Chapter 170: Stormwater Management, Drainage and Erosion Control

- **Fayetteville Code**
- To **prevent** increases in the magnitude and frequency of stormwater run-off
- To **control** soil erosion
- Realizes **imperious surfaces** **increase** the quantity and velocity of surface **run-off**
- **Ruskin Plan**
 - 48% more impervious surfaces in the hillslope area with the Ruskin design Ruskin's design (as opposed to current zoning)
 - This translates into 4,452 cubic feet of extra water (in the hillslope area) for a one inch storm this is not an unusual event in Fayetteville)
 - In a single catchment where the 1600 square foot pond is located (and least density of development) this translates into 14 feet of water in the pond (in a one inch rain) from impervious surfaces! (26% increase in run-off over a RSF-4 development)

Master Plan 2025

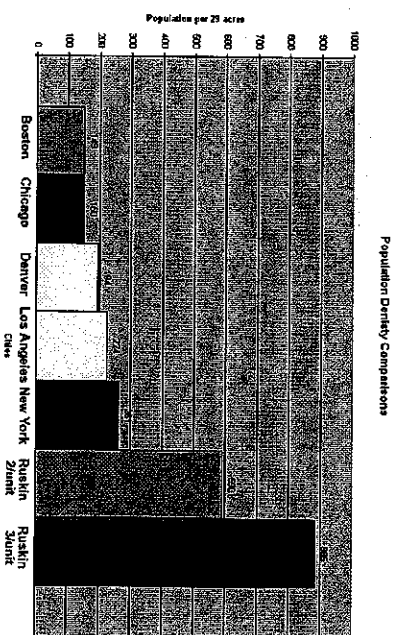
“Fayetteville “Guidelines”

- Soil Suitability for development map
- Area ranked **very limited**
- Present zoning, at best, allows for 116 units on this property!



• Ruskin Design

- Extreme density (between 590 to over 885 people on the 29 acres with 295 units plus 58,000 square feet of retail!
- Note: other cities with much less density all have mass transit (until the full city mass transit is available this is totally inappropriate).



Master Plan 2025

6.5 Surface Drainage

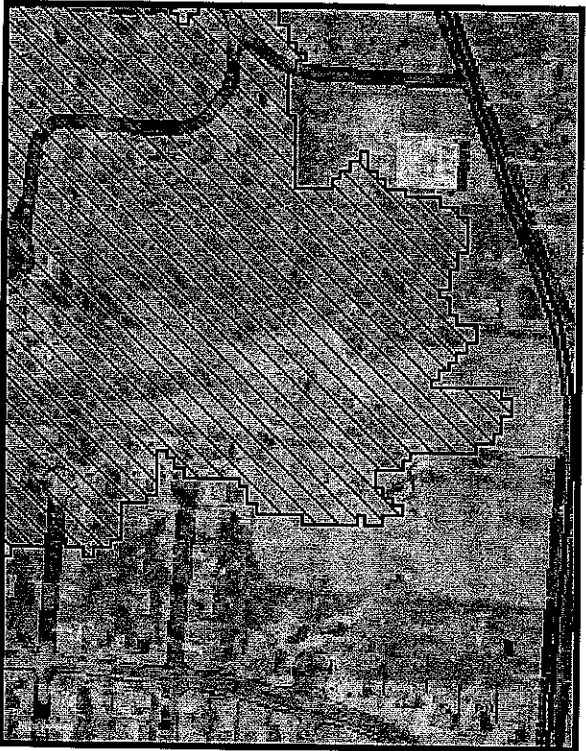
- Surface water resulting from storms is a major problem in the built-up area of Fayetteville. Steep slopes in the **northeast**, east and southwest are associated with **rapid run-off** from storms, causing surface water build-up in low lying areas where permeability is notably poor and the city's drainage system is limited. The lack of control combined with the intense urban development creates **flooding hazards** during major storms.

- **Ruskin Design**

- will create an impervious surfaces increase of 48% on the hillslopes above what would be allowed in a traditional RSF-4 development the potential for rapid run-off and flooding hazard is increased significantly.

Master Plan 2025

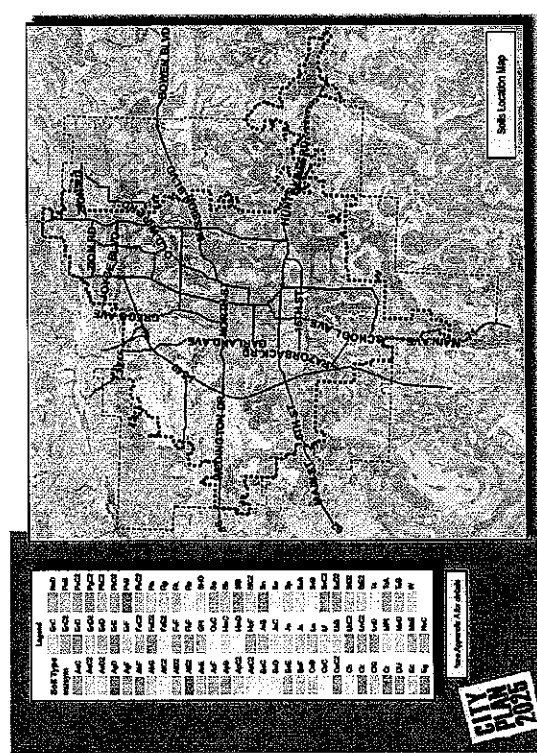
- **Present Zoning**
- Future Land Use Map
- Yellow = RSF-4
- Hatched area is hillslope area



- **Ruskin Plan**
- An **AVERAGE** density of RSF-10 but some areas much higher
- **Plus**, 58,000+ square feet of retail
- Steep hillslopes will **lose** approximately 75% of the forest

Master Plan 2025

- Soil Composition
- Enders
- These soils are characterized by plastic clay subsoil, permeability is very low, run-off is rapid and erosion hazard severe.



National Award for Smart Growth

- **Some of the guidelines that have been *neglected*:**
- **Preserve** open space,
- ...natural beauty, and critical environmental areas
- Reinvest in and strengthen **existing** communities (neighborhoods)
- Make development decisions **predictable, fair** and cost-effective
- Encourage citizens ... participation in development **decisions**
- **Ruskin's Response**
- Trade cash for green space
- Diminishing neighborhoods settings that have been vibrant for nearly 50 years
- Create their own set of rules
- Encourage citizens to speak, refuse to listen main objections ignored - too dense, protect the slope

Hillslope Ordinance Best Practices

- **Fayetteville suggests:**

If requesting a PZD:

- Cluster development enables development on the lands with the least slope (NOT increase density)
- Encourages more open space and tree preservation (p.21)
- Facilitate the transfer of the tree preservation from single lots to larger contiguous open space adjacent to development (the forest)

- **Ruskin Request**

- Want PZD
- Want over double the allowable density as state on the Future Land Plan map
- Want to trade away green space for a cash donation
- Destroy majority of a large stand of trees on a steep hillslope

Master Plan PZD Guidelines

- Provide **compatibility** with the surrounding land uses
- Provision of **MORE** usable and suitably located open space, recreation areas and other common facilities than would not otherwise be required under conventional land development regulations
- Maximum enhancement and **minimal disruption** of existing natural features and amenities
- PZD's shall conform as closely as possible to the **existing** standards for **lot area minimums** and setbacks
- If various provisions cover same subject matter the **most restrictive** shall govern.
- **Residential density regulations determined by the following:**
 - Density of **surrounding** development
 - Densities allowed under **current** zoning
 - Development plan (**Future Land Use map**)
 - **Topography** and natural environment
 - Impact of the given density on the specific site **and adjacent** properties

Fayetteville Natural Heritage Association

- Suggests from an onsite visit to the property:
- “The hilltops and west facing drainage slopes have large trees that stabilize the soil. This environment will stay intact if undisturbed. Trails can be planned in the mature canopy with open views through the woods. Research shows that the visual quality of this type of woods is considered very attractive by the general public. A comparison should be made with the slope to the east which is beyond the property line. Severe erosion, lack of regrowth and invasive species can be seen on the cleared area.”

Ruskin Heights
Citizen Handout
3/6/07

Citizens of Fayetteville

Vs

The City Backed Development Machine

There's more to Fayetteville's City Plan

2025

Than just infill!

Fact:

70,000 population Fayetteville

—300 the largest citizen

**group that attended
the charette for 2025
plan**

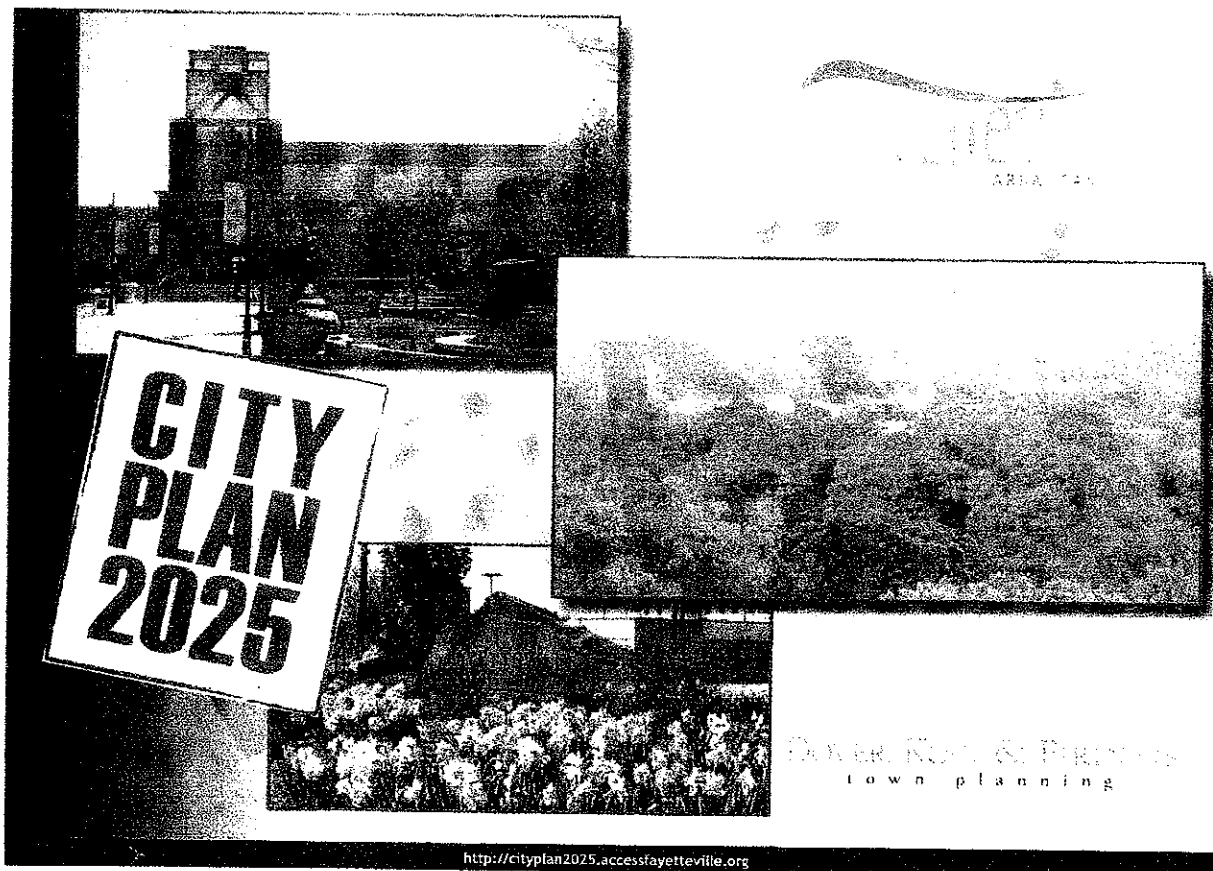
**69,700 Fayetteville
residents had no input
into this plan.**

**Fact: Three hundred people
is less than $\frac{1}{2}$ of 1% of all
of the people who will be
affected by this plan.**

**Why didn't the citizens vote
to approve this plan?**

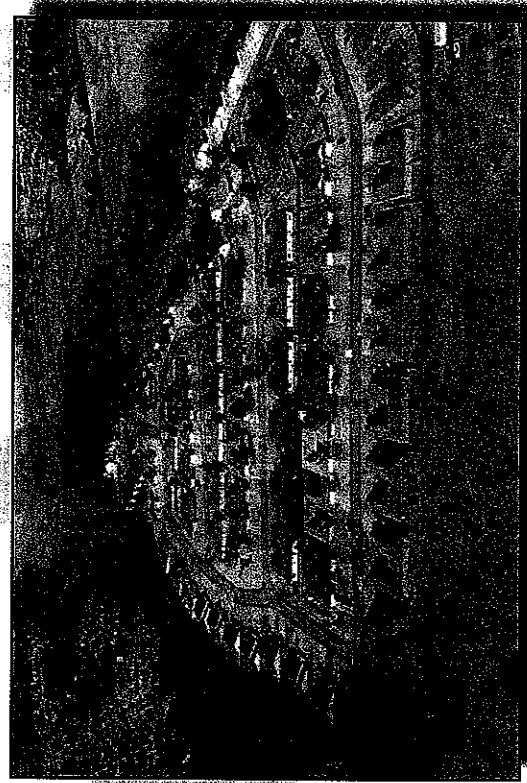
**A plan such as this impacts
everyone's life.**

**With a vote, we could all be
sure that this is what the
citizens of Fayetteville want.**

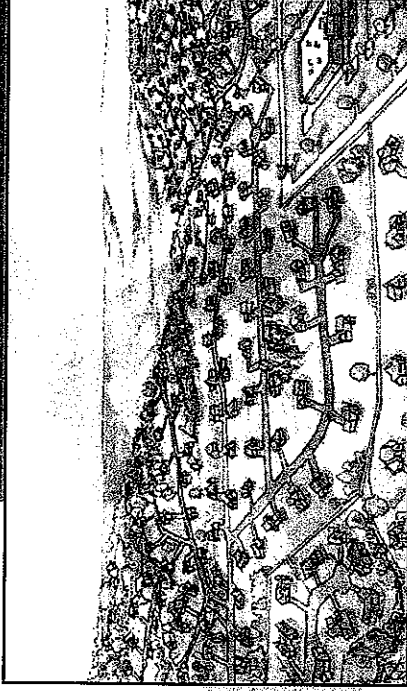


Goal 2: We will discourage suburban sprawl.

As Fayetteville's population continues to increase, the city must continue to work with the community, and enact regulations, to discourage suburban sprawl. For decades, current zoning practices have supported a separation of land uses; in doing so, development has spread across the natural landscape and has made people solely dependent on the automobile to get from here to there. The impacts of sprawl have caused increased traffic congestion, as well as health problems relating to obesity and the lack of highly walkable places in communities. To counter suburban sprawl, the city should employ a Smart Growth strategy for handling new development. This update to the Comprehensive Plan is a step in the right direction for combating sprawl. Based on input received from the community throughout the planning process, it is apparent that Fayetteville residents want to maintain a high quality of life and support increased growth in the center of the city and limit growth on the edges of the city.



Typical subdivision in Fayetteville



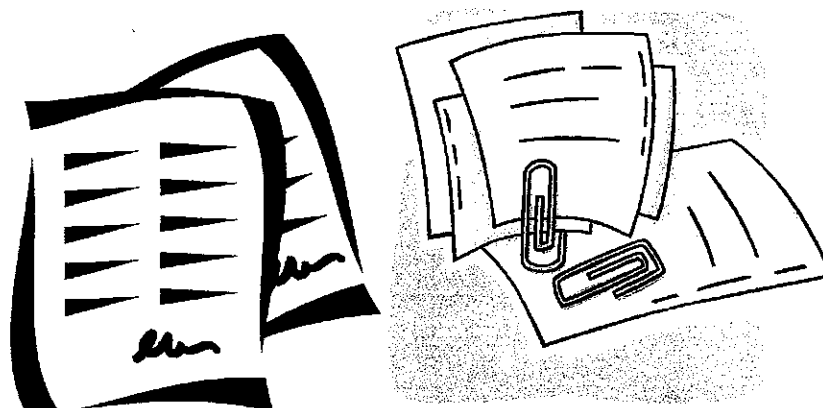
Sprawl Development Pattern



Traditional Development Pattern

CITY
PLAN
2025

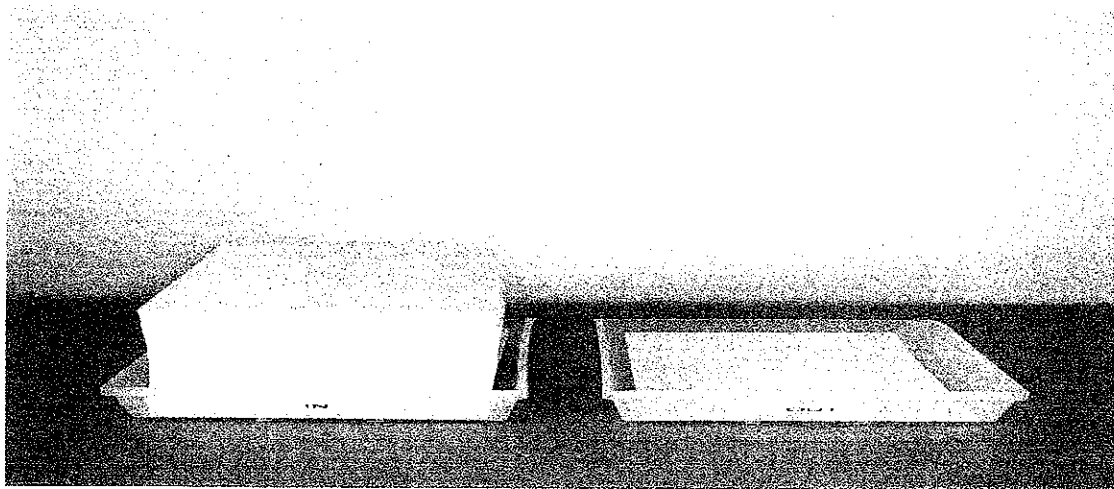
The Citizens of Ward One Know What They Want



Fact:

86% of letters and comments were against this development.

Only one (1) letter to the council in support was from a Ward One resident.



IN THE LAST ELECTION, WARD 1 VOTERS ELECTED CANDIDATES OF LIKE MIND.



A Proven Leader
"Growth is welcome but we must proactively plan for the future by enforcing our building regulations and encouraging an ongoing dialogue with community stakeholders"

- Longtime Resident of Fayetteville (33 years)
- Public School Counselor (retired) with Masters in Counselor Education (University of Arkansas)
- Former Academic Coordinator for the Razorbacks
- Married 45 years to Gary Gray, Social Worker
- 2 adult children, 5 grandchildren
- Founding Member, Public Policy Legislation Club, Arkansas Counseling Association and Arkansas School Counselor Association
- Past Member, Northwest Arkansas Regional Chamber
- Past Member, Washington Co. Multidisciplinary Team

Accessibility & Responsiveness

- Committed to taking the time to listen
- Advocate for the citizens of Fayetteville



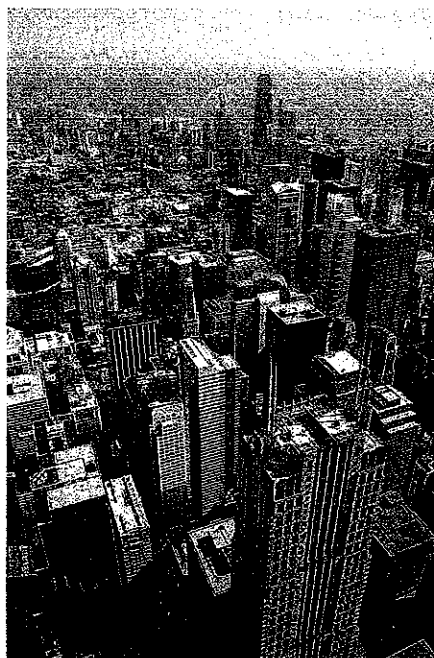
"As your alderman, I will always endeavor to make decisions with the best interests of the people at heart. Listening to the concerns of my constituents and being accountable to taxpayers are top priorities. Through fiscal responsibility, proactive planning and forging partnerships with community stakeholders, I pledge to do my part to make Fayetteville the very best it can be."

Paid for by Adella Gray for City Council - Denise Garner, Treasurer

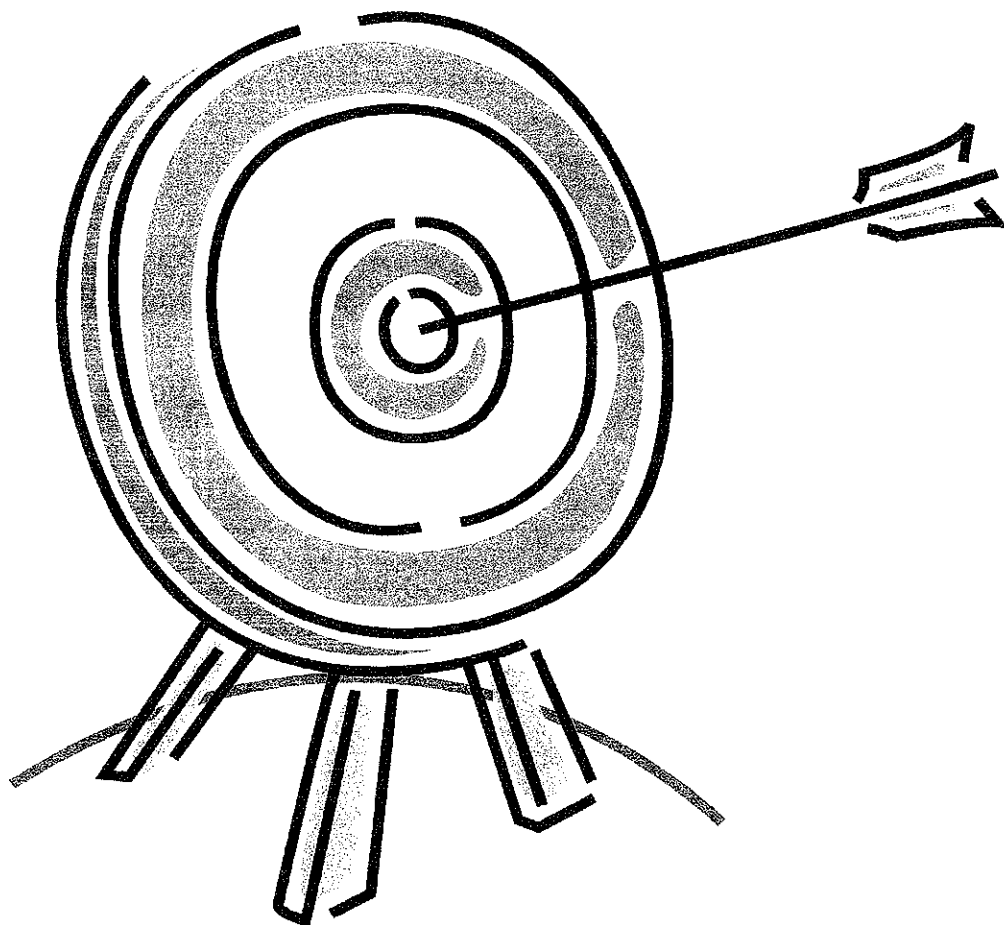
Density

**Higher density than, Dallas,
Chicago, Denver, Rome, London
etc!!**

**If we wanted to live in
New York City,
We'd move there.**



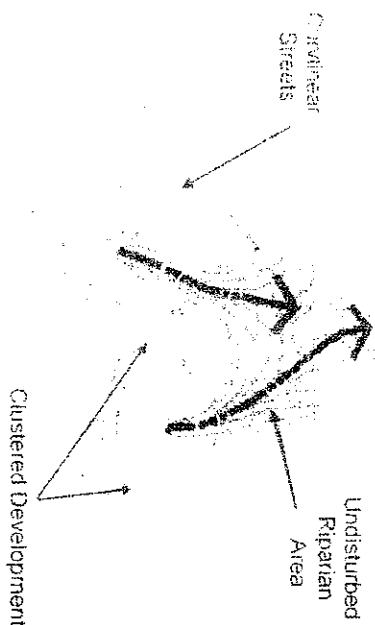
**Fact: This property is not a
2025 area targeted for infill
development.**

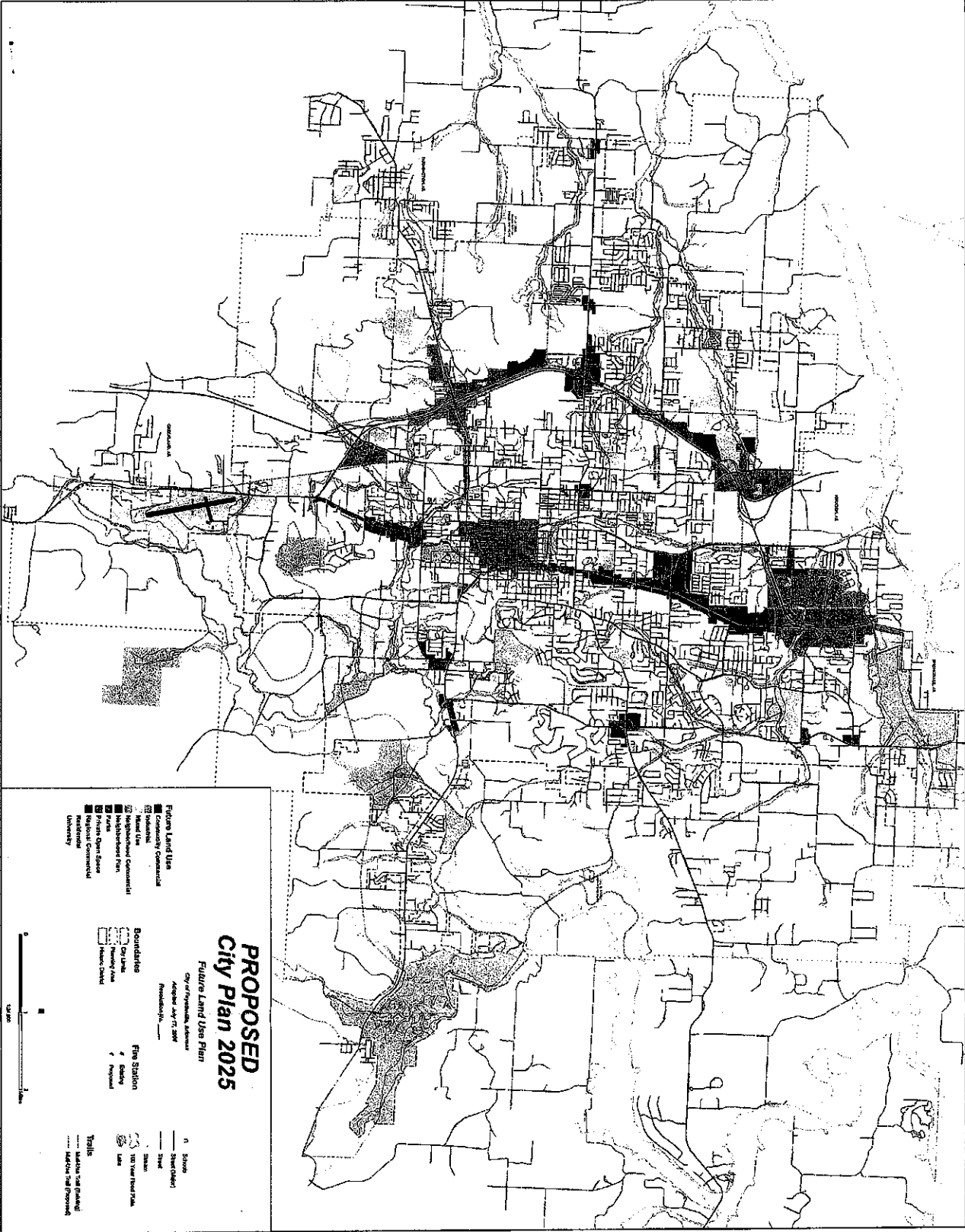


• Cluster Development:

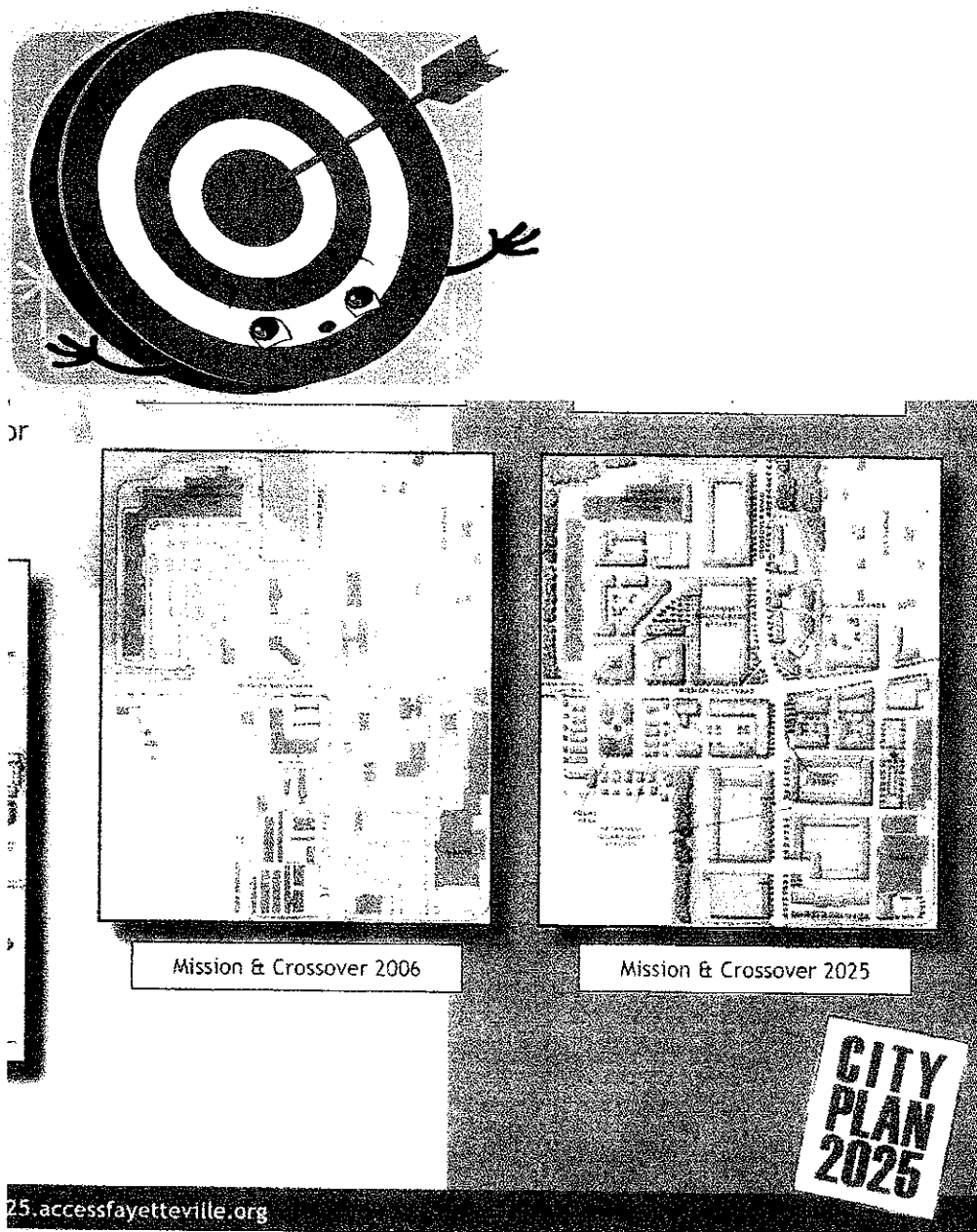
Cluster development is an option that allows flexibility in lot size with development located in areas with the least amount of slope. A developer in the Hillside Overlay District may request through the PZD process a cluster development project. Cluster development patterns should be utilized to:

- Developers who request development rights vested through the Planned Zoning District ordinance are encouraged to use the Hillside Best Management Practices Manual in order to guide their development.
- Encourage development to occur in areas and on lands with less slope.
- Encourage more open space and tree preservation.
- Facilitate the transfer of the tree preservation requirements for single lots to a larger contiguous open space adjacent to the development.
- Minimize the view of development from the valley below with the preservation of tree cover within the public open spaces.

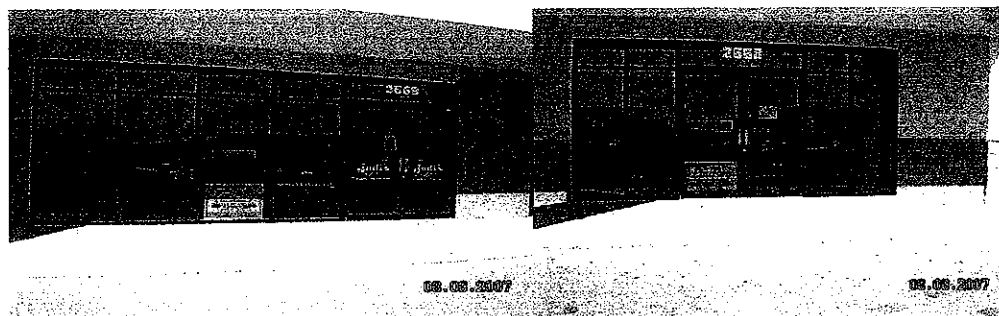
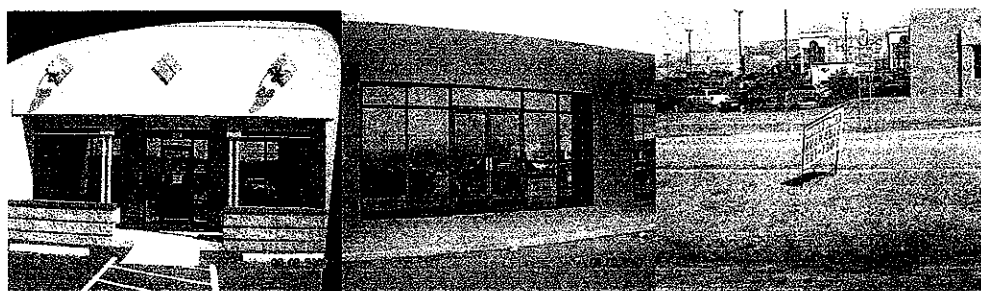




Fact: The corner of Highway 265 and Mission is the targeted area.

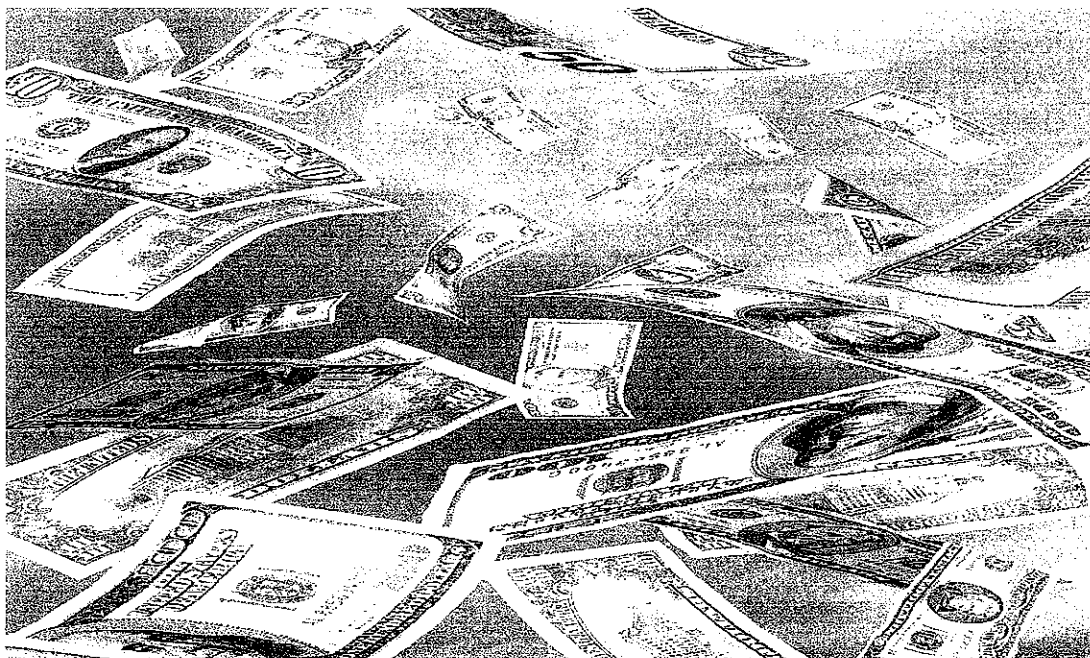


SPACE FOR RENT OR LEASE



**Lots of space on Crossover and
Mission available!!**

SHOW ME THE MONEY!



THIS DEVELOPMENT IS ALL ABOUT MONEY!



**TOTAL COSTS FOR THE
RUSKIN PROJECT... 16.7
MILLION \$\$
TOTAL REVENUE FOR 295
LOTS....**

24.8 MILLION \$\$

PROFIT

8.1 MILLION \$\$

**Caveat
Emptor**

Or

**Buyer
Beware**

**The developers
knew the land was
RSF-4
when they bought it.
To be compatable
with our
neighborhoods, they
shouldn't expect it to
be otherwise.**

The Question:

**Have you ever heard of
Duany Plater-Zyberk?***



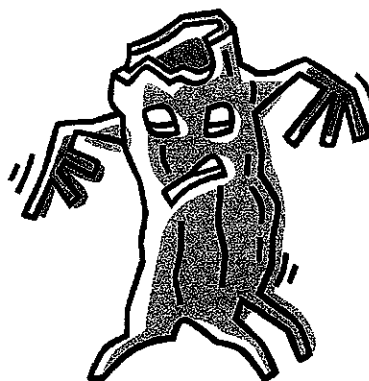
*** World renowned New Urbanist
developers.**

The answer:

“Who?”

**The most common
answer given by people
polled.**

PZD'S ARE SCARY!

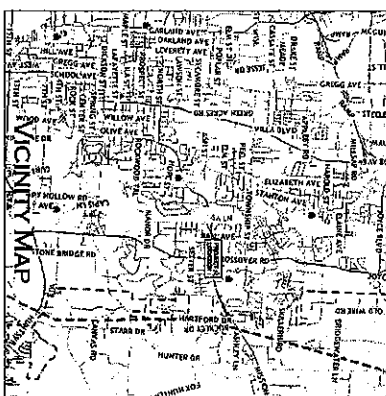
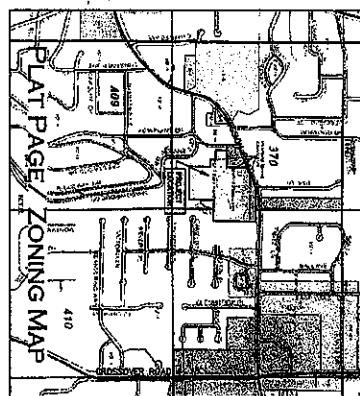
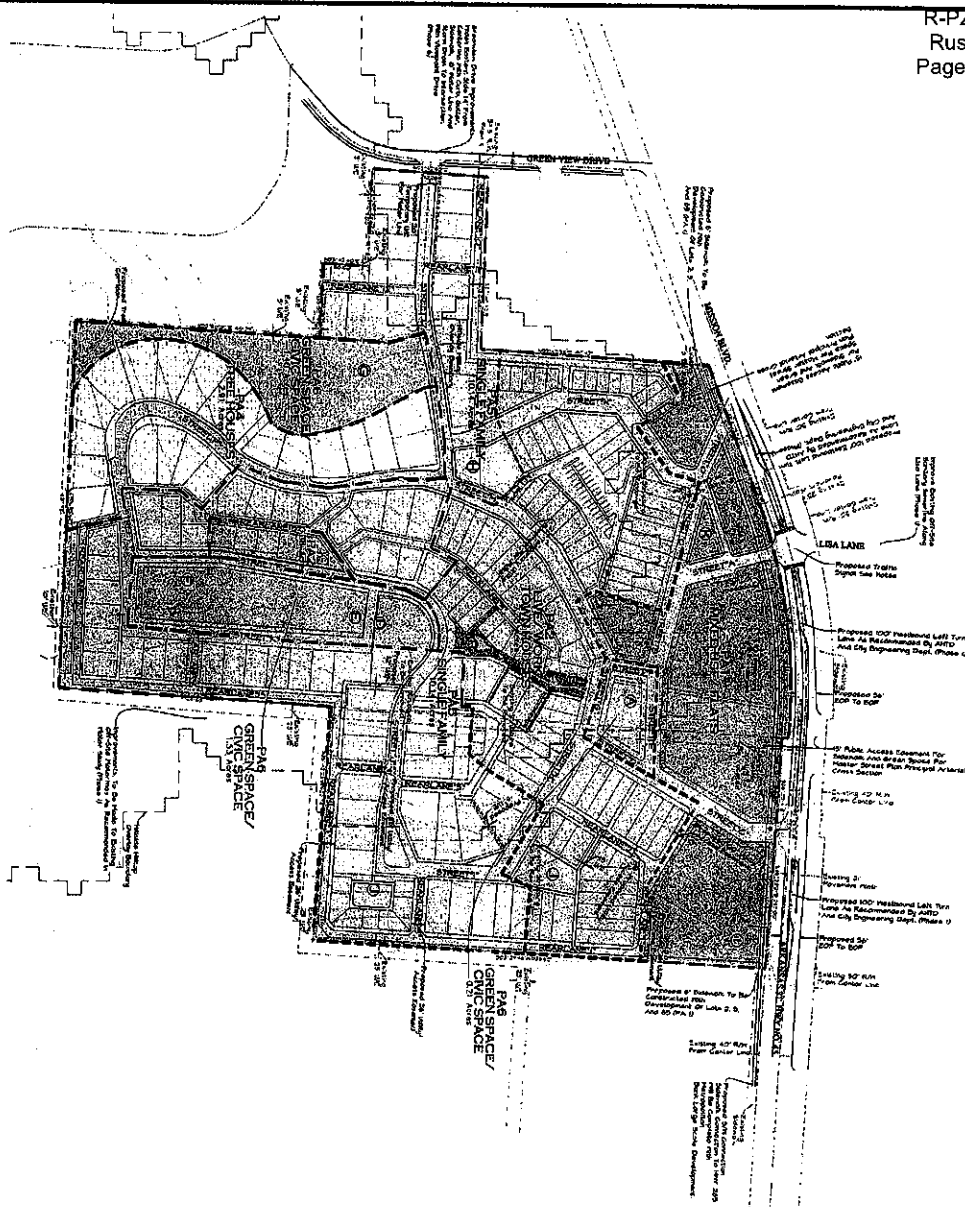


The current PZD request of 295 units still creates areas from the largest single family homes as RSF-9 to the mixed use flats as RMF-24. The largest number of those units being the latter. If this is approved, they will come back later for RMF-40.

The scary part for neighbors is that once the PZD is granted, the developers will no longer be held to the original plan. All changes and additions can be handled in the city planning department without *your* approval or public input. The submittal drawing being presented is too vague.

I want to know what is to be built behind my home, precisely. Do you know? I sure don't.

RUSKIN HEIGHTS



EXISTING		PROPOSED		TOTAL	
AREA	ACRES	AREA	ACRES	AREA	ACRES
RESIDENTIAL	1.2	RESIDENTIAL	1.2	RESIDENTIAL	1.2
PARKING	0.5	PARKING	0.5	PARKING	0.5
GREEN SPACE	0.3	GREEN SPACE	0.3	GREEN SPACE	0.3
OTHER	0.1	OTHER	0.1	OTHER	0.1
TOTAL	2.1	TOTAL	2.1	TOTAL	2.1



COMMUNITY BY DESIGN, LLC
18 WEST TRENTON BLVD.
SUITE 201
FAVETEVILLE, AR 7201
479 444 0095

LEGEND

- PROPOSED
- EXISTING
- RESIDENTIAL
- PARKING
- GREEN SPACE
- OTHER
- ...

NOTES

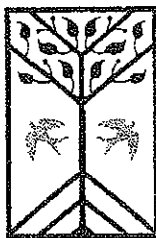
1. ALL PROPOSED IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS, AS ADOPTED BY THE BOARD OF SUPERVISORS.

CIVIC USE INDEX

- MARKET SQUARE
- SPANISH STEPS PUBLIC ACCESS PARKING
- CLUBHOUSE/ CIVIC CENTER
- WALKER GREEN PUBLIC ACCESS PARKING
- SWIM CLUB
- TRAIL/ WALKWAY/ JAIL COMMON
- CONCERT PARK
- MONUMENT

DESIGNER	DATE	REVISION
COMMUNITY BY DESIGN, LLC	02/27/09	1

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,

A handwritten signature in dark ink, appearing to read 'Ward Davis', is written over the printed name.

Ward Davis

POINTS TO PONDER

The developers are just selling lots. They are not building the development. This leaves the look of the project in the hands of any builder who happens to buy the lots. Has anyone seen a definitive blueprint with all phases of this project completed?

Affordability: The completed single family detached homes are priced at \$639,600.00.

Walkability: The slope at 20% is too steep for viable pedestrian use.

Averages # of units 295

of cars per household: 2.13*

of trips per household 6.36*

(figures do not include commercial space)

***U.S. Dept. of Transportation**

Problems with the Traffic Study



1. Traffic counts have not considered the traffic from Greenview, Park Place, Viewpoint, East Oaks, Winwood, etc.
2. Mission Boulevard Baptist Church and church school traffic have not been factored in the plan.

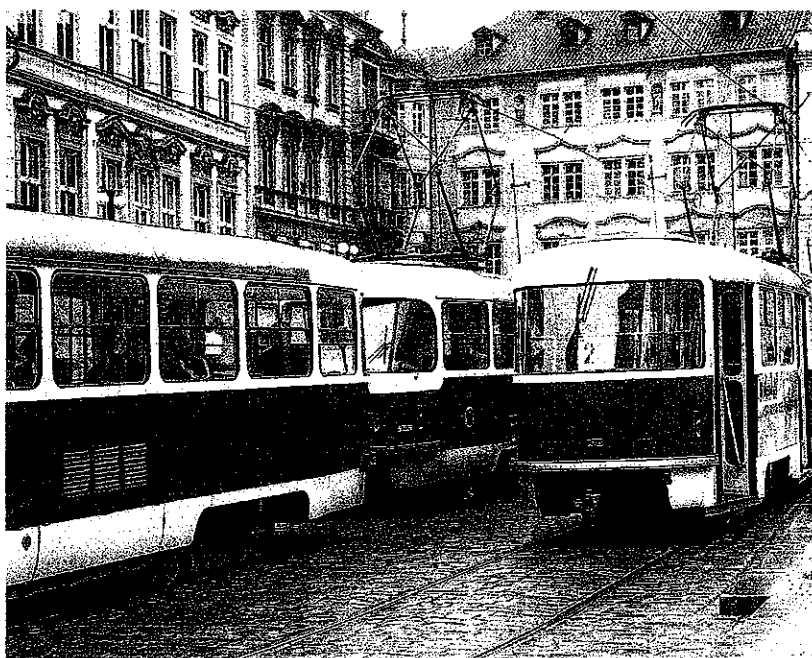
2. Mission Boulevard Baptist Church and church school traffic have not been factored in the plan.
3. The pulse created by a traffic light at Lisa Lane will block movement from Greenview, Viewpoint, and Winwood. It will make it harder for *established residents* to “pulse” into traffic.
4. How can you get four traffic lanes and a turn lane to fit into this area?
5. How many truckloads of dirt will need to be moved to build a road that would connect to a possible traffic signal?
6. The New Hampshire company that produced this study primarily works for TND* urban developments as a paid consultant.
7. No matter how many traffic lights or outlets this development is granted, there's no escaping the fact that an average of 590 cars (295 X 2) are going to be dumped onto Mission daily.



- Traditional Neighborhood Design as defined in New Urbanism.

Mass Transit

is not available to service this development.



Fact: A key component of New Urbanism, or TND, is available mass

Fact: A key component of New Urbanism, or TND, is available mass transit for the residents. (Rail heads and bus systems*)

"...such development should be within ¼ mile of the transit facility."*

d. Promote densest development around future transit stops

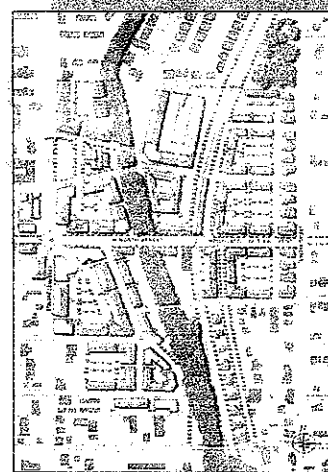
Transit requires density. In a study undertaken for the Portland Metro Area West-side Light Rail, a literature review demonstrated that mode capture was greatest within walking distance of the station (30 percent) and fell off as distance increased with very low capture outside of a mile radius unless park-and-ride facilities were provided. The implication is that providing transit requires the greatest concentration of housing and jobs to be within walking distance of transit stations. For this purpose, such development should be within a quarter-mile of the transit facility. If transit is to serve a regional function, the densest development should be located in the vicinity of transit stations to ensure an effective and well-used system.

e. Reinvest in parks, streets, & civic buildings within the heart of the city

The tree-lined streets, parks, and historic civic buildings found in Fayetteville's older neighborhoods greatly contribute to the unique community character and high quality of life that residents treasure.



Reinvestment in the City core



North & Leverett, 2025 Transit-worthy design

**CITY
PLAN
2025**

***City Plan 2025**

deviated route from a dial-a-ride system. This switch means that buses will serve fixed routes but deviate from those routes when one of the passengers is unable to make it to a designated stop. The system is operated in conjunction with local human service agencies, private operators, and local governments and costs between \$.50 and a \$1 to ride.

7.4 Rail

A Northwest Arkansas Light Rail Transit System

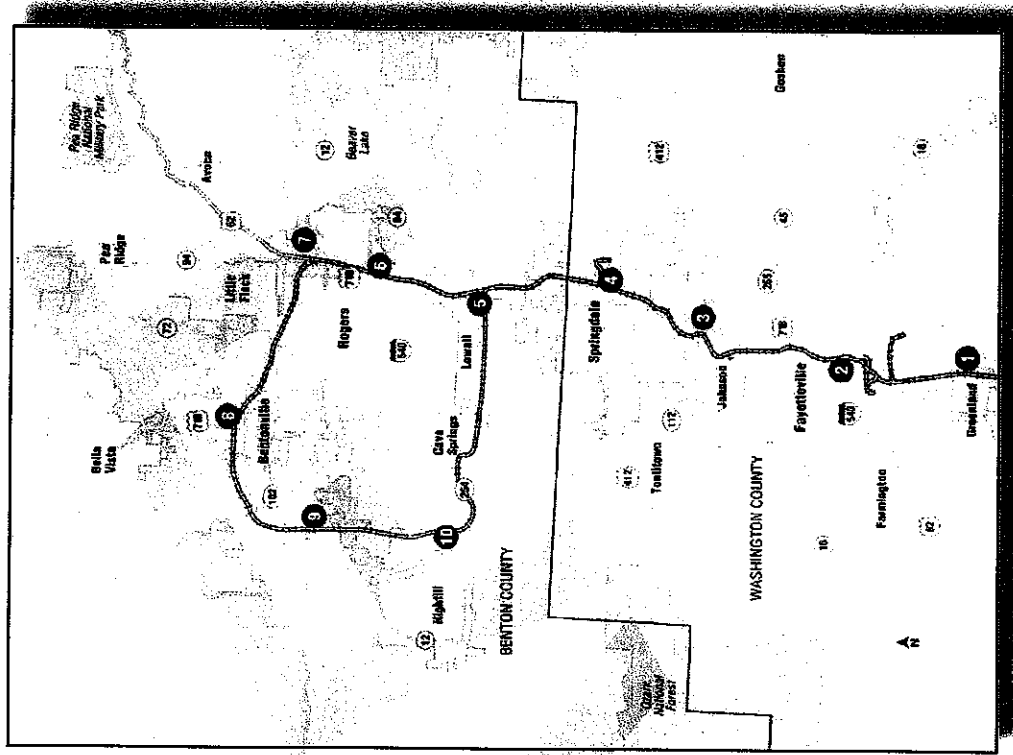
Beta-Rubicon, Inc, completed a preliminary feasibility study for a light rail transit (LRT) system in Northwest Arkansas in July 2005. The study examined the possibility of a "green" light rail system that would operate between Drake Field in Fayetteville and Bentonville. The study concluded that a LRT system is a viable option for the region but requires both public and private support.

The study concludes that the most cost-effective route would predominantly follow the current Arkansas-Missouri railroad line, utilizing existing right-of-way. However, the current estimate of costs ranges between \$550 million to \$1.24 billion. This cost will only increase as the price of land increases in Northwest Arkansas, which creates a sense of urgency in moving a LRT project forward.

A Northwest Arkansas Light Rail Transit Forum, held in November 2005, provided an analysis of regional demographics and population growth that demonstrated the potential of supporting a transit system of this magnitude. The Arkansas-Missouri railroad management and elected officials at the federal level expressed a willingness to support a LRT initiative. After the forum, a regional action committee formed and seeks to develop public and private partnerships to support a LRT project.

Current Rail

Fayetteville is served by an active rail line, the Arkansas and Missouri Railroad, which divides the city in a north/south direction and stretches from Monett, Missouri to Fort Smith, Arkansas along 149 miles of track. The Railroad also operates a tourist passenger train, making day trips originating in Springdale to local areas of interest.



Proposed Light Rail Transit System

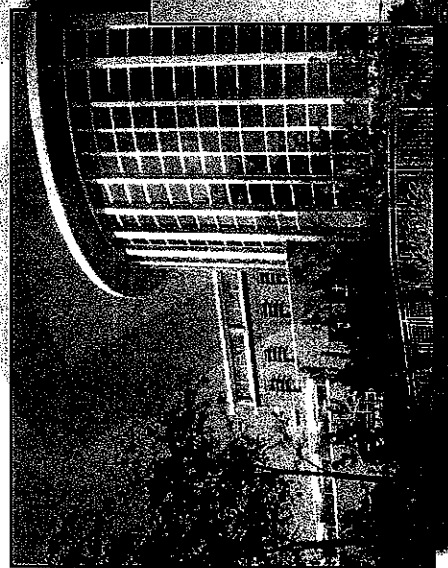


d. Promote densest development around future transit stops

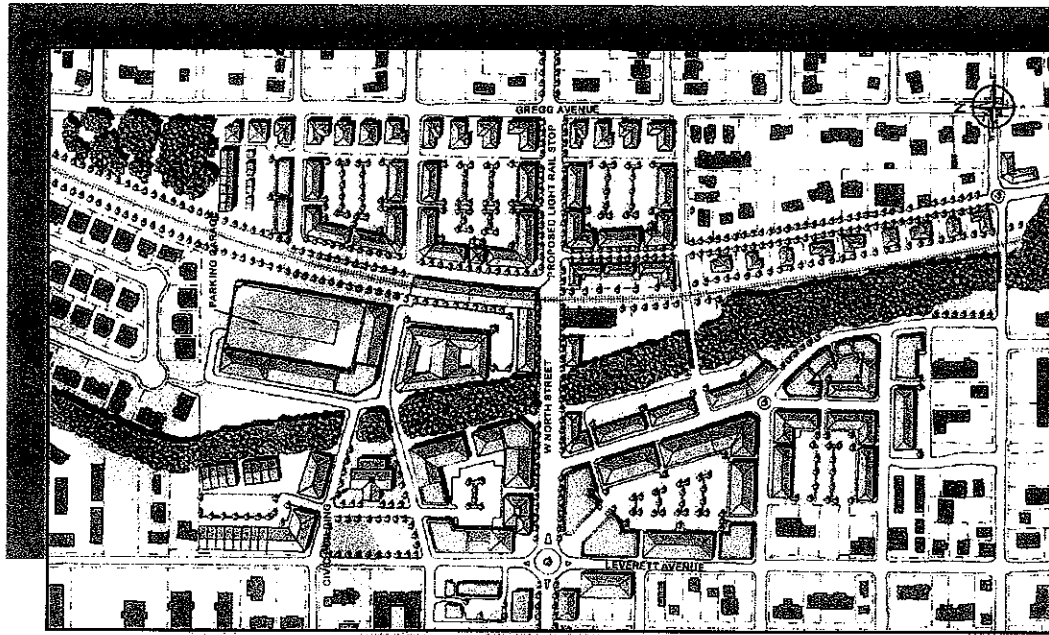
Transit requires density. In a study undertaken for the Portland Metro Area West-side Light Rail, a literature review demonstrated that mode capture was greatest within walking distance of the station (30 percent) and fell off as distance increased with very low capture outside of a mile radius unless park-and-ride facilities were provided. The implication is that providing transit requires the greatest concentration of housing and jobs to be within walking distance of transit stations. For this purpose, such development should be within a quarter-mile of the transit facility. If transit is to serve a regional function, the densest development should be located in the vicinity of transit stations to ensure an effective and well-used system.

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Reinvestment in the City core



North & Leverett,
2025 Transit-worthy design

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2025**

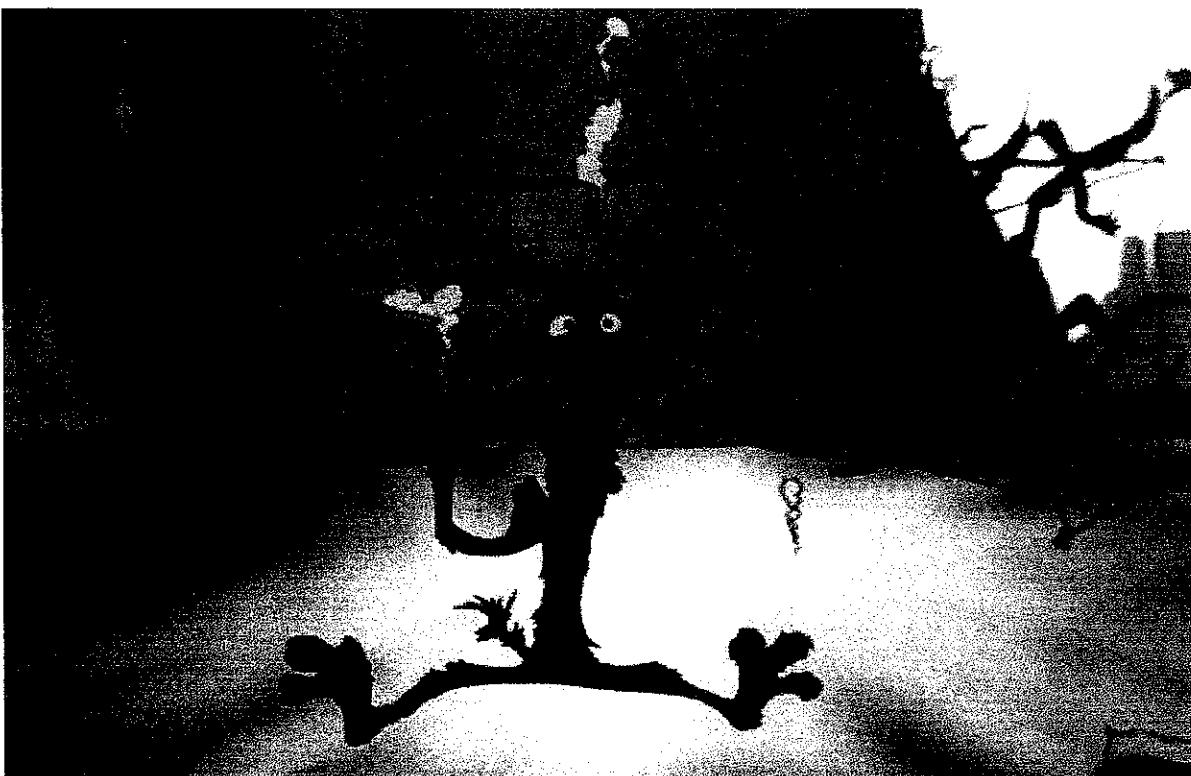
Page 25

Destabilization Of Surrounding Properties



Kings Drive

The construction of streets and utilities in this area will likely require BLASTING. The area behind the old Dillions store and Park Place were once limestone quarries.



• **Geologic Hazards:**

Based on a 2001 report by King published in the Journal of Arkansas Academy of Science, much of the Fayetteville area is located on shale strata containing swelling clays. These clays weather rapidly and form expansive soils. These soils swell and shrink depending on the variation of moisture content within the clay. The nature of these soils with their swelling and shrinking can cause heaving, cracking, water seepage and rotting of wood building components. They also cause subsidence in paving areas, excessive runoff after rain events, down-slope creep and the slumping of steep slopes. Although there are many solutions to these problems, they can be very costly to install and remediate after construction. Often the cost of remediation for foundation problems post-construction can exceed 10-25% of the assessed value of the home. The detrimental effects of construction on hazardous soils can be mitigated by property owners' access to a

detailed geotechnical report conducted on the building lot. A geotechnical report will give lot owners and builders an understanding of the soil conditions as they relate to the specific property. Mitigation of soil inadequacies can then be explored, which may entail a need for engineered foundations, slip foundations, or other methods or construction techniques that will ensure that structures are built in an appropriate manner.

Expansive Soil hazards in the Fayetteville Quadrangle:

1. Lower Fayetteville Shale:

Located mostly on the flatter or slightly sloped hillsides, this soil covers an expansive (45.5%) area of the Fayetteville Quadrangle. *The weathered clay horizon of this unit ranges from 0 m to 10 m thick and rests on top of the un-weathered shale. Adverse effects associated with construction on the lower Fayetteville shale are differential subsidence of pavements resulting in extreme cracking and*

unevenness, cracking of foundations and retaining walls, cracking of concrete floors, cracking of concrete driveways, separation of concrete floor seams, rotting of wooden floors and other wooden components of houses, various breaks in masonry above the foundation, runoff from heavy rain fall, seeps emerging from paved areas, seeps emerging in houses between concrete floor seams, and corrosion of buried pipes. With the expansion and contraction of the lower Fayetteville Shale clays, even areas with very gentle slopes display evidence of creep. (King, 2001).

2. Upper Fayetteville Shale:

Located primarily on moderately steep slopes. The upper Fayetteville Shale has a much smaller aerial extent (4.7%) than the lower Fayetteville Shale. This soil is susceptible to creep and slumping. The area of contact between the Upper Fayetteville Shale and the Wedington Member is also the location of frequent springs and seeps.

Urban development is best suited in areas to the west and northeast where soil limitations are the least restrictive. These are also the areas where current development and future market activities are most active.

6.3 Slope and Hillsides

Slope, or gradient, is a critical factor in determining a soil's suitability for supporting development. The development of severe slopes involving soils not capable of providing foundation support may result in extensive cutting and filling in an effort to stabilize them. When compounded by the removal of existing vegetation, excavation and fill of soil can result in severe erosion and run-off, slumping and shearing.

In Fayetteville, areas of more severe slope are also characterized by soils less suitable for development. Shallower depth to bedrock conditions compound problems in these areas. There are several identified beds of cherty limestone, acid sandstone, siltstone and shale that have shown some faulting and folding at steeper locations.

Of the 55,012 acres within the City and its Planning Area, some 15 percent, or 8,900 acres, have slopes of 15 percent or greater. With notable exceptions, such as Mount Sequoyah, these slopes previously remained largely undeveloped; however, more recent trends indicate that development on hillsides is increasing, which has led to the passage of an ordinance that provides additional protections on slopes that are 15 percent or greater and hilltops.

The Hillsides and Hilltops map identifies three major areas where severe slopes are predominant:

Southwest quadrant of the Planning Area paralleling both sides of the route for U.S. 71. Almost the entire quadrant is restricted. Some of the highest elevations in the Planning Area are found here.

Southeast extreme of the Planning Area. The area is blocked by a solid line of severe slopes. Pockets are found around the Country Club.

Northeast quadrant of the Planning Area paralleling and to the east of Old Wire Road. The steeper slopes are generally confined to a narrow line that terminates on the southern end with Mount Sequoyah.



Soil characteristics are an important determinant of land use. Steep slopes and floodplains are less suitable for more urban forms of development and may require special treatment. Ideally, these areas should be reserved for open space, passive recreation, conservation and agriculture. Where more intensive development of these areas is permitted, performance standards should be utilized in mitigating impacts to the environment. Soils with high water tables and poor percolative ability greatly increase the cost of community sewerage systems. Edaphic conditions can also lead to increased stormwater infiltration and stress the capacity of wastewater facilities. Soils also dictate engineering requirements for industrial use and trafficways. Many of the soils in and around the urbanized area are stony and rocky, have high shrink-swell potential, or have low load-bearing or traffic-supporting capacity.

Most of the land in the Fayetteville planning area has some restrictions for urban development. The Soil Suitability for Development map groups soil series by degree of suitability for urban development. The Map can be summarized by a description of the four major areas where soil limitations are most restrictive:

- Southwest quadrant of the planning area: Almost the entire quadrant is covered by the most restrictive soils. Moderately restrictive soils occupy the area between Wedington Road and U.S. Highway 62 west of Interstate 540.
- Southeast extreme of the planning area: Included are pockets of the most restrictive soils around the country club and along the West Fork of the White River.
- Eastern edge of the existing city limits: A large mass of the most restrictive soils is located between Mission Boulevard and Crossover Road. This area is partially developed with residences.
- Northeast edge of the older city: Pockets of the most and moderately restrictive soils are located between Mission Blvd. and Crossover Road. The area is partially developed with residences.

Generally, the western and extreme northeastern portions of the planning area contain soils with the least restrictions. These soils are sufficiently permeable to be suitable for septic tank drainfields. Perched watertable occurrences are more frequent in the extreme west. Some watertable restrictions are found in the extreme east as well.

Soil capability and its companion topographic features have influenced the pattern of land use in Fayetteville. Through streets and rail lines follow the stream valleys while roads that cross steep grades tend to be short and discontinuous. The pattern established by early settlers of building houses on the hills and farming the creek bottoms still prevails, with residential areas on the hills and commercial development along the highways.





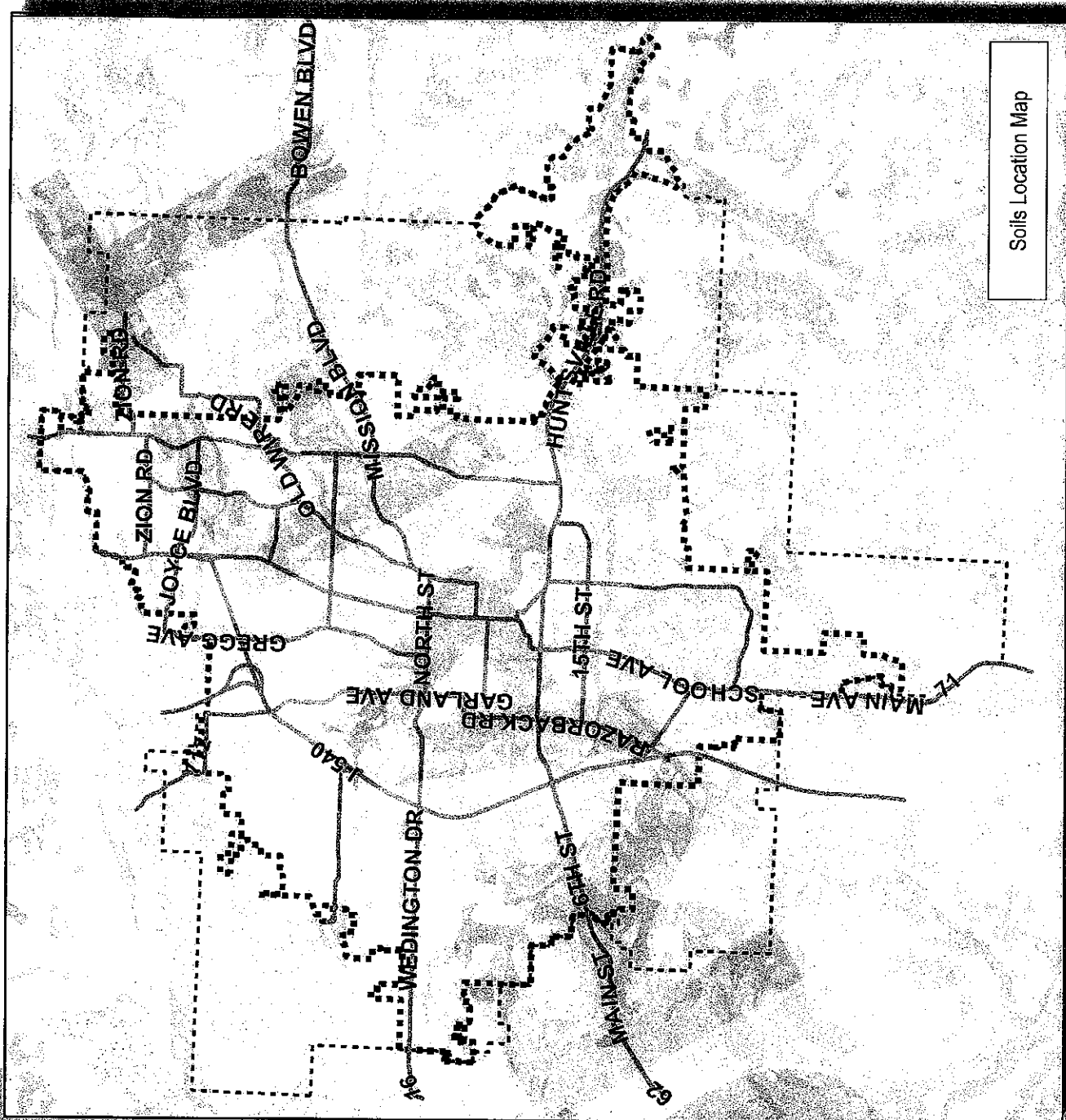
**Soil Suitability
for Development**

Legend

- Not limited
- Moderately limited
- Limited
- Very limited
- Not rated

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Soils Location Map



Soil Type	Legend	Soil Type
musym	EnC	NaD
	EnC2	PeB
	EnD	PoC2
	EnD2	PgC2
	EoD	PkC2
	EfE	PkD2
	EfF	PsB
	FaC2	PsC2
	FaD2	Ra
	FaE2	Rg
	FaF	Rk
	FfF	Ro
	GPI	SHO
	GuC	Sa
	HmC	Sb
	HmD	StB
	HoF	StC2
	JaB	Sn
	JaC	So
	Jo	Sp
	Js	SsA
	Le	SsB
	Lf	SsC2
	LfB	SsD2
	LkC2	StD2
	LnC2	StE2
	Lnd	Ta
	MPI	ToA
	MeD	ToB
	MeE	W
	NaC	

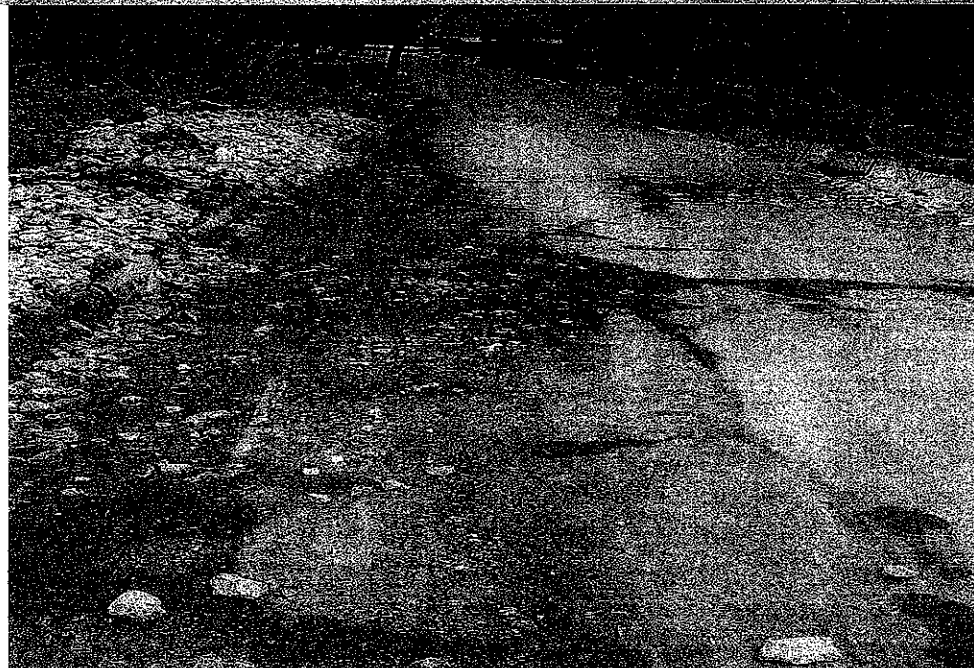
*see Appendix A for details

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2025**

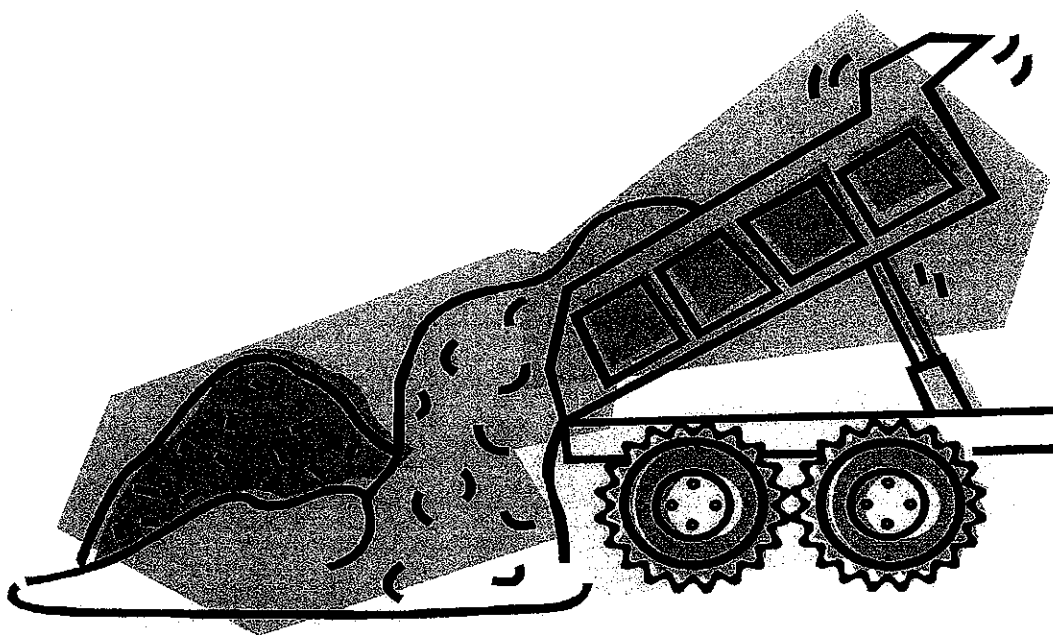
King's Drive is a royal mess!



**The Mission Hills
conundrum still has not
been repaired.
We do not want this
happening in our
neighborhood!**



Making a molehill Out of a Mountain

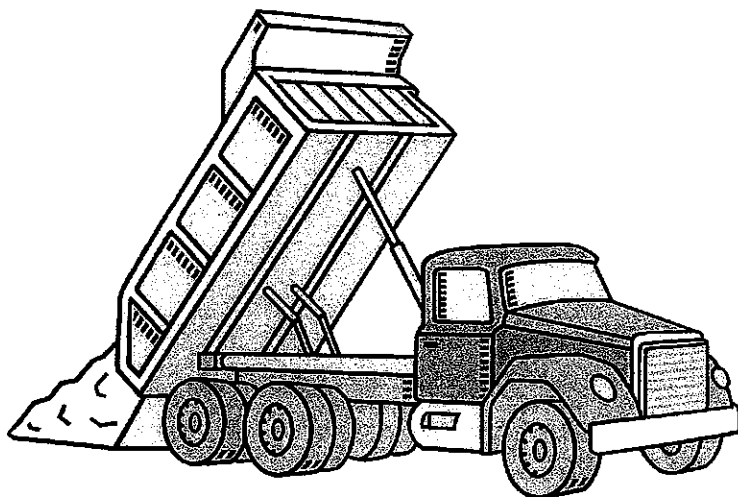


Dirt removal:

100,000 cubic yards

or

6,500 dump truck loads

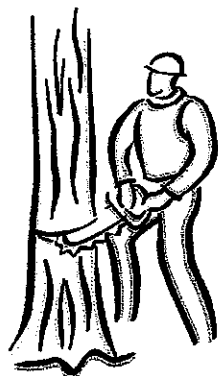


**Money doesn't grow on
trees.....**



**In this development,
money replaces them.**

**The city traded
\$259,200 dollars for the
required 6.48 acres to be
reduced to 3.11 acres. A
net loss of 3.5 acres of
trees!**



Where do the existing codes fall short?

- Current zoning code is designed for flat land development
- Height limitations, setbacks, lot size and lot layout design
- Grading ordinance does not address innovative ways to retain grade with home design

What are the loop holes in the current regulatory codes?

- New development less than one acre in size is generally exempt from many development requirements
- Tree preservation is not required on single lot development
- Tree preservation is required of the developer at the time of platting; however, lot owners and builders may remove preserved tree canopy from their individual lots

Code Revision Process:

The process outlined below illustrates the steps taken by the City, the Hillside Task Force and Design Workshop to specifically revise the current codes.

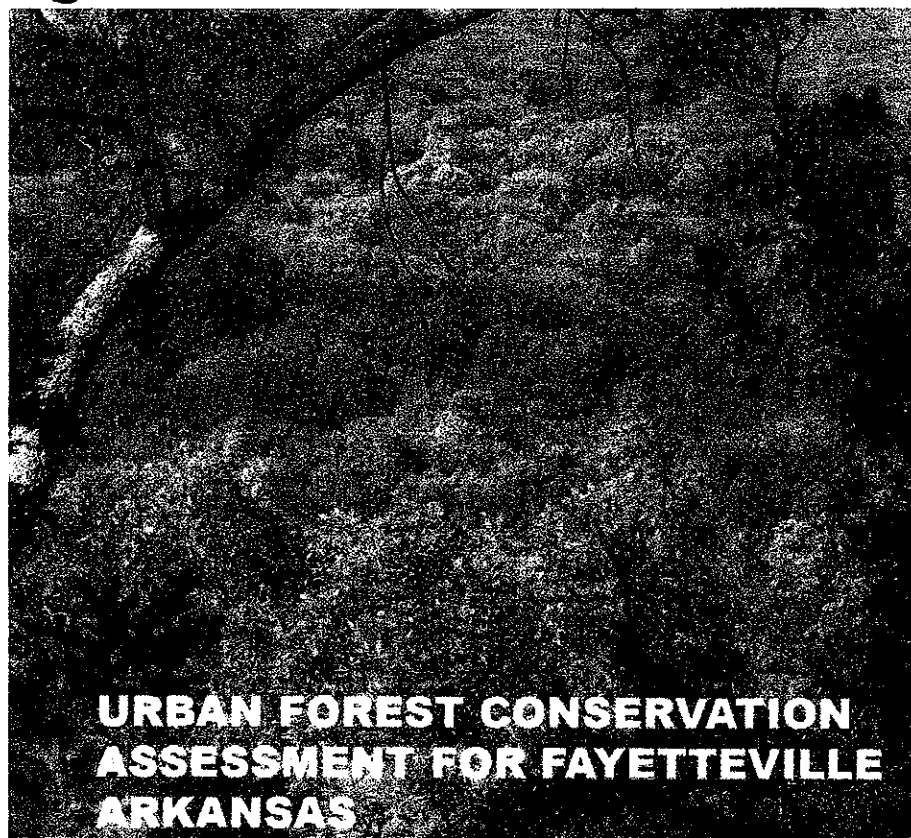
1. Review the existing conditions and define the Hillside Overlay District Map.
2. Test and review the current development codes to determine the loopholes in the current codes:
 - Zoning
 - Grading
 - Tree Preservation
 - Erosion and Sediment Control
 - Parking
3. Amend the current Unified Development Ordinance Codes to be more conducive to hillside development.
4. Create a Hillside Overlay District Best Management Practices Manual.

• **Zoning:**

To examine existing zoning codes, Design Workshop created plans and sections illustrating minimum allowable lot size, maximum allowable building footprint, and front, side, and rear setbacks. The analysis revealed that existing lot conditions do not promote sound development practices with respect to preserving tree canopy, preventing erosion, and protecting views both to and from the hillsides. The existing setbacks contribute to excessive land disturbance. Grading for roads and right-of-way coupled with large front building setbacks creates additional potential for land disturbance.

The following illustrations summarize each of the major zoning classifications found on Fayetteville's hillsides. These studies depict the pattern of development per the current zoning regulations, in plan view and cross-section, illustrating the potential impact when applying the current development codes to lands on an average 20% slope. Also summarized is a diagram

**This area has been
designated as an area
for preservation.**



- **Tree Canopy:**

Currently, the undeveloped hillsides in Fayetteville are predominantly covered with trees, and are visually perceived to be predominantly tree covered. This tree cover is highly visible because the hillsides rise three to four hundred feet above the surrounding area and are very visible from many areas within the city. Any tree cover that is removed for development is usually visible and typically brings attention to the project and the development process. Tree cover removal may disrupt the natural ecosystems, change the hydrologic characteristics of the hillsides, and potentially increase the impacts of erosion and soil instability.

The following map illustrates the distribution of existing tree canopy, indicated in green.



Tree Canopy Cover for the City of Fayetteville, AR. {City of Fayetteville 2003}

Mayor Coody: Yes.

Alderman Jordan: The developer has to leave a certain percent but the person that buys the lot can take all trees out if he wants to?

Mayor Coody: The tree preservation plan does not apply to a single family lot owner just the developer.

Tom Terminella asked for the definition of abbreviated tree preservation plan and what happens when the only tree canopy is in the middle of the lot?

City Attorney Kit Williams: There can be mitigation in that particular case some other place on the lot. He also read the abbreviated tree preservation plan.

A discussion followed on the abbreviated tree preservation plan.

Jeff Williams voiced his concern about the ordinance and it applying to storage buildings.

Don Conner a resident voiced his concern about keeping the tree plan in for individual lots because that is basically what this ordinance is supporting, trying to keep the soil from washing away and the existing trees are a lot better than replanting trees.

Tracy Hoskins: Am I assuming that the tree mitigation ordinance we go by today will apply to the single family lots as well?

Tim Conklin: It is the same mitigation but keep in mind the canopy is based on the lot not the subdivision. Yes, if you have to mitigate you would have the same procedure to mitigate.

A discussion followed on the mitigation process and how individual lots are currently built out.

Alderman Thiel moved to amend the ordinance to *remove all references to tree preservation protection within single family residential developments and require that an abbreviated tree preservation plan be required within single family residential developments.* Alderman Marr seconded the motion. Upon roll call the motion passed 6-1. Alderman Lucas, Jordan, Reynolds, Thiel, Cook and Marr voting yes. Alderman Ferrell voting no. Alderman Rhoads was absent during the vote.

Mayor Coody: The next issue is should all zoning districts be required to preserve 30% tree canopy so the commercial zones must double their required canopy.

Alderman Ferrell: All zoning districts in the hillside?

City Attorney Kit Williams: Yes just in the hillside, it states Hillside Overlay District all zoning designations are to be 30%.

Mayor Coody asked how much non-residential zoning falls within the Hillside Overlay.

Tim Conklin: Around 200 acres out of approximately 3,700 acres.

Hey! We were here first!



**The safety, viewshed,
and quality of life for
the adjoining neighbors
will be adversely
affected by the density
and traffic created by
this development. This
is *not* in keeping with
the 2025 Plan.**

Comments from the Neighbors

The citizen stated that her concern was traffic....She had seen a deer on the hill. If the development came to be, she feared she would not see that any more. She would like for this to be held off until they could get more proof on how the traffic was an issue. Already it was tight. Buses could not go up there. There was no way to turn around.....

This citizen stated he came to speak about the traffic and how it would be without the woods. There were a lot of animals and they would not be able to ride their bikes.

This lady presented a petition supporting the preservation of the urban forest located on Mt. Sequoyah. They opposed the development.

This man stated his association was in opposition to this development. Many others in their community and neighborhood were also opposed to this development. Some for reasons of congestion, safety, and etc.

She would like to address the issue of the impact of the increased traffic on the safety of their children and families in the neighborhood....Their thought was that if they increased the traffic along that curve that it was going to be more dangerous.So all of us that lived in that area had modified the way they live because of the current traffic pattern. She could not even imagine how it would be with 27 other cars.

make it up the hill. They had to drive their kids to school. The roads were considered unsafe for school buses....It did not make sense to build this project in this area.

He urged them to review their information. He urged them to base their decision not on fear of lawsuit, but on the impact to the neighborhood and impact to the city's infrastructure and safety in the neighborhood.

He stated that the Planning Commission regulation stated that topography could be used as an exception. The topography of the land did not lend itself easily to ingress and egress. There will be cars on the road when weather was not good and at other times. It was unsafe.....This will not fit with their neighborhood.

He stated the most important thing that he could think of was 9 units on one acre did not fit the whole style of Mount Sequoyah. It was more of a historical district than a suburb. They had deer herds, road runners, and wild turkey. He asked why a person could not build one single family dwelling instead of nine units.

Council Response

Alderman Thiel stated one of the main concerns was that other than the required parking spaces there was no off-street parking available for this

complex for visitors or guests. It looked to her that people were going to be parking along the street. Not only did the staff state that was a concern, but she could see where that was a major concern because the street was so narrow. It was going to be a traffic hazard in her opinion.

Alderman Thiel stated she had received a memo from City Attorney stating they could specifically deny an appeal if the proposed development would create or compound a dangerous traffic condition.

Alderman Marr asked on a traffic study, stated he was not comfortable relying solely on the study because there was some subjectivity to it. It talked about the number of trips per day, but it did not look at it by times of day. They could have a thousand trips on a local street road and the majority of that could happen during going to and from work. The conditions were very different from those numbers spread out over a 24 hour time period. There was also the reality of the law of common sense and real world. When they drive and walk that road, he thought it was easy for someone who comes in to look at it and say that it could handle up to one thousand cars, but the law of common sense would say that it was substandard.....He did not know why he would vote for or approve a development that only make a substandard

street worse. The reality of this was that he did not think that this zoning was proper. He did not think it was an R-2 place.The topography issues made this unsafe.

Alderman Reynolds stated he did not believe Mount Sequoyah had the infrastructure to support this project. He thought this project was going to be a danger to health, safety, and welfare for everyone on the mountain.

Alderman Young stated this was a typical development that was drawn on a flat piece of paper. This was not a flat piece of land.Topography should be considered. The courts would look at all the laws. This was the city council. One of the things that city council was charged to do was to look out for the health, safety, and welfare of the community. Allowing a dense development would hinder those three requirements. The topo should prevent this development from going forward.

Alderman Jordan stated this was a judgment call. When he saw 20 people come in from their neighborhood saying there was a problem, then there was something wrong. People had commented tonight that traffic conditions were a problem. The people who lived there knew what went on there. They knew what they were talking about.

***These comments are from City Council Minutes
dated June 18, 2002.***

Note:

The proposed development would have been built in Mayor Coody and City Attorney Kit William's neighborhood. It was defeated 8-0.

How, in such a few short years, have we gotten so far away from what the citizens want?

**One has to wonder how
a development that
requires 43 variances
ever got out of planning.
There really is
something wrong with
this picture!**

**"It's important once the
city decides on a policy
that it stay in place."**

**Mayor Dan Coody
NWA Times 03/04/2007**

**It's not just about what
developers and the
mayor want.....**



**It's what the citizens
want that should count!**

**No dense infill in areas
not targeted in the 2025
plan.**

This project has been pushed on the citizen's from it's inception.

At the Town Center Charrette The Mayor told us how wonderful this will be for the city.

There have been countless articles in the local papers quoting aldermen as being in support of this development.

The city staff is backing this project to the point of accepting 43 conditions of approval and variances in the UDC.

The neighbors have voiced their objections to the density, soils problems, non-conformity and lack of transition from the first meeting. The developers have refused to listen and the city has refused to listen. The mayor has been helping the developers get around the neighbors.

For democracy to work the decisions should be made in the sunshine, not before all of the issues are discussed.

We, the neighbors, have been told by the newspapers and in discussions with aldermen that we do not have the votes to defeat this PZD, So when was this decided?



We have a way to contact folks now. Tim Conklin is sending the list (see bottom of page) a copy of our letter. I will follow up with a line by line rebuttal after Tim's e-mail

Ward

Ward Davis
 Ruskin Heights
 2018 East Mission Boulevard
 Fayetteville, AR 72703
 ward@ruskinheights.com



From: dcoody [mailto:dcoody@swbell.net]
Sent: Monday, November 27, 2006 5:04 PM
To: Tim Conklin
Subject: Fw: URGENT: RUSKIN HEIGHTS DEVELOPMENT THREATENS NORTH END OF MT. SEQUOYAH
Importance: High

----- Original Message -----

From: Victoria Sowder
To: jecfay@aol.com ; scaulk@alltel.net ; abcetc@sbcglobal.net ; scondren@sbcglobal.net ; dorocov@cox.net ; carla.crawley@tyson.com ; jsfreund@uark.edu ; culbersons@sbcglobal.net ; ddavis1894@sbcglobal.net ; jbdiesel@yahoo.com ; kduval@uark.edu ; ozarkhigh@sbcglobal.net ; karolynk@aol.com ; kathy.fields@post.harvard.edu ; egardne@uark.edu ; Rebecca Garner ; krollet@uark.edu ; dennis.petersen2@cox.net ; karenmcspadden@cox.net ; SMelody770@aol.com
Sent: Monday, November 27, 2006 12:08 PM
Subject: URGENT: RUSKIN HEIGHTS DEVELOPMENT THREATENS NORTH END OF MT. SEQUOYAH

URGENT ATTENTION NEEDED IMMEDIATELY:

The developers of Ruskin Heights, the planned development adjacent to Park Place on the NE shoulder of Mt. Sequoyah (across from Westwood Gardens), will be presenting their revised plans at the Subdivision Committee meeting at 9AM on Thursday, November 30 (City Hall Room 219).

The developers originally were going to maintain the RSF-4 zoning and to develop 294 units. They are now asking for a PZD (planned zone development) RMF-24 and C-1 and to build 465 units!

Their plans include 250,000 square feet of retail space (equivalent to the square footage of a WalMart supercenter).

Be aware, too, that the developers are asking us (taxpayers) to build a \$250K tower on their development.

Access would include Greenview, as well as direct access off of Mission Boulevard. Imagine the increase in traffic..... imagine the drainage problems to existing homes and neighborhood area streets.....

I believe that almost anyone with any sense of neighborhood awareness realizes that this is too much development on too small a hillside area that is actually designated as the last urban forest on the north end of Mt. Sequoyah by the Fayetteville Natural Heritage Association.

The meeting time announced is obviously impossible for many of us. However, I encourage you to take five minutes and write to the Andrew Garner (the City's Senior Planner), to the Mayor, and to the Planning Commission c/o of the City Clerk to express your objection to a development of this magnitude on this endangered hillside.

Please give this your attention right now because some of the items OKed at this Subdivision Committee meeting may not be brought up again at the full Planning Commission meeting meaning it is imperative that we express our concerns and objections TODAY.

Stick your neck out for neighborhoods: email now and go on record as opposed to Ruskin Heights being developed as a PZD and as proposed at this revised, greatly increased density.

Andrew Garner (senior planner) agarner@ci.fayetteville.ar.us
 Mayor Coody dcoody@ci.fayetteville.ar.us
 Planning Commission c/o City Clerk city_clerk@ci.fayetteville.ar.us

Planning Commission:

Jill Anthes	610 N. Olive Avenue, Fayetteville, 72701	443-3107
Lois Bryant	412 E. Center, Fayetteville, 72701	521-4454
Candy Clark	P.O. Box 1482, Fayetteville, 72702	443-5409
James Graves	P.O. Box 452, Fayetteville, 72701	442-5628
Hillary Harris	87 E. Texas Way, Fayetteville, 72701	200-5707
Audy Lack	2702 N. Emerald Avenue, Fayetteville, 72703	582-5628
Christine Myres	1158 N. Maxwell Drive, Fayetteville, 72703	582-5364
Alan M. Ostner	312 S. Block Avenue, 72701	571-4155
Sean Trumbo	2592 N. Gregg, Suite 22, Fayetteville, 72703	442-4325

NOTE: Our Mt. Sequoyah North Neighborhood Association email distribution list follows. I typically send emails out in several (randomly arranged) batches below due to our server limitations -- so please remember that when you hit "reply to all," you are replying *only* to those in your random group. If you want to reply to *all* on our vine, you will have to paste in all of the names below. (Sorry for the inconvenience, but that's just the way it is in these days of increasing spam-awareness.)

Please keep me updated on your email addresses, and if you know anyone who would like to be added to our list, please just let me know because I'll be pleased to add them to our "North Sequoyah Neighborhood Vine."

egorder@uark.edu; jangree@swbell.net; rhodous@cox.net; Hollandlor@aol.com; cambrehorne@yahoo.com; rjsalon@swbell.net; BrainJohnson@cox.net; jlohr@uark.edu; lonnielusby@yahoo.com; davidmcc@aol.com; lmelmac@aol.com; mary.jernigan@sbcglobal.net; mullane@uark.edu; vozment@yahoo.com; jphilip@elkins.K12.ar.us; KSAP3643@cox.net; jlseg@sbcglobal.net; nickelp543@sbcglobal.net; aprassel@earthlink.net; jmrws@cox.net; beth@sudswash.com; stanley@sudswash.com; brad.ruth@cox.net; lrye@sbcglobal.net; wsaitta@cox.net; msaitta1@cox.net; jschrive@uark.edu; chadsims@gmail.com; nanceetah1@msn.com; lstewart65@yahoo.com; RSSwit@aol.com; jteas@uark.edu; gtolleson@sbcglobal.net; jtolleso@uark.edu; jbatch72@ipa.net; rsbenton@cox.net; RobertGinnaven@aol.com; leannund@aol.com; fredsv@cox.net; nnnwatson@cox.net; sheaweidner@hotmail.com; gary_whicker@sbcglobal.net; j.wisdom@sbcglobal.net; efuller@uark.edu; Steve_Rogers@jbhunt.com; czbaker@cox.net; john-echo@sbcglobal.net; jerry.c.stamps@tyson.com; purpledog12@swbell.net; yasmina2@cox.net; lgsager@cox.net; momontherun@sbcglobal.net; pauldickard@cox.net; katherinebrill@yahoo.com; sspencer98@cox.net; janebshiple@sbcglobal.net; janvolkamer@aol.com; tuttlefarm@aol.com; mosborne@fayar.net; RPO@RPOlaw.com; pierceosb@aol.com; Kelly.Zega@cox.com; kincaid933@cox.net; petemarg@cox.net; jgreeson@uark.edu; lfoley@uark.edu; jwebb@uark.edu; mulkeyb@aol.com; SZimmerman@co.washington.ar.us; relizabethwasson@cox.net; OzarkTraveler@ArkansasUSA.com; tfrentz@uark.edu; mkwilliams48@yahoo.com; hopkins2848@aol.com; cdicus@uark.edu; wkincaid@uark.edu; ojl@uark.edu; mrj03@uark.edu; ghbpbb@cox.net; profer@sbcglobal.net; dkideb@sbcglobal.net; dwd@pelfreez.coxatwork.com; cchalfant@spacephotonics.com; michaelb@airwaysfreight.com; smwimberly@yahoo.com; wbfayar@sbcglobal.net; kay@smartpouch.com; jeanette_millar@yahoo.com; lbaledge@cox.net; ahrend@uark.edu; KathyMerryShip@aol.com; alisonjumper@yahoo.com; dconner77@earthlink.net; bloewer@uark.edu; jbrown7206@aol.com; artgal1990@aol.com; malcolmmwilliamson@cox.net; sspencer98@cox.net; elsid53@yahoo.com; kasfahl@cox.net; erica@marshalltown.com; kasfahl@uark.edu; teastin@lynks.com; williametges@cox.net; tbeards11@yahoo.com; KCRatliff@aol.com; mdwelch1@yahoo.com; lornabeard@hotmail.com; mallaughlin5@aol.com; jim.com12@juno.com; DrPamCox@aol.com; ginak@uark.edu; hbrill@uark.edu; vsowder@beta-rubicon.com; ccramer@uark.edu; shiple1132@sbcglobal.net; golfand@optonline.net; rogaron@aol.com; shannon.bailey@noble.net; hogknight@aol.com; drewbaumgartner@yahoo.com; trinityteacher@netzeronet; nwilliams@tcinternet.com; johnmbrooksjr@sbcglobal.net; hockeyburt@aol.com; jbutton@uark.edu; cpcmm007@aol.com; jecfay@aol.com; scaulk@alltel.net; abcetc@sbcglobal.net; sccondren@sbcglobal.net; dorocov@cox.net; carla.crawley@tyson.com; jsfreund@uark.edu; culberson@sbcglobal.net; ddavis1894@sbcglobal.net; jbdiesel@yahoo.com; kduval@uark.edu; ozarkhigh@sbcglobal.net; karolynk@aol.com; kathy.fields@post.harvard.edu; egardne@uark.edu; garner@garneraset.com; krollet@uark.edu; dennis.petersen2@cox.net; karenmcsadden@cox.net

Victoria Sowder
Administrative Manager
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Fayetteville AR 72701-6064
Phone: 479.444.8118
Fax: 479.444.0089
www.beta-rubicon.com

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have put in traffic light at their intersections?

Thank you for your time.

Sincerely,

Jo Ann Kvamme

1982 Greenvview

Fayetteville, AR 72701

h 479-571-2312

w479-575-6603

-----Original Message-----

From: Joann C. Kvamme [mailto:jkvamme@uark.edu]

Sent: Wednesday, January 24, 2007 1:48 PM

To: Keisling, Thale C.

Subject: Route 45 in Fayetteville between Rt 265 and Rt 112

Dear Sir,

I was at a city planning department meeting last Monday, Januaray 22, 2007 for the City of Fayetteville and a developer said he had state approval for three turn lanes at his proposed Ruskin heights development subdivision now and an ok for a light once a certain level of traffic from the proposed housing development was achieved.

I have a few questions.

1) Is this true?

2) How will the light affect traffic flow turning onto Rt. 45 from Rt. 265 (which already at times takes several light sequences?)

3) If it was this easy, why couldn't other subdivisions in the area (with larger catchments for traffic) have put in traffic light at their intersections?

Thank you for your time.

Sincerely,

Jo Ann Kvamme

1982 Greenvview

Fayetteville, AR 72701

h 479-571-2312

w479-575-6603

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3/5/2007

**Are we a city that
caters to developers?**

**“It could appear to
people outside of city
hall that the city cannot
be relied on to stick to
an agreed on policy.”**

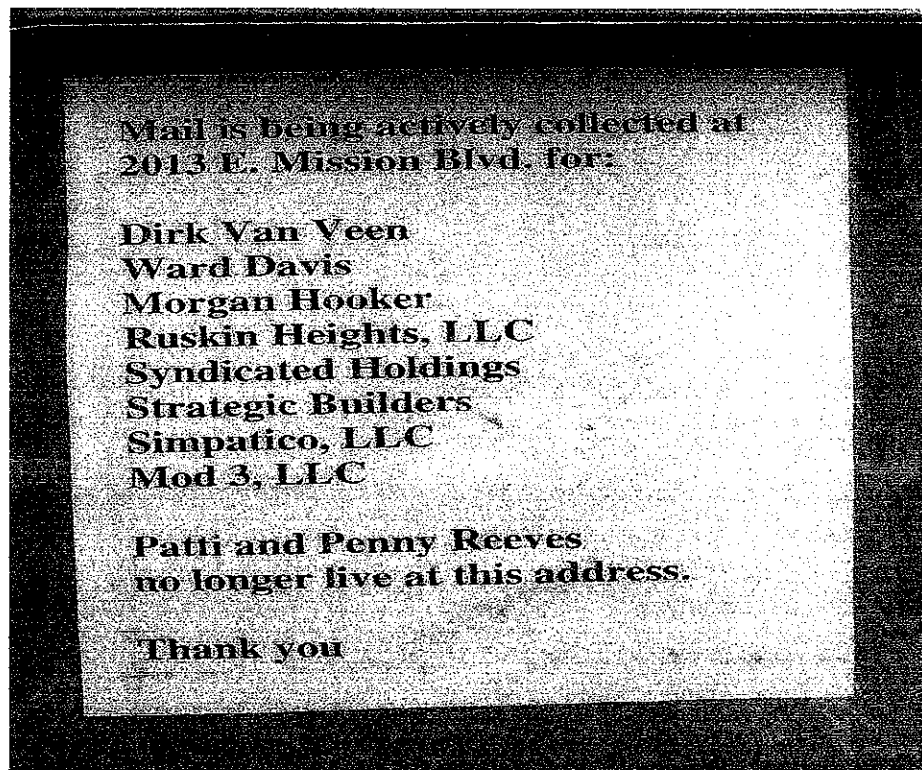
Mayor Dan Coody NWA Times 3/04/2007

**Let your vote represent
the citizens and not the
developers. Vote NO.**

The developers (town founders) seem to operate with impunity within the city.

They have run an office at the site of the development without the need for obtaining a CUP (conditional use permit). This has been going on for 9 months. The city was notified several times, but they go on.

The zoning notification sign was removed last week, obviously everyone knows the deal is done.



ALDERMAN AGENDA REQUEST FORM

B. 4
Amend 161.21 & 161.22
Height Regulations
Page 1 of 12

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)

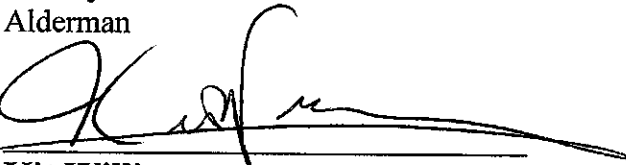
APPROVED FOR AGENDA:



Nancy Allen
Alderman

2-14-07

Date



Kit Williams
City Attorney (as to form)

2-14-07

Date

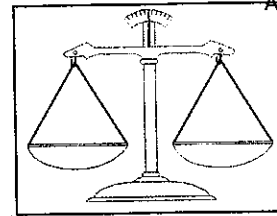
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

B. 4
Amend 161.21 & 161.22
Height Regulations
Page 2 of 12

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

FROM: **Kit Williams, City Attorney**

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

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: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

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



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning
Date: 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.

Height Regulations -

3/6/07 Council Meeting
Handout

Tuesday, March 06, 2007

Dear Fayetteville City Council Members,

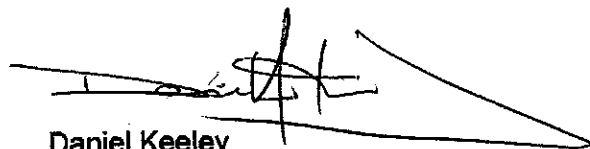
Fayetteville Downtown Partners (FDP) would like to present the following response to the proposed amendment to the Fayetteville Downtown Master Plan. [Pertaining to the repeal of section 156.02 (B) (6) and the repeal and replacement of sections 161.21 (G) and 161.22 (G) of the Unified Development Code]

FDP is under contract with the City to support the philosophy and implementation of the Downtown Master Plan, to inform downtown stakeholders of initiatives that will affect them and to assist the City with the challenges and opportunities inherent in the Downtown Master Plan.

FDP is concerned that the proposed amendment repeals the results of the recently-completed process by which the Downtown Master Plan codes and ordinances were adopted and that it comes before those results have been put to the test. Moreover, the manner in which this amendment was proposed precluded FDP from fulfilling, in this instance, our commitment to the City and our constituents to disseminate information and to facilitate discussion on issues involving the Downtown Master Plan.

We offer these observations in the spirit of assistance and service to the City and its leaders; they pertain directly to the philosophy and implementation of the Downtown Master Plan and not to the specific issue of height limitations.

We thank each of you sincerely for your time and commitment.



Daniel Keeley
President, Board of Directors
Fayetteville Downtown Partners

CITY OF FAYETTEVILLE CONTRACT FOR SERVICES

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

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

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

Whereas; The City desires to promote a partner that will assist in the resolution of these challenges and work with the City to maximize opportunities resulting from these changes

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

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

Now, therefore, in consideration of the mutual covenants contained herein, the City and FDP agree to the following:

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

Strengthen the infrastructure of Downtown Fayetteville

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

Create a Cultural District in downtown Fayetteville

- Provide staff support for Planning Commission, City Planning staff and the City Council to establish the boundaries and define the services of the Cultural Arts District
- Research and develop appropriate policies, ordinances or codes that support the services and/or boundaries associated with the Cultural Arts District
- Promote and market arts and cultural events in downtown Fayetteville

Manage downtown banner program

- FDP will be responsible for establishing and implementing a banner policy and coordinate the installation of banners on downtown light poles and across Dickson Street

Establish a Downtown Improvement District (DID)

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

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

FDP services to downtown stakeholders may include, but are not limited to:

Supporting downtown businesses

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

Engaging downtown neighborhoods

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

Marketing the downtown experience

- FDP will continue to develop strategic marketing opportunities for the downtown district that is consistent with the overall image campaign for the City of Fayetteville and the Advertising and Promotion Commission

3. FDP will provide written documentation and offer a verbal presentation to the Mayor and City Council during an agenda session two times a year in June and December to delineate accomplishments undertaken during the preceding period on the services pursuant to this contract of services.

4. To make available all records for review by the City and City auditors as requested. FDP agrees to comply with the Arkansas Freedom of Information Act as applicable. If the City of Fayetteville requests an independent audit of FDP, then that audit must be requested at least one month prior to audit and at the City's expense.

5. For the purpose of this agreement, the primary liaison for the City will be Tim Conklin. The contact for City related services as identified in this contract will be the Executive

Director of Fayetteville Downtown Partners. Communications pertaining to this agreement will be through the respective representatives for the City and FDP.

6. FDP will hold harmless, defend, and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the performance or nonperformance of the services or subject matter of this agreement.

7. Budget – The City agrees to pay FDP \$40,000 by January 15th, 2007.

8. FDP will render the City a request for payment as stated in this contract under line item 7 and the City will pay the invoice within 30 days of receiving the invoice in the City's accounting division.

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

20-Mar-07

City Council Meeting Date

David Jurgens

Submitted By

Water/Wastewater

Division

Water/Wastewater

Department

Action Required:

Approval of a contract with Power Secure, Inc., for the purchase of backup power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestrung Sewer Lift Station, WSIP subprojects WP-2 and WL-6, in the amount of \$1,986,786.68, approve a 2% contingency of \$40,000.00, and approval of a bid waiver.

\$2,026,786.68

Cost of this request

\$ 79,560,216.00

Category / Project Budget

Wastewater System Imp Project

Program Category / Project Name

4480.9480.5801.00

Account Number

\$ 66,620,670.52

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0399

Project Number

\$ 12,939,545.48

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature]
Department Director

2 MAR 07
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature]
City Attorney

Date

Received in City Clerk's Office

ENTERED
3/21/07

Paul A. Beuh
Finance and Internal Service Director

3-6-07
Date

Received in Mayor's Office

[Signature]
Mayor

3/2/07
Date

Comments:

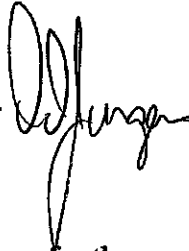
City Council Meeting of March 20, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: 1 March 2007

Subject: Approval of a contract with Power Secure, Inc., for the purchase of backup power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station, WSIP subprojects WP-2 and WL-6, in the amount of \$1,986,786.68, approve a 2% contingency of \$40,000.00, and approval of a bid waiver

RECOMMENDATION

City Administration recommend approval of a contract with Power Secure, Inc., for the purchase of backup power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station, WSIP subprojects WP-2 and WL-6, in the amount of \$1,986,786.68, approve a 2% contingency of \$40,000.00, and approve a bid waiver.

BACKGROUND

The City's National Pollution Prevention Discharge (NPDES) permit requires backup power to wastewater facilities. In 2005, the City purchased a backup power generator for the Noland WWTP from Power Secure, and secured their services for peak usage power management. This arrangement has worked very well and meets the regulatory requirement for the Noland WWTP. Since that time, the public power supply has failed on several occasions, due to both winter ice storms and regional summer peak electrical demands. Our plant operations have proceeded with no interruptions.

Additionally, using the generator under Power Secure's management has created a monthly savings of over \$16,000 by using the generator during peak consumption periods. At this rate and by continuing to manage our peak power consumption, the initial capital cost for the generators themselves will be recouped in power savings in sixty-two months.

DISCUSSION

The construction of the West Side WWTP and Hamestring lift stations have progressed such that we now need to procure backup power generators for these two facilities. Attached is the proposed contract with Power Secure for purchase of the generators required for the West Side WWTP and the Hamestring Lift Station.

Due to the unique and proprietary nature of the switch gear equipment, the long delivery times for generators and replacement parts, and the requirement that the power management for all three major facilities be overwatched by one entity, it is essential that all three backup power generators be of the same manufacture. This was the intent when the first generator was purchased in 2005. Other manufacturers and alternatives were evaluated at that time, and have again been reviewed. Staff feels the Power Secure proposal is the best alternative for the City.

BUDGET IMPACT

Funds are available in the WSIP project budget.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A CONTRACT WITH POWER SECURE, INC. FOR THE PURCHASE OF BACK-UP POWER GENERATION EQUIPMENT AND INSTALLATION SERVICES FOR THE WEST SIDE WASTEWATER TREATMENT PLANT AND THE HAMESTRING SEWER LIFT STATION IN THE AMOUNT OF \$1,986,786.68; AND APPROVING A 2% CONTINGENCY OF \$40,000.00.

WHEREAS, due to the unique and proprietary nature of the switch gear equipment involved, the long delivery times for generators and replacement parts, and the requirement that power management for all three major wastewater facilities be overseen by a single entity, it is essential that all three back-up generators be of the same manufacture.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, waives the requirements of formal competitive bidding for back-up power generation equipment and installation services, and approves a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamstring Sewer Lift Station in the amount of \$1,986,786.68.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 2% contingency of \$40,000.00.

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

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA SMITH, City Clerk/Treasurer

Power Secure Summary Pricing-Fayetteville, AR

	Westside WWTP	Hamestring Lift Station
Engineering Generator/Enclosure NexGear Switchgear Installation 1 Yr Warranty	\$945,449.00	\$849,906.00
Sound Attenuation to 75 dB	\$21,428.00	\$21,428.00
5 Yr Warranty		
Generator	\$6,600.00	\$6,600.00
Transformer	\$3,450.00	
NexGear	\$14,450.00	\$12,700.00
	\$991,377.00	\$890,634.00
AR State Sales Tax	54778.08	49826.10
Fayetteville Tax	50.00	59.00
Washington Co. Tax	31.25	31.25
Subtotals:	\$1,046,236.33	\$940,550.35
Grand Total		\$1,986,786.68

AGREEMENT

This contract executed this ____ day of _____, 2007, between the City of Fayetteville, Arkansas and PowerSecure, Inc. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. PowerSecure, 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 the work described in the proposal for PowerSecure Interactive Distributed Generation® Services, Westside Wastewater Treatment Facility, Fayetteville, AR, and the work described in the proposal for PowerSecure Interactive Distributed Generation® Services, Hamestring Lift Station, Fayetteville, AR, and in accordance with specifications attached hereto and made a part hereof under, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay PowerSecure based on their proposal in an amount not to exceed \$ 1,986,786.68. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and PowerSecure consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Contract General Provisions
 - B. Exhibit A PowerSecure Interactive Distributed Generation® Services, Westside Wastewater Treatment Facility, Fayetteville, AR.
 - C. Westside 2000kW Drawings.PDF
 - D. Exhibit B PowerSecure Interactive Distributed Generation® Services, Hamestring Lift Station, Fayetteville, AR.
 - E. Hamestring 2000kW Drawings.PDF
4. 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 copying costs pursuant to the FOIA may be assessed for this compliance.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2007.

**CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS**

DAN COODY, Mayor

AGREEMENT

Attest:

SONDRA SMITH, City Clerk

POWERSECURE, INC.

BY _____

NAME AND TITLE

Attest:

COMPANY SECRETARY

BUSINESS ADDRESS

CONTRACT GENERAL PROVISIONS

ARTICLE 1. INVOICING AND TERMS OF PAYMENT

- 1.1 CITY OF FAYETTEVILLE shall pay POWERSECURE the price specified in paragraph 2 of the agreement in accordance with the following schedule:

	% of Contract Price
POWERSECURE's Receipt of IDG® System Purchase Order	15
Equipment Ship Date to project site	30
Substantial Completion of Installation	30
Final Commissioning/Start-up	25

- 1.2 Any work beyond the scope of Work described herein requested of and performed by POWERSECURE ("Additional Work") shall be billed to CITY OF FAYETTEVILLE at mutually agreed to rates. Prior to performing any Additional Work POWERSECURE will notify CITY OF FAYETTEVILLE in writing of the Additional Work requested, the reason for such request and the rates under which the Work will be performed. 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.
- 1.3 The prices for the Work and any Additional Work are inclusive of federal, state, municipal or other sales or use tax. The invoice will include a line item for sales tax.
- 1.4 Payment for all Work, Additional Work or other services, if any, shall be due and payable by CITY OF FAYETTEVILLE within thirty (30) days from CITY OF FAYETTEVILLE's receipt of the invoice for such Work, Additional Work or other services. POWER SECURE will, upon completion of the WORK and before final payment is due, furnish CITY OF FAYETTEVILLE with reasonable evidence that all services, labor, materials, and equipment have been paid in full and agrees to execute the Lien Waiver attached hereto as Exhibit B.
- 1.5 If CITY OF FAYETTEVILLE fails to pay any invoice by the due date, CITY OF FAYETTEVILLE shall liable to POWERSECURE for any attorney fees incurred in collection of any amount due and shall pay interest to POWERSECURE on the amount past due in the amount of 1.5% per month.

ARTICLE 2. OBLIGATIONS OF POWER SECURE

2.1 Independent Power Secure

POWER SECURE is an independent CONTRACTOR and will maintain complete control of and responsibility for its employees, SUBCONTRACTORS, and agents. POWER SECURE shall also be solely responsible for the means and methods for carrying out the Scope of Services and for the safety of its employees.

2.2 Lower-Tier Contractors

- 2.2.1 Within 30 working days after the execution of this AGREEMENT, POWER SECURE will submit to CITY OF FAYETTEVILLE the names of all Lower-Tier Contractors proposed for the Work. POWER SECURE will not employ any Lower-Tier Contractors that CITY OF FAYETTEVILLE may object to as lacking capability to properly perform. No changes will be allowed from the approved Lower-Tier Contractor list without the prior written approval of CITY OF FAYETTEVILLE.
- 2.2.2 POWER SECURE agrees that it is as fully responsible to CITY OF FAYETTEVILLE for the acts and omissions of its Lower-Tier Power Secures and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by POWER SECURE.
- 2.2.3 Nothing contained in this CONTRACT will be construed to create any contractual relationship between any Lower-Tier Contractor and CITY OF FAYETTEVILLE.

CONTRACT GENERAL PROVISIONS

- 2.2.4 POWER SECURE will provide certification that the Lower-Tier Contractor has the necessary permits and licenses for the Work proposed.

2.3 Differing Site Conditions

- 2.3.1 POWER SECURE will promptly, and before such conditions are substantially disturbed, notify CITY OF FAYETTEVILLE in writing of:

- (a) Subsurface or latent physical conditions at the site differing materially from those indicated in this CONTRACT.
- (b) Physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work.

- 2.3.2 Upon notice CITY OF FAYETTEVILLE will promptly investigate the conditions. If the conditions do materially differ and cause an increase or decrease in POWER SECURE's cost of, or the time required for, performing any part of the Work, CITY OF FAYETTEVILLE will make an equitable adjustment and modify this CONTRACT in writing.

- 2.3.3 No claim of POWER SECURE under this clause will be allowed unless POWER SECURE has given the notice required above.

2.4 Rejected Material

Any material rejected by CITY OF FAYETTEVILLE because of nonconformity with this CONTRACT will be removed at once from the vicinity of the Work by POWER SECURE at its own expense.

2.5 Warranty

- 2.5.1 The Warranty period for equipment will be for a period of five (5) years commencing on the acceptance date and the Warranty period for services will be for a period of one (1) year commencing on the acceptance date.

2.5.2 POWERSECURE warrants that:

- 2.5.2.1 Services will be performed in a professional and workmanlike manner consistent with industry standards;
- 2.5.2.2 Its agents, and employees, are qualified and competent to perform the Work and Additional Work, if any, and that all tools and equipment furnished by POWERSECURE in its performance of the Work and Additional Work are, and shall be, kept in good working order.
- 2.5.2.3 All equipment will be free from defects in material and workmanship and will function in accordance with the specifications;
- 2.5.2.4 That it has the requisite authority to sell the equipment;
- 2.5.2.5 There are no pending or threatened claims or causes of action that would have an adverse effect on POWERSECURE's ability to perform its obligations under this Contract or upon the City of Fayetteville of Fayetteville's ability to use the equipment;
- 2.5.2.6 The equipment and services will not infringe on any patent, trademark or copyright;

- 2.5.3 In the event that CITY OF FAYETTEVILLE or the City of Fayetteville of Fayetteville notifies POWERSECURE of any defect in materials or workmanship during the applicable warranty period, POWERSECURE shall correct the defect at its own expense. POWERSECURE shall not be responsible for any problems or defects attributable to improper operation, maintenance, or use of the Work or any Additional Work.

- 2.5.4 THE WARRANTIES SET FORTH IN THIS CONTRACT ARE EXCLUSIVE, AND NO OTHER WARRANTIES OR REMEDIES OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF

CONTRACT GENERAL PROVISIONS

INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, SHALL APPLY. TO THE MAXIMUM EXTENT PERMITTED, POWERSECURE HEREBY ASSIGNS TO CITY OF FAYETTEVILLE ALL EXPRESS AND IMPLIED WARRANTIES FROM THE MANUFACTURER OF ANY PARTS AND EQUIPMENT INSTALLED BY POWERSECURE AS A PART OF THE WORK (see Manufacturer's warranties for details). Except as provided in Section 2.2, POWERSECURE shall not be responsible for any work done by others or for any loss, damage, cost or expense arising out of or resulting from such work, unless authorized by POWERSECURE in advance.

2.6 Insurance

2.6.1 POWER SECURE will maintain throughout this CONTRACT the following insurance:

- (a) Worker's compensation insurance in the statutory amount and employer's liability insurance in an amount not less than \$500,000 for all employees engaged in the Work.
- (b) Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, non-owned, or hired vehicles, with \$1,000,000 combined single limits.
- (c) Commercial general liability insurance covering claims for injuries of members of the public or damage to property of others arising out of any covered act or omission of POWER SECURE or of any of its employees, agents, or Power Secures, with \$5,000,000 per occurrence and in the aggregate.
- (d) Any other insurance required by law (e.g., U.S. Longshoreman and Harbors Act coverage, when harbor operations, offshore operations, or operations on navigable waterways are involved).

2.6.2 Insurance coverage in Items (b) and (c) above will name CITY OF FAYETTEVILLE as additional insured. Such insurance will be the primary coverage to CITY OF FAYETTEVILLE.

2.6.3 Before commencing Work under this contract, POWER SECURE will furnish CITY OF FAYETTEVILLE with certificates of insurance verifying coverage's and additional insureds. Certificates also will state that the insurance carrier will give CITY OF FAYETTEVILLE thirty (30) days notice of any insurance cancellation or material alteration.

2.7 Indemnity

2.7.1 To the maximum extent permitted by law, POWER SECURE will indemnify CITY OF FAYETTEVILLE and its officers, Contractors, affiliated corporations, and employees from all claims, damages, losses, and costs, including litigation expenses and attorney's fees, arising out of or resulting from, or alleged to have resulted from, the performance of the Work, including any act or omission of POWER SECURE, any Lower-Tier Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The foregoing will not apply in the event that the claim, damages, losses, or expenses are caused by the sole negligence of CITY OF FAYETTEVILLE but will apply to losses caused by the concurrent fault or negligence of CITY OF FAYETTEVILLE and POWER SECURE.

2.7.2 This indemnification obligation shall not be limited in any way by any limitation on the amount of compensation, damages or benefits payable under workers compensation, disability benefit or other employee benefit acts.

2.8 Codes, Laws, and Regulations

POWER SECURE will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this CONTRACT.

CONTRACT GENERAL PROVISIONS

2.9 Permits, Licenses, and Fees

POWER SECURE will obtain and pay for all permits and licenses required by law that are associated with the Work.

2.10 Safety

POWER SECURE is solely responsible for health and safety of its employees and its SUBCONTRACTORS. POWER SECURE shall have a health and safety plan fully compliant with health and safety laws and consistent with CITY OF FAYETTEVILLE health and safety plans. POWER SECURE shall provide all applicable safety training and equipment required in the health and safety plans. POWER SECURE is responsible for ensuring that its SUBCONTRACTORS comply with this provision. Visits and observations made by CITY OF FAYETTEVILLE will not relieve the POWER SECURE of its obligation to conduct comprehensive safety inspections of the site and provide adequate safety in conformance with this CONTRACT.

2.11 Protection of Work and Property

2.11.1 POWER SECURE will at all times safely guard and protect from damage the Work and adjacent property. All loss or damages arising out of the nature of the Work to be done under this AGREEMENT, including, but not limited to, action of the elements, will be the responsibility of POWER SECURE.

2.11.2 POWER SECURE will confine its equipment, the storage of materials, and the operation of its workers to limits shown on the Drawings or indicated by law, ordinances, permits, or directions of CITY OF FAYETTEVILLE and will not unreasonably encumber the premises with its materials.

2.12 Responsibility of Power Secure to Act in Emergency

In emergencies affecting the safety of persons, work or property at the site and adjacent thereto, POWER SECURE will act, without previous instructions from CITY OF FAYETTEVILLE, as the situation warrants. POWER SECURE will notify CITY OF FAYETTEVILLE immediately thereafter. POWER SECURE will submit the name, address, and phone number of a responsible individual or individuals who will be available on a 24-hour basis to handle emergency problems in connection with the Work.

2.13 Equipment, Materials, and Appliances

2.13.1 Unless otherwise stipulated, POWER SECURE will provide and pay for all materials, labor, water, tools, equipment, heat, light, power, transportation, telephone, temporary facilities, and other facilities, and incidentals necessary for the execution and completion of the Work. Unless otherwise specified, all materials will be new, and both workmanship and materials will be of good quality.

2.13.2 In selecting and/or approving equipment for installation in the project, POWER SECURE assumes all responsibility for injury or claims resulting from failure of the equipment to comply with applicable national, state, and local safety codes or requirements, or the safety requirements of a recognized agency, or POWER SECURE's defective workmanship or materials.

2.14 Schedules and Progress Reports

2.14.1 The POWER SECURE must meet the schedule specified in the Scope of Services. When requested by CITY OF FAYETTEVILLE and within 10 days prior to the start of the Work, POWER SECURE will prepare and submit to CITY OF FAYETTEVILLE a progress schedule identifying the completion of the Work outlined in this CONTRACT, within the deadlines and milestones established herein.

2.14.2 During the progress of the Work, POWER SECURE will maintain material deliveries and employ sufficient workers and equipment to accomplish the Work in conformance with the submitted schedule or deadlines and milestones established.

2.14.3 If requested by CITY OF FAYETTEVILLE, POWER SECURE will forward to CITY OF FAYETTEVILLE on the 20th day of each month, a summary report of the progress of the various parts of the Work, stating the existing status, rate of progress, estimated time of completion, and cause of delay, if any.

CONTRACT GENERAL PROVISIONS

2.14.4 If the completion of any part of the Work or the delivery of materials is behind the schedule, POWER SECURE will submit in writing a plan for bringing the Work within the schedule. CITY OF FAYETTEVILLE may require that one or more of the following courses of action be taken by POWER SECURE to accelerate the schedule:

- (a) Increase the working week to 6 or 7 days
- (b) Increase the labor force
- (c) Provide and utilize additional equipment
- (d) Increase the working day to 10 hours or more.

2.14.5 POWER SECURE will remain on such accelerated work schedule until such time as, in the opinion of CITY OF FAYETTEVILLE, the degree of completion of the Work complies with the original schedule. All extra costs of any accelerated work schedule will be borne by POWER SECURE.

2.14.6 Failure to comply with such an accelerated work schedule may result in no further monthly progress payments until such time as the degree of completion of the Work complies with the approved schedule or a revised schedule has been approved by CITY OF FAYETTEVILLE.

2.15 Hazardous or Toxic Substances

If the Work under this AGREEMENT involves hazardous or toxic substances, POWER SECURE will strictly comply with all safety or training requirements promulgated by law or regulation.

2.16 Publicity

POWER SECURE will not disclose the nature of its Work on the PROJECT or engage in any other publicity public media disclosures with respect to this PROJECT without the prior written consent of CITY OF FAYETTEVILLE.

2.17 Key Personnel

POWER SECURE will provide qualified personnel to perform its Work. Within 10 days of execution of this CONTRACT or receipt of a written authorization to proceed, POWER SECURE will submit a list of key personnel, including a designated project manager or superintendent, if requested by CITY OF FAYETTEVILLE. POWER SECURE will not change or reassign any of the designated key personnel without the written approval of CITY OF FAYETTEVILLE.

2.18 Copies of Data

One legible copy each of all notes, field notes, drilling logs, sample classifications, drawings, including record drawings, prints, plans, and other applicable documents prepared under the terms of this CONTRACT will be delivered by POWER SECURE to CITY OF FAYETTEVILLE upon completion of the Work and prior to final payment under 1.3 above.

2.20 Access to Records

POWER SECURE will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by CITY OF FAYETTEVILLE during POWER SECURE's normal business hours for a period of 3 years after POWER SECURE's final payment to the extent required to verify the costs incurred hereunder.

2.21 Suspension of Work

POWER SECURE will, upon written notice from CITY OF FAYETTEVILLE, suspend, delay or interrupt all or a part of the Work. In such event, POWER SECURE will resume the Work upon written notice from CITY OF FAYETTEVILLE, and an extension of time and/or an equitable adjustment in compensation, if appropriate, will be mutually agreed upon.

2.22 Performance and Payment Bonds

CONTRACT GENERAL PROVISIONS

POWER SECURE will furnish Performance and Payment Bonds, each in an amount equal to the total compensation under this CONTRACT, as security for compliance with the provisions of this AGREEMENT. All bonds will remain in effect for at least a year after final payment and will be in a form and from a bonding company acceptable to CITY OF FAYETTEVILLE. All bonds will be filed with the County Clerk's office for Washington County, Arkansas before beginning work on the project.

ARTICLE 3. OBLIGATIONS OF CITY OF FAYETTEVILLE

3.1 Changes

- 3.1.1 CITY OF FAYETTEVILLE may, by written order, make changes, revisions, additions, deletions (collectively hereinafter called "changes") in the Work. POWER SECURE will not proceed with any proposed changes unless notified to proceed in writing by CITY OF FAYETTEVILLE.
- 3.1.2 Nothing herein will be construed as relieving POWER SECURE of its obligations to perform the Work, including without limitation the failure of the parties to agree upon POWER SECURE's entitlement to, or the amount of, any adjustment in time or compensation.
- 3.1.3 Any claim by POWER SECURE for an adjustment under this Article must be asserted in writing, fully supported by factual information, to CITY OF FAYETTEVILLE within 30 days from the date of receipt by POWER SECURE of the written change authorization from CITY OF FAYETTEVILLE or within such extension of that 30-day period as CITY OF FAYETTEVILLE, in its sole discretion, may grant in writing at POWER SECURE's request prior to expiration of said period.
- 3.1.4 If the Work is reduced by changes, such action will not constitute a claim for damages based on loss of anticipated profits.

3.2 Observation of the Work

CITY OF FAYETTEVILLE reserves the right, but not the obligation, to inspect or otherwise evaluate the Work during the various stages to observe the progress and quality of the Work and to determine, in general, if the Work is proceeding in accordance with the intent of this CONTRACT. CITY OF FAYETTEVILLE will not be required to make comprehensive or continuous inspections to check quality or quantity of the Work. Visits and observations made by CITY OF FAYETTEVILLE will not relieve POWER SECURE of its obligation to conduct comprehensive inspections of the Work, to furnish materials, to perform acceptable Work, and to provide adequate safety precautions in conformance with this CONTRACT.

3.3 Limitations of CITY OF FAYETTEVILLE's Responsibilities

CITY OF FAYETTEVILLE will not be responsible for POWER SECURE's means, methods, techniques, sequences or procedures of the Work, or the safety precautions including compliance with the programs incident thereto. CITY OF FAYETTEVILLE will not be responsible for POWER SECURE's failure to perform the Work in accordance with this CONTRACT.

3.4 CITY OF FAYETTEVILLE's Right to do Work

If POWER SECURE, in the opinion of CITY OF FAYETTEVILLE, neglects to prosecute the Work properly or neglects or refuses at its own cost to take up and replace Work rejected by CITY OF FAYETTEVILLE, then CITY OF FAYETTEVILLE will, without prejudice to any other right which CITY OF FAYETTEVILLE may have under this CONTRACT, take over that portion of the Work which has been improperly executed and make good the deficiencies and deduct the cost thereof from the payments then or thereafter due POWER SECURE.

3.5 Furnished Data

CITY OF FAYETTEVILLE will provide POWER SECURE technical data in its possession, including, but not limited to, previous reports, maps, surveys, borings, and other information relating to POWER SECURE's Scope of Work. POWER SECURE may reasonably rely upon the accuracy of the information provided by CITY OF FAYETTEVILLE. Nothing in this clause relieves POWER SECURE of its responsibility to obtain any other data required for the execution of the Work.

ARTICLE 4. GENERAL LEGAL PROVISIONS

CONTRACT GENERAL PROVISIONS

4.1 Proprietary Information

Except as otherwise authorized in writing by CITY OF FAYETTEVILLE, all drawings, specifications, technical data, and other information furnished to POWER SECURE or developed by POWER SECURE or others in connection with the Scope of Work are, and will remain, the property of CITY OF FAYETTEVILLE, and may not be copied or otherwise reproduced or used in any way except in connection with the Scope of Work, or disclosed to third parties or used in any manner detrimental to the interest of CITY OF FAYETTEVILLE.

4.2 Claims for Extra Work

In any case where POWER SECURE deems additional compensation will become due, POWER SECURE will notify CITY OF FAYETTEVILLE, in writing, of its intention to make claim for such compensation before it begins the Extra Work on which it bases the claim. If such notification is not given or POWER SECURE fails to keep strict account of actual cost, then POWER SECURE hereby agrees to waive the claim for such additional compensation. Such notice by POWER SECURE, and the fact that CITY OF FAYETTEVILLE has kept account of the cost, will not be construed as proving the validity of the claim. Claims for additional compensation will be made in detail and submitted, in writing, to CITY OF FAYETTEVILLE within 10 days following completion of that portion of the Extra Work for which POWER SECURE bases its claim. In case the claim is found to be just, it will be allowed and paid for as provided in this CONTRACT.

4.3 Assignment

Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this CONTRACT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire CONTRACT are binding on the heirs, successors, and assigns of the parties hereto.

4.4 Termination

4.4.1 Termination for Convenience

All or part of this CONTRACT may be terminated by CITY OF FAYETTEVILLE for its convenience. In such event, POWER SECURE will be entitled to compensation for Work competently performed up to the date of termination and reasonable termination expenses as determined within the discretion of CITY OF FAYETTEVILLE. POWER SECURE will not be entitled to compensation or profit on Work not performed.

4.4.2 Termination for Default

CITY OF FAYETTEVILLE may, by written notice, terminate the whole or any part of this CONTRACT for default in the event that POWER SECURE fails to perform any of the provisions of this CONTRACT, or fails to make progress as to endanger performance of this CONTRACT in accordance with its terms, or, in the opinion of CITY OF FAYETTEVILLE, becomes financially or legally incapable of completing the Work and does not correct such to CITY OF FAYETTEVILLE's reasonable satisfaction within a period of 7 days after receipt of notice from CITY OF FAYETTEVILLE specifying such failure. If, after notice of termination, it is determined for any reason that POWER SECURE was not in default or that the default was excusable, the rights and obligations of the parties will be the same as if the notice of termination had been issued pursuant to "TERMINATION FOR CONVENIENCE." In the event of termination for default, POWER SECURE will not be entitled to termination expenses.

4.4.3 Regardless of the cause of termination, the POWER SECURE shall deliver to CITY OF FAYETTEVILLE legible copies of all completed or partially completed work products and instruments of service and all materials and equipment previously paid for by CITY OF FAYETTEVILLE.

4.4.4 The rights and remedies of CITY OF FAYETTEVILLE provided in this Article will not be exclusive and are in addition to any other rights and remedies provided by law or equity or under this CONTRACT.

4.5 Time of the Essence

CONTRACT GENERAL PROVISIONS

Time is of the Essence with respect to POWER SECURE's performance of the Work.

4.6 Delays and Extension of Time

- 4.6.1 If POWER SECURE intends to file a claim for extension of time for a delay, it will, within 48 hours of the occurrence, give written notice of claim to CITY OF FAYETTEVILLE stating the circumstances, the possible extension involved, and the reasons for the claim. Within 7 days after the cause of delay has been remedied, POWER SECURE will give written notice to CITY OF FAYETTEVILLE of the actual time extension requested.
- 4.6.2 Within 15 days after POWER SECURE submits to CITY OF FAYETTEVILLE a specific written request for an extension of time, CITY OF FAYETTEVILLE will make the final decision on the request for extension of time.
- 4.6.3 No extension of time will be considered for weather conditions normal to the area in which the Work is being performed. Unusual weather conditions, if determined by CITY OF FAYETTEVILLE to be of a severity that would stop all progress of the Work may be considered as cause for an extension of completion time.
- 4.6.4 Delays in delivery of equipment or material purchased by POWER SECURE or its SUBCONTRACTORS (including CITY OF FAYETTEVILLE-selected equipment) or failure of POWER SECURE or its SUBCONTRACTORS to perform will not be considered as a just cause for delay. POWER SECURE will be fully responsible for the timely ordering, scheduling, expediting, delivery, and installation of all equipment and materials.

4.7 Liquidated Damages

Should POWER SECURE fail to complete the Work or any part thereof within any time agreed upon in this CONTRACT, with any authorized extensions, POWER SECURE will reimburse CITY OF FAYETTEVILLE for the additional expense and damage for each calendar day, Sundays and legal holidays excluded, that the Work remains incomplete after the CONTRACT completion date. It is agreed that the amount of such additional expense and damage incurred by reason of failure to complete the Work is that stipulated in this CONTRACT. The said amount is hereby agreed upon as a reasonable estimate of the damages that will probably ensue or be incurred by the CITY OF FAYETTEVILLE in the event that POWER SECURE fails to meet the completion date. It is expressly understood and agreed that this amount is not to be considered in the nature of a penalty, but as liquidated damages that have accrued against POWER SECURE. CITY OF FAYETTEVILLE will have the right to deduct such damages from any amount due or that may become due POWER SECURE, or the amount of such damages will be due and collectible from POWER SECURE.

4.8 Waivers

No waiver by either party of any default by the other party in the performance of any provision of this CONTRACT will operate as or be construed as a waiver of any future default whether like or different in character.

4.9 Jurisdiction

The law of the state of Arkansas shall govern the validity of this CONTRACT, its interpretation and performance, and any other claims related to it.

4.10 Severability and Survival

If any of the provisions contained in this CONTRACT are held invalid, illegal, or unenforceable, the enforceability of the other remaining provisions shall not be affected or impaired thereby. Limitations of liability, indemnities, and other express representations shall survive termination of this CONTRACT for any cause.

4.11 Force Majeure

Neither party to this CONTRACT will be liable to the other party for delays in performing the Work, or for the direct or indirect cost resulting from such delays, that may result from acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the

CONTRACT GENERAL PROVISIONS

reasonable control or contemplation of either party. Each party will take reasonable steps to mitigate the impact of any Force Majeure.

4.12 Authorization to Proceed

Execution of this CONTRACT by CITY OF FAYETTEVILLE will be authorization for POWER SECURE to proceed with the Work unless otherwise provided for in this CONTRACT.

4.13 No Third-Party Beneficiaries

This AGREEMENT gives no rights or benefits to anyone other than POWER SECURE and CITY OF FAYETTEVILLE, and has no third-party beneficiaries.

4.14 Work

The word "Work" will include all material, labor, tools, and all appliances, machinery, and transportation, necessary to perform and complete the Scope of Work, and such additional items not specifically indicated or described that can be reasonably inferred as belonging to the item described or indicated and as required by good practice to provide a complete and satisfactory system. As used herein, "provide" will be understood to mean "furnish and install, complete in-place."



**Exhibit A
Interactive Distributed Generation® Services
Westside Wastewater Treatment Facility
Fayetteville, AR**



Confidential and Proprietary

SCOPE OF POWERSECURE SERVICES

I. General

- A. PowerSecure (PS) will provide 2000kW Standby; 1825kW Prime; 480Y/277V Interactive Distributed Generation® (IDG®) System to serve the City of Fayetteville.
- B. PS will provide a 15kV pad mounted Main, power transformer, instrument transformers, power/control wiring and auxiliary equipment necessary for interconnection of the IDG® System at the customer's site per this proposal.
- C. PS will deliver the IDG® System project, as described in this Exhibit on a complete turnkey basis including:
 - 1. Engineering/Design
 - 2. Generation Equipment
 - 3. NexGear® Advanced Paralleling Switchgear
 - 4. IDG® System Installation
 - 5. Equipment and Installation Warranties
 - 6. In-service Training

- D. PS will deliver the project in the following estimated timeframe:

<u>Milestone</u>	<u>Completion (Week No)</u>
Agreement Signing	0
Receipt of IDG® System Submittal	4
Equipment Shipping Date to Site	32
Substantial Completion of Installation	34
Final Commissioning/Start-up	36

- E. Refer to the enclosed drawings Westside 2000kw Drawings.pdf which illustrate the proposed IDG® System.
- F. Customer pays for all fuel including initial fill.

II. Engineering/Design Services

- A. PS will provide all engineering and design services necessary to complete construction documents for this project in accordance with the State of Arkansas.
- B. PS will prepare construction documents signed and sealed by a Registered Professional Engineer of Record in Arkansas.

III. Generation System



Exhibit A
Interactive Distributed Generation® Services
Westside Wastewater Treatment Facility
Fayetteville, AR



Confidential and Proprietary

- A. The Generation System will include:
1. Engine Generator Set rated at 480Y/277V; 2000kW (Standby); 1825kW (Prime), .8pf; 2500KVA.
 2. Permanent Magnet Generator
 3. Electronic Engine Governor
 4. Charging Alternator 24V
 5. Lead Acid Batteries, Rack and Battery Charger
 6. Engine Cooling System
 7. Exhaust System with Silencer
 8. Double Wall (UL142), 3000 Gallon Sub-base Tank with Level Sensors.
 9. Weather Resistant Enclosure
 10. Lubricating Oil and Antifreeze – Initial fill
 11. Sound Attenuation to 75db at 23 ft included

IV. Bi-Fuel System

Each CAT 3516B Engine Generator will be equipped with a Series IV-B **PowerSecure Standard Bi-Fuel Conversion System**. Each Bi-Fuel System shall include the following items:

- A. Gas Train Kit
- B. Control System Accessory Kit

V. NexGear® Advanced Paralleling Switchgear

- A. We will provide a NexGear® Advanced Paralleling Switchgear (APS) to provide the following Modes of Operation:
1. **Load Curtailment:** Short-term Synchronized Operation with Ozarks Electric Cooperative Corporation (OECC) followed by a Make-Before-Break Separation from OECC..
 2. **Standby Mode:** Automatic, Dead Bus, Block Load Transfer of a maximum of 2000kW during OECC outages.
- B. Each APS will include all necessary functions to prevent connection or parallel operation of the IDG® System with OECC unless the service voltage and frequency are of normal magnitude.



**Exhibit A
Interactive Distributed Generation® Services
Westside Wastewater Treatment Facility
Fayetteville, AR**



Confidential and Proprietary

C. We will meet OECC published interconnection requirements.

VI. IDG® System Installation

- A. PS will combine our in-house IDG® Project Management staff with a reputable local licensed electrical contractor or utilize our in house licensed electrical construction group to provide a fully coordinated high quality installation.
- B. The PS Project Manager will serve as the single point interface with the City of Fayetteville and OECC during construction/start-up and will be present on-site for all critical activities and key construction milestones.

VII. Equipment and Installation Warranties

- A. The entire system will be Warranted for 5 Years.

VIII. In-Service Training

PS will provide onsite in-service training on the operation and maintenance of the IDG® System.



Exhibit B
Interactive Distributed Generation® Services
Hamestring Lift Station
Fayetteville, AR



Confidential and Proprietary

SCOPE OF POWERSECURE SERVICES

I. General

- A. PowerSecure (PS) will provide 2000kW Standby; 1825kW Prime; 480Y/277V Interactive Distributed Generation® (IDG®) System to serve the City of Fayetteville.
- B. PS will provide instrument transformers, power/control wiring and auxiliary equipment necessary for interconnection of the IDG® System at the customer's site per this proposal.
- C. PS will deliver the IDG® System project, as described in this Exhibit on a complete turnkey basis including:
 - 1. Engineering/Design
 - 2. Generation Equipment
 - 3. NexGear® Advanced Paralleling Switchgear integrated into MSB
 - 4. IDG® System Installation
 - 5. Equipment and Installation Warranties
 - 6. In-service Training
- D. PS will deliver the project in the following estimated timeframe:

<u>Milestone</u>	<u>Completion (Week No)</u>
Agreement Signing	0
Receipt of IDG® System Submittal	4
Equipment Shipping Date to Site	32
Substantial Completion of Installation	34
Final Commissioning/Start-up	36

- E. Refer to the enclosed drawing Hamestring 2000kw Drawing.pdf which illustrates the proposed IDG® System and equipment placement.
- F. Customer pays for all fuel including initial fill.

II. Engineering/Design Services

- A. PS will provide all engineering and design services necessary to complete construction documents for this project in accordance with the State of Arkansas.
- B. PS will prepare construction documents signed and sealed by a Registered Professional Engineer of Record in Arkansas.

III. Generation System



Exhibit B
Interactive Distributed Generation® Services
Hamestrung Lift Station
Fayetteville, AR



Confidential and Proprietary

- A. The Generation System will include:
1. Engine Generator Set rated at 480Y/277V; 2000kW (Standby); 1825kW (Prime), .8pf; 2500KVA.
 2. Permanent Magnet Generator
 3. Electronic Engine Governor
 4. Charging Alternator 24V
 5. Lead Acid Batteries, Rack and Battery Charger
 6. Engine Cooling System
 7. Exhaust System with Silencer
 8. Double Wall (UL142), 3000 Gallon Sub-base Tank with Level Sensors.
 9. Weather Resistant Enclosure
 10. Lubricating Oil and Antifreeze – Initial fill
 11. Sound Attenuation to 75db at 23 ft included

IV. Bi-Fuel System

Each CAT 3516B Engine Generator will be equipped with a Series IV-B **PowerSecure Standard Bi-Fuel Conversion System**. Each Bi-Fuel System shall include the following items:

- A. Gas Train Kit
- B. Control System Accessory Kit

V. NexGear® Advanced Paralleling Switchgear

- A. We will provide a NexGear® Advanced Paralleling Switchgear (APS) to provide the following Modes of Operation:
1. **Load Curtailment:** Short-term Synchronized Operation with Ozarks Electric Cooperative Corporation (OECC) followed by a Make-Before-Break Separation from OECC..
 2. **Standby Mode:** Automatic, Dead Bus, Block Load Transfer of a maximum of 2000kW during OECC outages.
- B. Each APS will include all necessary functions to prevent connection or parallel operation of the IDG® System with OECC unless the service voltage and frequency are of normal magnitude.



**Exhibit B
Interactive Distributed Generation® Services
Hamestring Lift Station
Fayetteville, AR**



Confidential and Proprietary

C. We will meet OECC published interconnection requirements.

VI. IDG® System Installation

- A. PS will combine our in-house IDG® Project Management staff with a reputable local licensed electrical contractor or utilize our in house licensed electrical construction group to provide a fully coordinated high quality installation.
- B. The PS Project Manager will serve as the single point interface with the City of Fayetteville and OECC during construction/start-up and will be present on-site for all critical activities and key construction milestones.

VII. Equipment and Installation Warranties

- A. The entire system will be Warranted for 5 Years.

VIII. In-Service Training

PS will provide onsite in-service training on the operation and maintenance of the IDG® System.

City Of Fayetteville
(Not a Purchase Order)

Requisition No.: _____ Date: _____

P.O. Number: _____ Expected Delivery Date: _____

Vendor #: 16311 Vendor Name: PowerSecure, Inc

Mail Yes: _____ No: _____

Address: 303 East 17th Suite 660 Fob Point: _____

Taxable Yes: _____ No: _____

City: Denver State: CO Zip Code: 80203 Ship to code: _____

Division Head Approval: _____

Requester: WSP Requester's Employee #: 2737 Extension: 7670

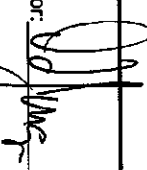
Quotes Attached Yes: _____ No: _____

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Supp. #	Inventory #	Fixed Asset #
1	Backup Generators		1		\$1,986,786.68	4480.9480.5801.00	02133-0399		
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: \$1,986,786.68
Tax: _____
Total: \$1,986,786.68

Approvals:

Mayor: _____ Department Director: 

Finance & Internal Services Director: _____ Budget Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____

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

C. 2
ANX 06-2288 (Broyles)
Page 1 of 18

20-Mar-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 06-2288 (Broyles, 245): Submitted by James Atwood for property located at 3601, 3611, and 3677 Weir Road. The property is in the Planning Area and contains approximately 10.61 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 3-2-07
Department Director Date

[Signature] 3-2-07
City Attorney Date

Paul A. Bush 3-2-07
Finance and Internal Service Director Date

[Signature] 3/2/07
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office



Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: March 01, 2007

Subject: Annexation for Broyles (ANX 06-2288)

RECOMMENDATION

Planning staff and the Planning Commission recommended approval of the subject annexation request for approximately 10.61 acres of property located on W. Weir Road, west of N. Salem Road.

BACKGROUND

The subject property contains approximately 10.61 acres. The subject property is located within the city's Planning Area on W. Weir Road, west of N. Salem Road. The property is bounded by Salem Meadows Subdivision to the south, which has been constructed and Holcomb Heights Planned Zoning District to the east, which is tracking concurrently with this annexation request.

DISCUSSION

This item was heard at the regular Planning Commission on February 26, 2007. The Planning Commission voted 7-0-0 to recommend approval of this annexation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING THAT PROPERTY
DESCRIBED IN ANNEXATION PETITION ANX 06-2288,
LOCATED AT 3601, 3611, AND 3677 WEIR ROAD,
CONTAINING APPROXIMATELY 10.61 ACRES.

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

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

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

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

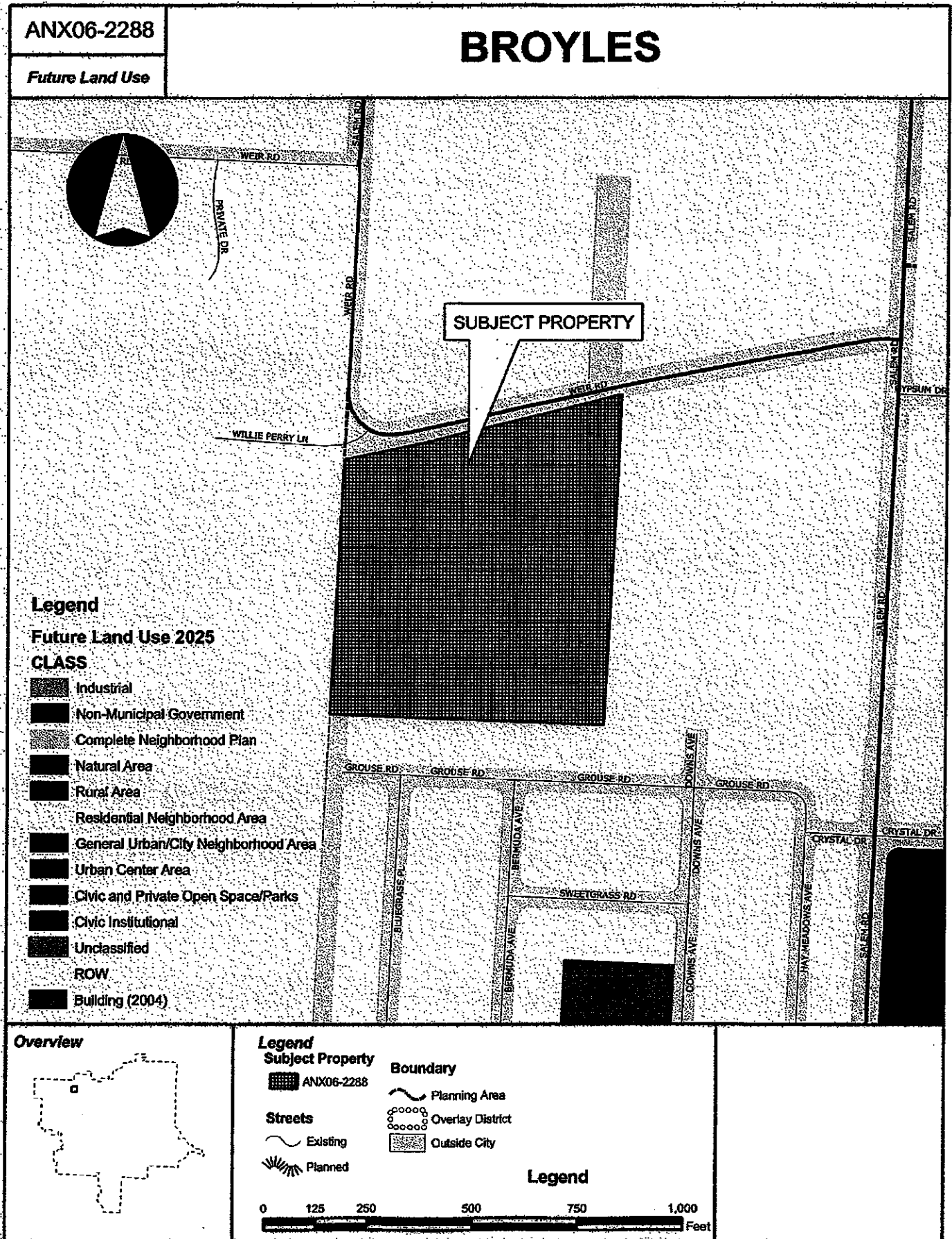


EXHIBIT "B"
ANX 06-2288

A PART OF THE NW ¼ OF THE NW ¼ OF SECTION 32, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF THE NW ¼ OF THE NW ¼ OF SAID SECTION 32 AND RUNNING THENCE N02°50'27"E 616.67 FEET; THENCE N78°34'37"E 225.33 FEET; THENCE N76°16'42"E 209.63 FEET; THENCE N76°04'57"E 249.82 FEET; THENCE S03°10'10"W 799.22 FEET; THENCE N87°34'37"W 653.96 FEET TO THE POINT OF BEGINNING, CONTAINING 10.61 ACRES, MORE OR LESS, WASHINGTON COUNTY ARKANSAS.

SUBJECT TO THE WASHINGTON COUNTY ROAD NO. 94 (WEIR ROAD) RIGHT-OF-WAY ALONG THE NORTH SIDE AND ANY OTHER EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.



PC Meeting of February 26, 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: February 21, 2007 Updated February 27, 2007

ANX 06-2288: (BROYLES, 245): Submitted by JAMES ATWOOD for property at 3601, 3611 AND 3677 WEIR ROAD. The property is in the Planning Area and contains approximately 10.61 acres. The request is to annex the subject property into the City of Fayetteville.

Planner: JESSE FULCHER

RECOMMENDATION:

Staff recommends approval of the requested annexation of the 10.61-acre tract into the City of Fayetteville.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
☒ Forwarded	☐ Approved	☐ Denied	
Date: <u>February 26, 2007</u>	Motion: <u>Trumbo</u>	Second: <u>Clark</u>	Vote: <u>7-0-0</u>
CITY COUNCIL ACTION:			
Required	<u>YES</u>		
☐ Approved	☐ Denied		
Date: <u>March 20, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property is located within the city's Planning Area on W. Weir Road, west of Salem Road. The property is bounded by Salem Meadows Subdivision to the south, which has been constructed and Holcomb Heights Planned Zoning District to the east, which is tracking concurrently with this annexation request.

Recommendation: Staff recommends approval of the requested annexation, finding that the incorporation of this property will create a more appropriate city boundary than what currently exists. Connectivity from Holcomb Heights Subdivision in addition to the location of Ruppel and Weir Roads adjacent to the property will allow for future development that is connected with surrounding developments, thereby providing more coordinated improvements and connectivity in this area.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Rural residential/W. Weir Road	Planning Area
South	Salem Meadows Subdivision	RSF-4
East	Crystal Springs Subdivision/Salem Road	RSF-4
West	Rural residential / agricultural	Planning Area

INFRASTRUCTURE:

Streets: The three properties currently access W. Weir Road to the north, however the future extension of Ruppel Road is located adjacent to the west property line and a proposed stub-out from Holcomb Heights Planned Zoning District will be located to the east.

Adjacent Streets:

North: W. Weir Road (Collector)

West: Ruppel Road (Principal Arterial), not currently constructed

Water: Public water is located adjacent to the site. There is a 12" waterline, which extends from Rockhaven Subdivision to the east and across Salem Road. The 12" main will need to be extended through the subject property to provide service at the time of development. A connection to the existing 8" water main located in the Salem Meadows Subdivision to the south will be required as well.

Sewer: Sanitary sewer is available adjacent to the site. There is an 8" sanitary sewer main located at the south property line in the Salem Meadows Subdivision. 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 Crystal Springs Lift Station will need to be evaluated to determine if sufficient capacity is left available to handle the development. This property is within the Hamstring Creek Lift Station Drainage Area.

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

Fire: These 10.61 acres are covered by Engine 7 located at 835 N. Ruppel Road. The property is 2.6 miles from the station with a projected response time of 7.5 minutes to this development. The long response time is due to Ruppel Road being a narrow and curvy road. Engine 2 on North Garland Avenue has approximately the same response time. This response time is above the Fire Department's goal of having the first unit on the scene within 6 minutes-90% of the time and the department's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes-90 % of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station

(Station 9) to cover this northwest part of the city. Currently the Fire Station is at Trigger Point #2 in this area which indicates the need for a contract to secure land in this area for the future. The Fire Department is in contact with developers in this area and has a verbal commitment for approximately 2 acres which would put the Fire Station on target for the projected service demand matrix. There is no recorded measure hydrant flow in this area. We do not anticipate calls for service on areas that are proposed to be annexed.

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

LAND USE PLAN: The City Plan 2025 map identifies this property as **Residential Neighborhood Area**.

FINDINGS:

11.6 ANNEXATION GUIDING POLICIES BOUNDARIES

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

Finding: Annexation of the property will not create an island or a peninsula. Rather, annexation of the property would create a more uniform city boundary. The 10.61-acre tract is currently bordered on the south and east by property located within the City limits and bordered by Weir Road to the north and the future extension of Ruppel Road to the west.

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

Finding: The proposed annexation area is adjacent to the City Limits to the south and east with an existing right-of-way to the north.

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

Finding: This area is located adjacent to Salem Meadows Subdivision to the south and the proposed Holcomb Heights Subdivision to the east. Annexation of the subject property will fill in a gap in the City Limits and create a more desirable boundary.

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

Finding: The proposed boundaries follow existing property lines.

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

Finding: Current conditions result in a response time of 7.5 minutes for fire protection from Fire Station #7. The long response time is due to Ruppel Road being a narrow and curvy road. Additionally, Ruppel Road is currently not constructed adjacent to this property, which would decrease response time to the property if developed. Engine 2 on North Garland Avenue has approximately the same response time. This response time is above the Fire Departments goal of having the first unit on the scene within 6 minutes-90% of the time and the department's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes-90 % of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city. Currently the Fire Station is at Trigger Point #2 in this area which indicates the need for a contract to secure land in this area for the future. The Fire Department is in contact with developers in this area and has a verbal commitment for approximately 2 acres which would put the Fire Station on target for the projected service demand matrix. Water and sewer are available to the property and shall be extended through the property at the time of development.

ENVIRONMENTALLY SENSITIVE AREAS

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

Finding: There are currently three existing single-family homes and accessory structures on the properties. The property is relatively flat with small clusters of tree canopy located mainly along the south property line. There is also an existing pond on the southeast corner of the property. No extraordinary environmentally sensitive areas are found.

EMERGENCY AND PUBLIC SERVICES

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

Finding: The police department reports that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

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

Finding: Fire and police currently serve the surrounding subdivisions, including areas further north that were annexed and have been approved for development. Service shall be provided to this area with the same level of response and service as other developments in this area.

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

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

INFRASTRUCTURE AND UTILITIES

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

Finding: Water, fire and police protection are currently provided south of this property and in the general area. The property is adjacent to city limits to which other public service providers already respond.

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

Finding: No development is currently proposed, however a stub-out from Holcomb Heights Subdivision is being provided for connectivity with future development.

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

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

INTERGOVERNMENTAL RELATIONS

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

Finding: N/A

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

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

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

Finding: Annexations are automatically zoned R-A, Residential Agricultural. There are no requests to rezone this property at this time. Currently, there are no land use regulations on the property. Annexation and a Residential Agriculture zoning will allow for those uses permitted within the R-A district. Future rezoning/planned zoning district requests must be reviewed by the Planning Commission and approved by the City Council.

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

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

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

Finding: Development of this property has not been proposed, though as noted in the Holcomb Heights Planned Zoning District submittal, the property will likely be.

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

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

11.6.w Encourage larger annexations to create acceptable boundaries.

Finding: While the annexation request is for a small tract of land, the annexation of the property will create a more desirable city boundary.

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

Finding: No fiscal impact assessment was conducted for this annexation of 10.61 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

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

Environmentally Sensitive Areas

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

Emergency and Public Services

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

Infrastructure and Utilities

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

Intergovernmental Relations

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

Administration of Annexations

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



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and
Jesse Fulcher

Thru: Chief Tony Johnson
Asst Chief Bud Thompson

From: Captain Dale Riggins

Date: October 25, 2006

Re: ANX06-2288 Broyles – Addendum to
Fire Department Comments

ANX06-2288 (BROYLES)

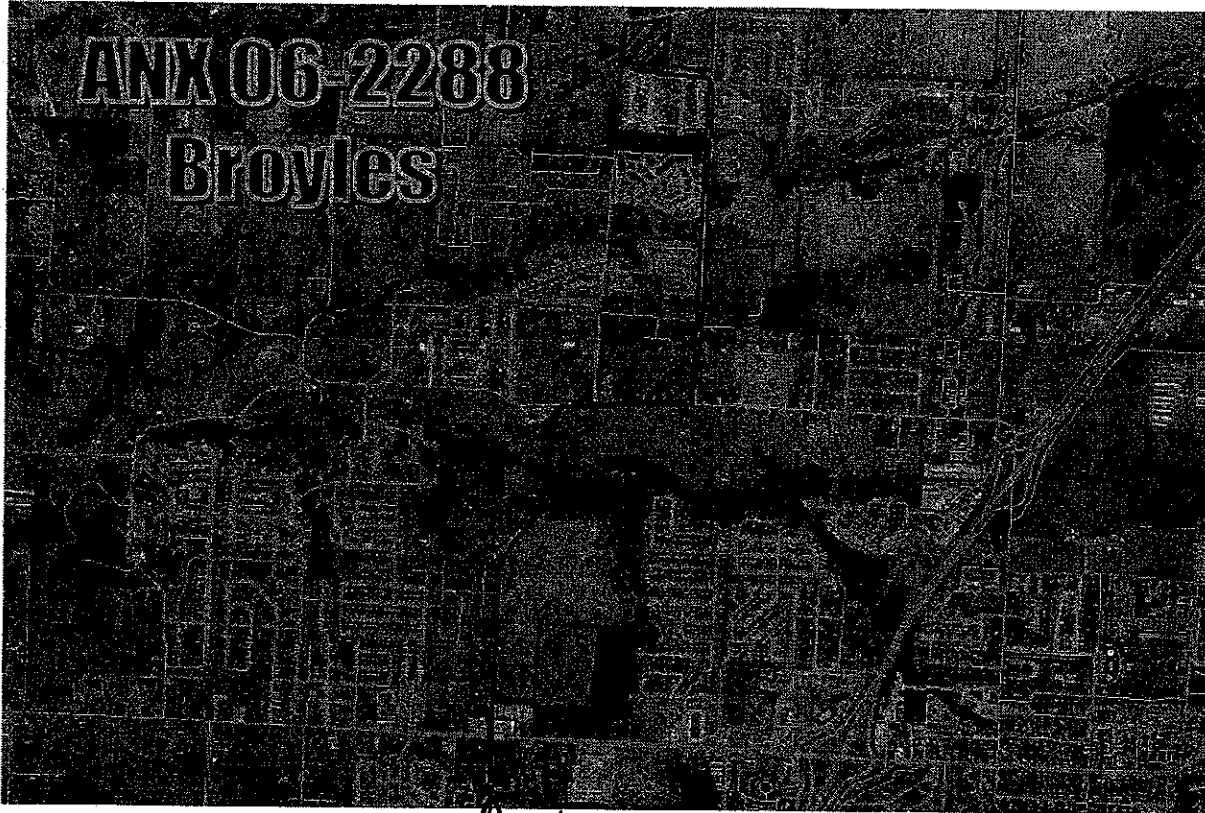
These 10.61 acres are covered by Engine 7 at 835 N Ruppel.
It is 2.6 miles from the station with an anticipated response time of 7.5 minutes. This long response time is due to Ruppel Road being narrow and curvy. Engine 2, on N Garland, has approximately the same response time. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

Currently we are at Trigger Point #2 in this area which indicates the need for a contract to secure land in this area for the future. We are in contact with developers in this area and have a verbal commitment for approximately 2 acres which would put us on target for our projected service demand matrix.

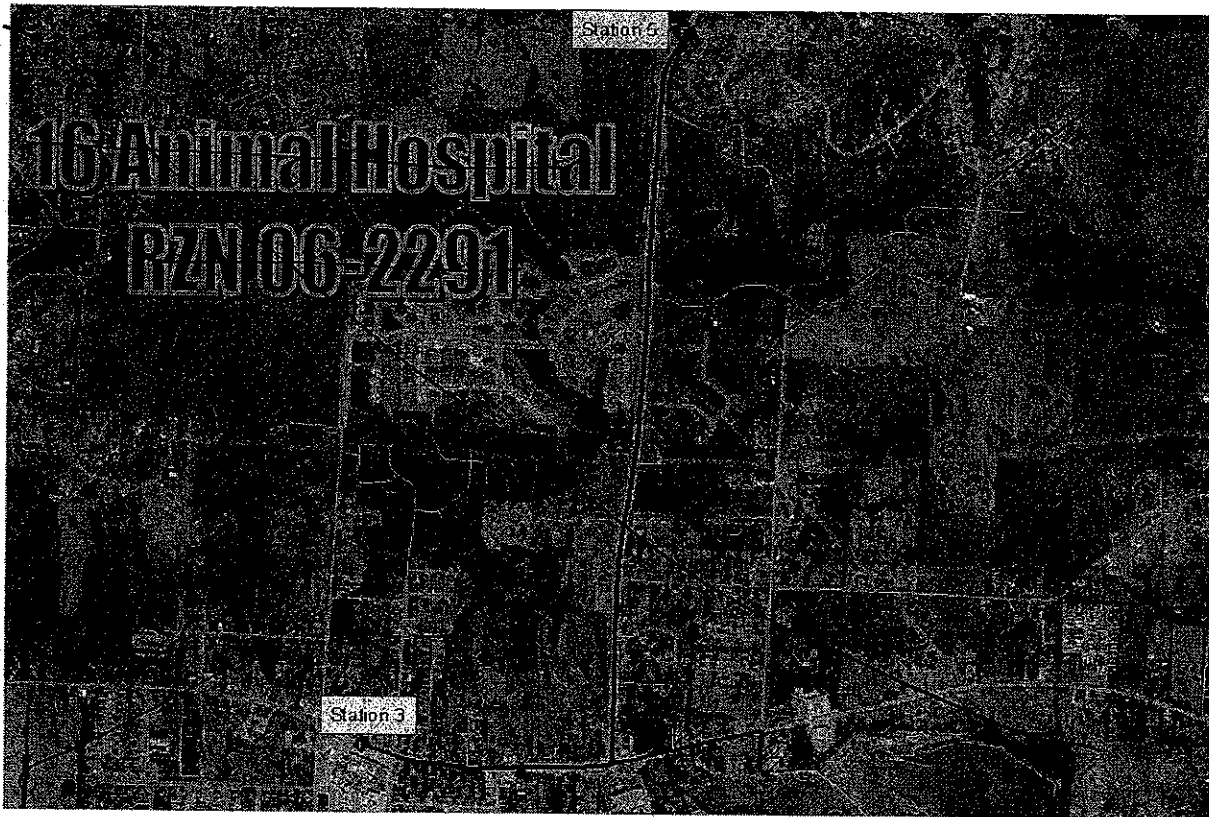
There is no recorded measured hydrant flow in this area.

We do not anticipate calls for service on areas that are proposed to be annexed.

Dale Riggins
Fayetteville Fire Department



F.S. 47





FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

October 16, 2006

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed annexation, ANX 06-2288: (Broyles, 245): submitted by James Atwood for property located at 3611 and 3677 Weir Road, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 10.61 acres

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

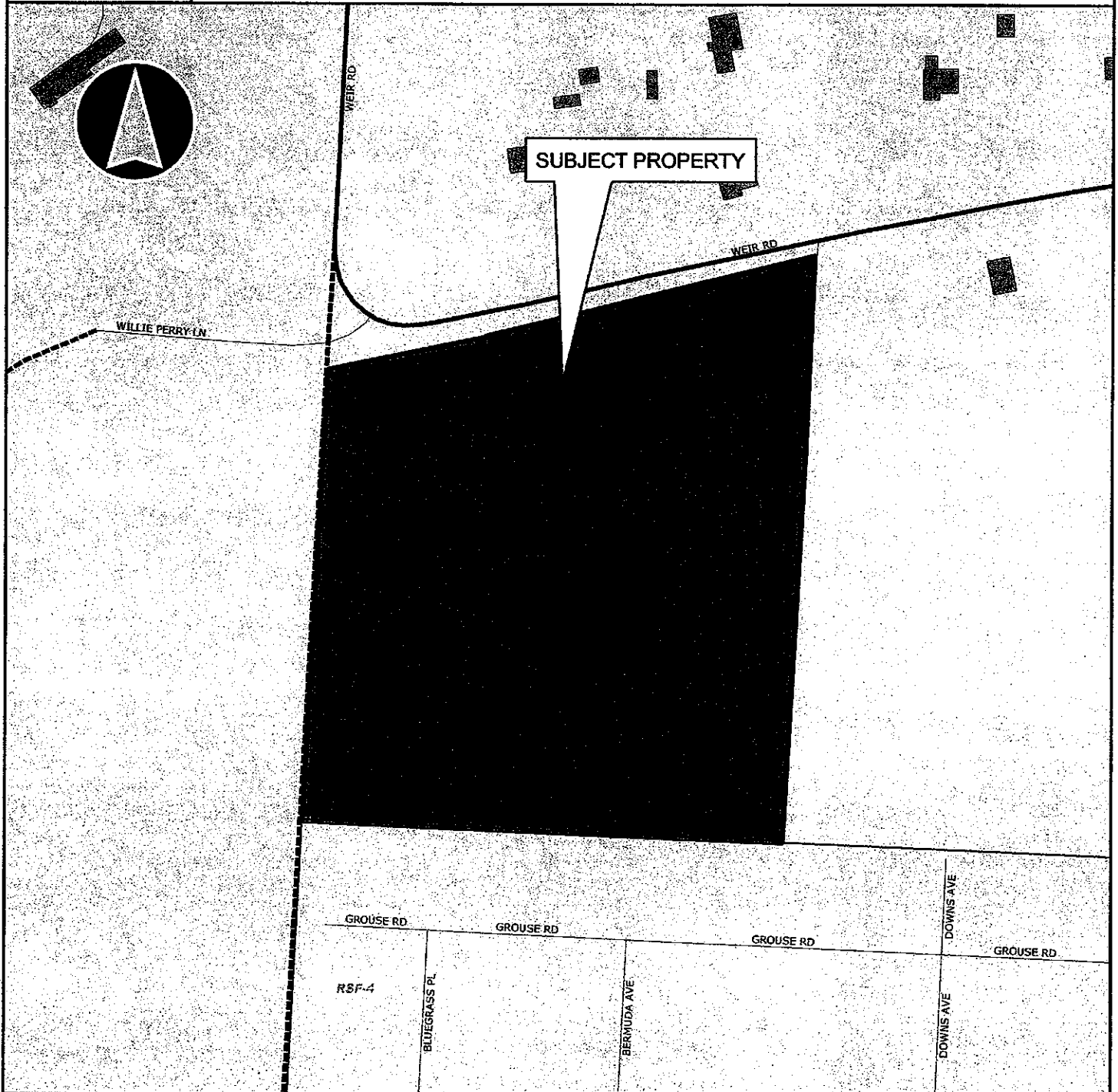
In reference to RZN 06-2291: (16 Animal Hospital, 567): Submitted by Jorgensen & Associates for property located at 2805 E. Huntsville Road. The property is zoned RSF-1 and R-A and contains approximately 3.46 acres. The request is to re-zone the subject property to C-1.

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 not create an appreciable increase in traffic danger and congestion in the area.

ANX06-2288

BROYLES

Close Up View



Overview

Legend

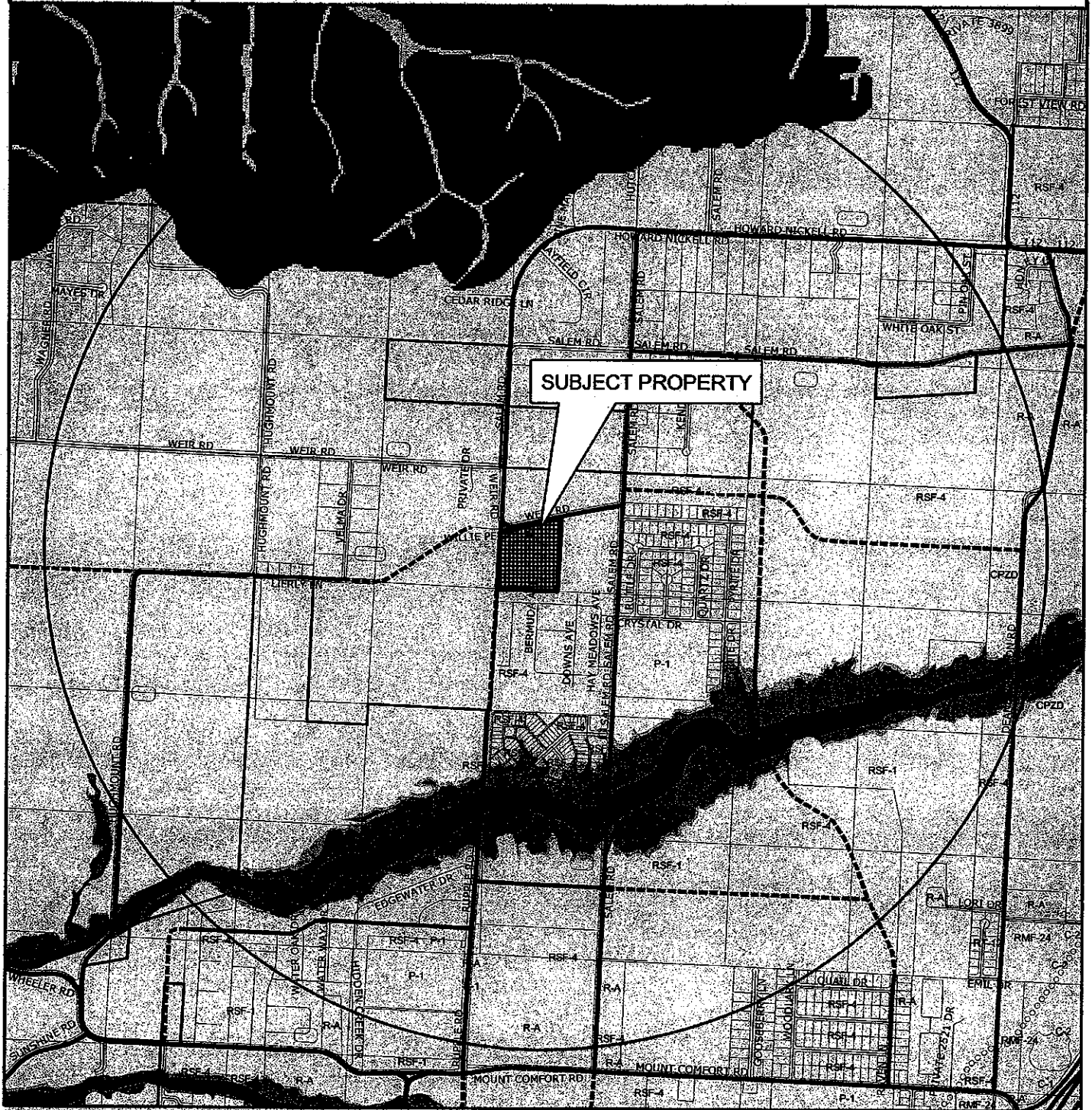
- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- ANX06-2288
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



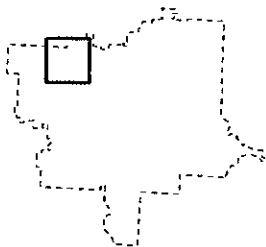
ANX06-2288

One Mile View

BROYLES



Overview



Legend

Subject Property

ANX06-2288

Boundary

Planning Area

Overlay District

Outside City

Legend

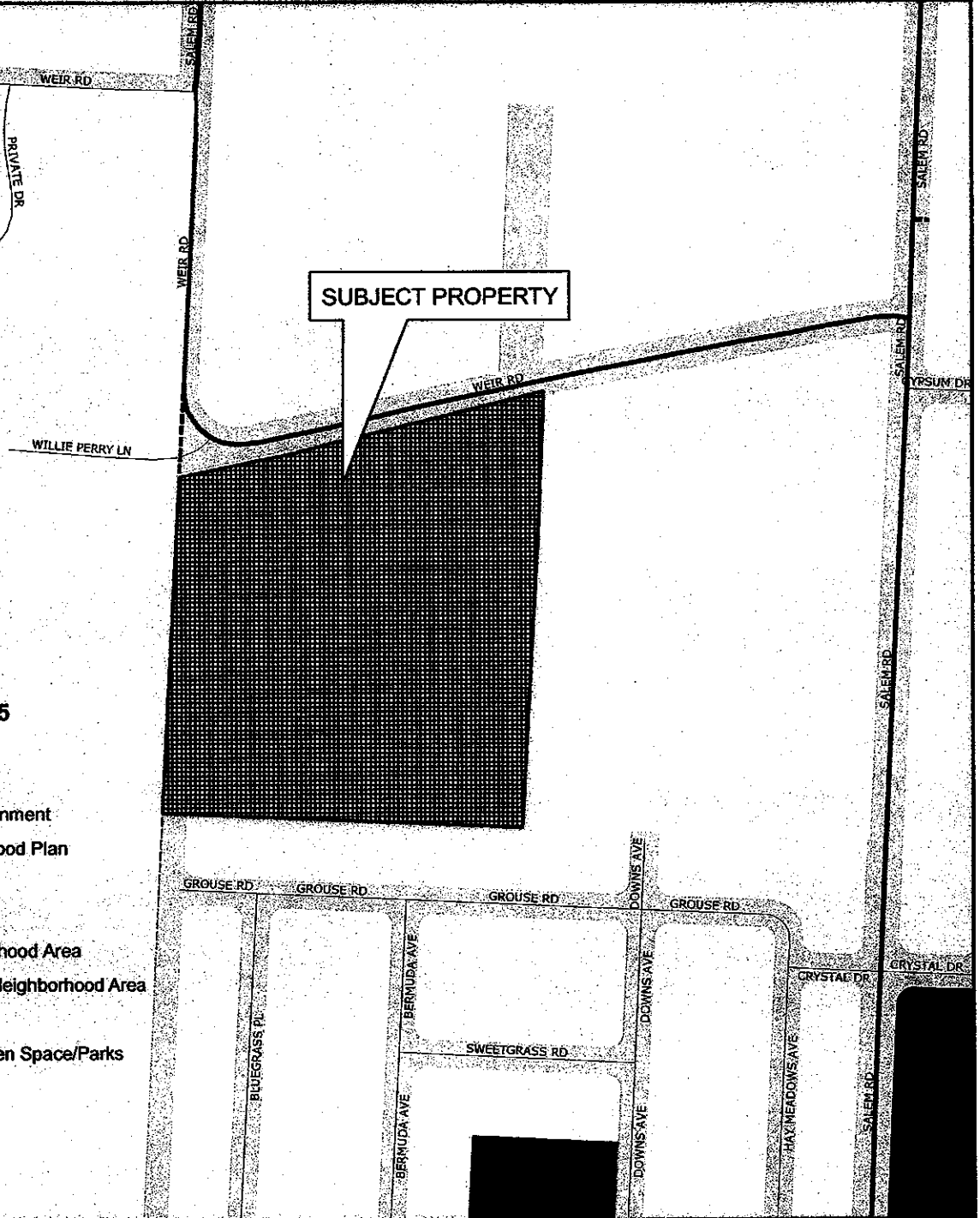
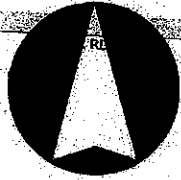
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

ANX06-2288

Future Land Use

BROYLES



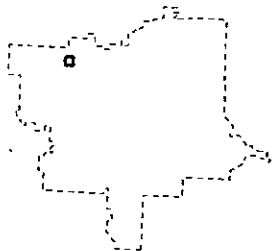
Legend

Future Land Use 2025

CLASS

- Industrial
- Non-Municipal Government
- Complete Neighborhood Plan
- Natural Area
- Rural Area
- Residential Neighborhood Area
- General Urban/City Neighborhood Area
- Urban Center Area
- Civic and Private Open Space/Parks
- Civic Institutional
- Unclassified
- ROW
- Building (2004)

Overview



Legend

Subject Property

ANX06-2288

Streets

- Existing
- Planned

Boundary

- Planning Area
- Overlay District
- Outside City

Legend



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

20-Mar-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 06-2281: Planned Zoning District (Holcomb Heights, 245): Submitted by Appian Centre for Design for property located at the southwest corner of Weir Road and Salem Road, north of Salem Meadows Subdivision containing approximately 13.47 acres. The request is for rezoning, preliminary plat, and development approval for a Master Development Plan of a Residential Planned Zoning District with 68 single-family dwelling units.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature] 3-2-07
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 3-2-07
City Attorney Date

Original Contract Number: n/a

Paul a. Bush 3-2-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
3/2/07

[Signature] 3/2/07
Mayor Date

Received in Mayor's Office
ENTERED
3/2/07

Comments:

City Council Meeting of March 20, 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: March 01, 2007

Subject: Residential Planned Zoning District for Holcomb Heights (R-PZD 06-2281)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Holcomb Heights, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 13.47 acres located at the southwest corner of W. Weir Road and N. Salem Road. The proposal is for a residential development consisting of 68 single-family residential dwelling units.

BACKGROUND

The subject property consists of approximately 13.47 acres located at the southwest corner of Salem Road and Weir Road. The property is zoned RSF-4 and is currently undeveloped pasture. Two separate preliminary plats have been approved by the Planning Commission for the subject property, however neither was constructed. Salem Meadows Subdivision is located to the south with a street stub-out to this property. The project proposes a traditional neighborhood design with rear alley access, an interior neighborhood green and multiple pedestrian connections.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of this request on February 26, 2007. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-2281, HOLCOMB HEIGHTS, LOCATED AT THE SOUTHWEST CORNER OF WEIR AND SALEM ROADS, NORTH OF SALEM MEADOWS SUBDIVISION; CONTAINING APPROXIMATELY 13.47 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 06-2281 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: _____
DAN COODY, Mayor

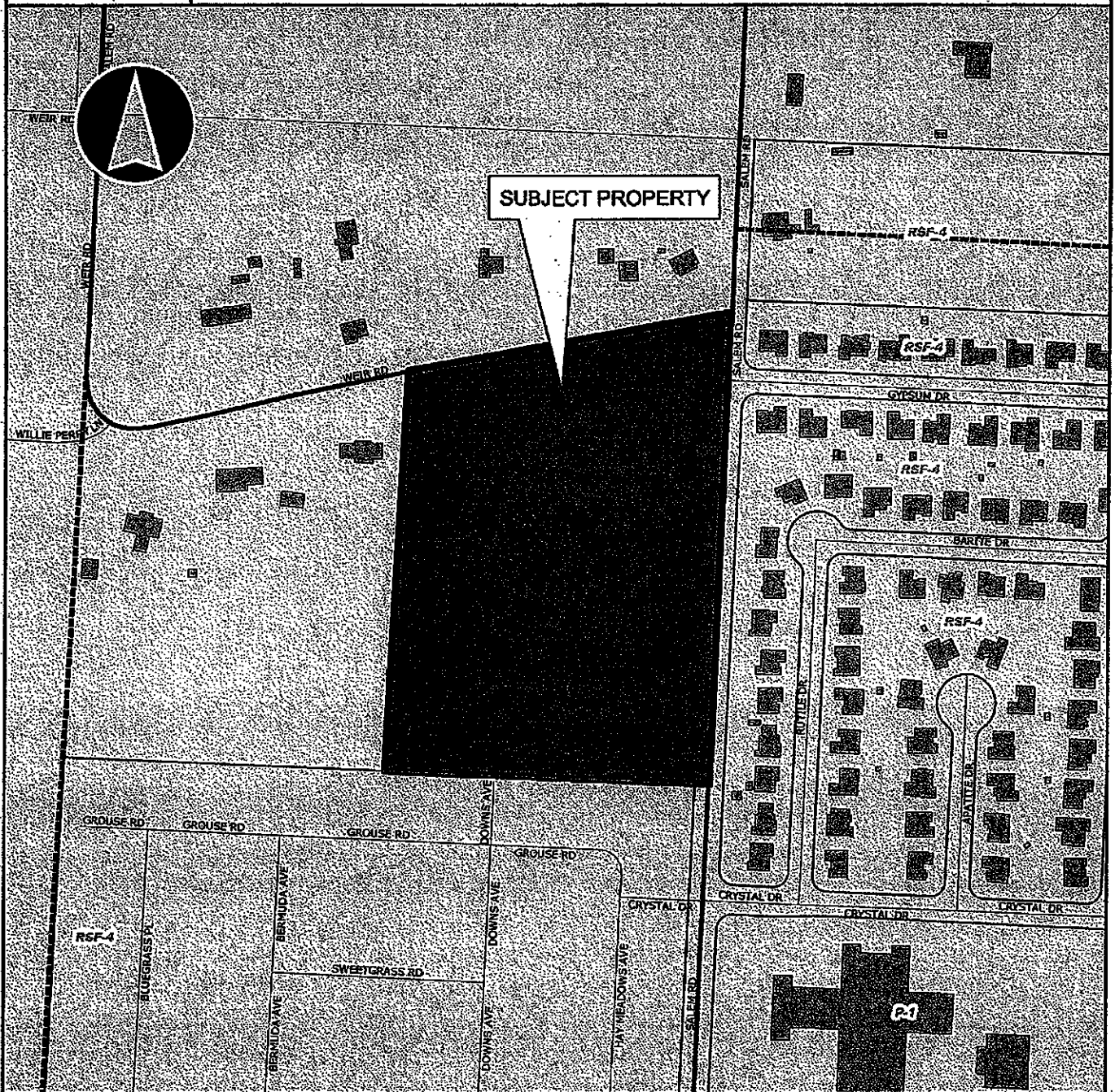
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD06-2281

Close Up View

HOLCOMB HEIGHTS



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2281
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

0 125 250 500 750 1,000 Feet

EXHIBIT "B"
R-PZD 06-2281

A PART OF THE NW1/4 OF THE NW1/4 OF SECTION 32, TOWNSHIP-17-NORTH, RANGE-30-WEST, WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID NW1/4 OF THE NW1/4 AND RUNNING THENCE N87°36'20"W, ALONG THE SOUTH LINE OF SAID NW1/4 OF THE NW1/4 662.41 FEET; THENCE N03°10'04"E, 821.23 FEET TO A POINT IN THE CENTER OF WASHINGTON COUNTY ROAD NO. 94 (WEIR RD.); THENCE N79°45'52"E ALONG THE CENTERLINE OF SAID WASHINGTON COUNTY ROAD NO. 94 310.95 FEET; THENCE N79°45'52"E, ALONG THE CENTERLINE OF SAID WASHINGTON COUNTY ROAD NO. 94 355.92 FEET TO A POINT ON THE EAST LINE OF SAID NW1/4 OF THE NW1/4 THAT IS 353.33 FEET S02°21'10"W, FROM THE NE CORNER OF SAID NW1/4 OF THE NW1/4; THENCE S02°21'10"W, ALONG THE EAST LINE OF SAID NW1/4 OF THE NW1/4 966.95 FEET TO THE POINT OF BEGINNING, CONTAINING 13.47 ACRES, MORE OR LESS.



Planning Commission Meeting
February 26, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: February 21, 2007 Updated February 27, 2007

R-PZD 06-2281: Planned Zoning District (HOLCOMB HEIGHTS, 245): Submitted by CRITICAL PATH DESIGN for property located at THE SW CORNER OF WEIR AND SALEM, N OF SALEM MEADOWS S/D. The property is zoned RSF-4, SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 13.47 acres. The request is a Residential Planned Zoning District containing 68 single-family dwelling units.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property consists of approximately 13.47 acres located at the southwest corner of Salem Road and Weir Road. The property is zoned RSF-4 and is currently undeveloped pasture. Two separate preliminary plats have been approved by the Planning Commission for the subject property, however neither was constructed. Salem Meadows Subdivision is located to the south with a street stub-out to this property.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single Family	Planning Area
South	Single Family	RSF-4, Residential Single Family, 4 Units/Acre
East	Single Family	RSF-4, Residential Single Family, 4 Units/Acre
West	Single Family	Planning Area-Proposed for annexation

Proposal: The applicant requests rezoning and preliminary plat approval for a residential development in an R-PZD zoning district. The proposed use of the site is for 68 single-family units for a maximum density of 5.04 units per acre. All of the residential units will be located in Planning Areas 1-3 and Planning Area 4 will be utilized for community green space. This proposal does subdivide the property and will require final plat approval.

Access and Parking: Access to the site is provided from a street stub-out from Salem Meadows which is located adjacent to the southern property line, connecting to Weir Road to the north. Weir Road will be realigned to create a 4-way intersection with Gypsum Drive and Salem Road. Street stub-outs are to be provided to the west for a future development. Parking has been provided in conformance with ordinance requirements for single-family dwellings. On-street parking areas and guest parking areas are also provided.

Street Width: 23' wide streets with 12' and 16' rear alleys are proposed interior to the project. The proposed street section provides for 10' lane widths and one-side on-street parking, due to the reduced gutter width.

Fire and Solid Waste Service: The Fire Department has stated that the street and alley sections proposed with the latest revisions are sufficient to allow fire apparatus access to all lots within the subject development. In its review of this latest plan, the Solid Waste Division has discussed that solid waste service may be provided from rear alleys with the following requirements that will be included as notes on the final plat and construction documents. It is anticipated that alley service to the rear of structures can be provided as long as 20' clear and unencumbered is maintained to allow room for the truck and arm to pick up the carts. If the 20' 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, pursuant to City ordinance, to require front service and the subsequent removal of parking. For those lots with a dead-end alley, rear service will not be provided. The applicant shall coordinate front service or other means of access prior to construction.

Phasing: The applicant proposes to develop the 68 dwelling units within Phase I, with the potential for Phase II on property located to the west, which is currently proposed for annexation (ANX 06-2288).

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

Adjacent Master Street Plan Streets: Weir Road (Collector Street)
Salem Road (Collector Street)

Street Improvements: Staff recommends that Weir Road be realigned to create a 4-way intersection with Gypsum Drive and Salem Road. 6' sidewalks are to be constructed along the property's frontage on Weir and Salem. All interior streets and alleys are to be constructed to city design specifications. The existing Weir Road street section shall be removed, including the asphalt surface and base and construct new residential driveways from the north right-of-way to the new roadway section, within access easements.

Parks: On August 7, 2006 the Park and Recreation Advisory Board recommended accepting money in-lieu to satisfy Park Land Dedication Ordinance requirements. The decision was based on the proximity of the land to Salem Meadows Subdivision park land, Gary Hampton Softball

Complex and park land located in Clabber Creek Subdivision. Fees are due in the amount of \$65,280.00 prior to issuance of building permits.

<i>Tree Preservation:</i>	Existing Canopy:	2.19%
	Preserved Canopy:	1.27%
	Required Canopy:	2.19%
	Mitigation:	Required

Public Comment: Staff has received comments from citizens objecting to the project, citing such issues as increased traffic, density, overcrowded schools, a decrease in property value, drainage issues and the amount of development in the area.

Background: This item has been heard and tabled at the following Subdivision Committee meetings: 11-02-06, 11-16-06, 11-30-06. Issues to address were completed drainage/detention calculations and coordination with fire and solid waste regarding access to the units.

Recommendation: Staff recommends forwarding **R-PZD 06-2281** to the City Council with a recommendation for approval with the following conditions:

Issues/Conditions to Discuss:

1. Planning Commission determination of street improvements. *Staff recommends the following improvements:*
 - a. *Weir Road shall be reconstructed to create a 4-way intersection with Gypsum Drive and Salem Road. A turn lane shall be installed providing 100' of stacking depth from the intersection. The newly constructed Weir Road shall be constructed to Master Street Plan requirements for a collector street with a 28' street section, curb and gutter, 6' sidewalks and storm drains.*
 - b. *Remove asphalt surface and base from the old section of Weir Road and construct new residential driveways from the north right-of-way to the new roadway section, within access easements.*
 - c. *6' sidewalks shall be constructed along the property's frontage at the Master Street Plan right-of-way, on Weir Road and Salem Road.*
 - d. *Salem Road shall be improved along the property frontage with a 14' from centerline section, including turn lanes at the intersection of Weir/Salem/Gypsum and appropriate transition areas. All designs shall be subject to Engineering approval.*
 - e. *All interior streets and alleys shall be constructed to City design standards, inspected and approved by the Engineering Department.*
 - f. *All parallel parking provided along Salem and Weir shall be constructed to city standards and shall be coordinated with the Fire Department and Solid Waste Division prior to submittal of construction drawings.*

2/26/27 PLANNING COMMISSION: THE COMMISSIONERS FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

2/1/07 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

11/30/06 SUBDIVISION COMMITTEE: NO COMMENTS, ITEM TABLED.

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVMENTS.

11/2/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVMENTS.

2. Planning Commission determination of waivers from minimum street design standards of the Unified Development Code.

- a. Street width waivers. The applicant proposes 23' interior street widths. *Staff recommends in favor of the requested 23' street sections. Finding that the street sections provide 10' lane widths, one-side on-street parking and are capable of handling the expected design service volume. Staff will review detailed construction plans at the time of development.*
- b. Construct a horizontal curve with a radius less than 150'. This occurs north of Lot 69 (detention lot). *Staff finds in favor of this waiver request.*
- c. Construct curb radii of 20' on minor residential street and alley intersections where 30' is required for minor streets and 25' is required for alleys. *Staff recommends in favor of the curb radii of 20'. Finding that 20' curb radii on the more narrow streets and alleys proposed allows for adequate vehicular turning movements for passenger vehicles.*
- d. Construct curb radius of 30' at the intersection of a collector street where 50' is required for Weir Road and Salem Road. *Staff finds in favor of this waiver request.*
- e. Waiver of the minimum jog for a local street of 150' (73' proposed). *Staff recommends in favor of this request.*
- f. Waiver of standard 2' curb and gutter section (1.5' proposed). *Staff recommends in favor of this request.*

2/26/07 PLANNING COMMISSION: THE COMMISSIONERS FOUND IN FAVOR OF THE REQUESTED WAIVERS AS RECOMMENDED.

2/1/07 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF THE REQUESTED WAIVERS WITH MODIFICATIONS TO (2)(a) REQUIRING 23' STREET SECTIONS AND (2)(c) ALLOWING FOR 20' CURB RADII.

11/16/06 SUBDIVISION COMMITTEE: THE COMMISSIONERS FOUND IN FAVOR OF ALL REQUESTED WAIVERS.

3. Staff is recommending approval of the submitted Tree Preservation Plan associated with RPZD 06-2281 with the following conditions of approval:

- a. Mitigation is required on the site for the 5,227 square feet of canopy removed.

Using the mid level priority density factor, 18 (2) inch caliper large species trees will be required. The applicant has requested and been approved for on-site mitigation.

- b. All 18 trees shall be planted and 3-year maintenance bond, letter of credit, or check in the amount of \$4,500.00 deposited with the City of Fayetteville before signing the final plat.
4. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
5. Parks fees are due in the amount of \$65,280.00 for 68 single-family dwelling units, prior to building permit approval.
6. One (1) large species tree shall be planted for each lot as depicted on the landscape plan.
7. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.
8. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential single-family development.
11. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Standard Conditions of Approval:

12. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
13. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Architectural elevations for these structures shall be submitted for review prior to issuance of a building permit. Screening should not be required as dumpster pads are not proposed for this single-family development.
14. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

15. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
16. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to final plat.
17. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Separate easement plat for this project that shall include the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☐ Denied ☐ Tabled ☒ Forwarded to C.C.

Motion: Clark

Second: Harris

Vote: 7-0-0

Meeting Date: **February 26, 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 MDP R-PZD 06-2281 (Holcomb 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. The City Plan 2025 designates this site as Residential. Rezoning this property to R-PZD 06-2281 with single-family dwelling units is consistent with the land use plan and the surrounding land use. Although the proposed lot sizes are smaller than the lot sizes found within the standard RSF-4 developments in the area, staff finds the development to be relatively compatible with these developments. The development will support the goal of providing density (5.04 units/acre) nearby to public services, i.e. schools, sports complexes, etc.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The proposed development will yield a higher density than Salem Meadows Subdivision immediately to the south, however the overall density of 5.04 units/acre is compatible with surrounding developments including Salem Village P.U.D. A harmonious relationship with surrounding developments is achieved by utilizing detached single-family dwelling units throughout the development and providing a rear setback from the southern property line that is greater than that required in the RSF-4 zoning district.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The site is relatively flat, undeveloped pasture land with a small percentage of existing tree canopy. Over two acres of greenspace will be reserved for recreational use and a significant number of trees will be planted throughout the development, creating a healthy urban canopy.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets, however the overall density should not create an appreciable amount of traffic over that allowed under the current RSF-4 zoning. Additionally, as part of the development of this property, significant improvements to Weir Road and Salem Road are required, which will ultimately help facilitate safer traffic movements and improve service levels.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the project once constructed.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: This development is a compact, complete development pattern, all connected with a system of sidewalks, pedestrian walkways, and narrow streets. Rather than turning the rear of the houses to the surrounding streets, as is common in most developments, the homes will either face onto the surrounding streets, or onto a 2-acre village green located in the center of the development. Narrower street sections and on-street parking will provide adequate vehicular circulation and connectivity, while also reducing vehicle speeds and increase pedestrian safety. Common open spaces in the form of a large village green and smaller "pocket parks" add further to the health, safety and welfare of the community.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
 - (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: All lots will be rear loaded from alley ways interior to the site. No curb-cuts are allowed onto Salem Road or Weir Road.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot, however additional parking areas are provided for guests use.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

- (6) *Sidewalks.* As required by §166.03.

FINDING: 6' public sidewalks are to be constructed along Weir Road and Salem Road. Additionally, 5' public sidewalks will be constructed along all public rights-of-way interior to the development and 5' pedestrian walks will be constructed to provide additional pedestrian connections throughout the development.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public and private streets at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water lines are available to each lot and shall be extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to each lot and shall be extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to

the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: A 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, provide on-street parking and encourage pedestrian activity. Staff is recommending in favor of the waivers for street and alley design, after extensive review and discussion.

- (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 maximize preservation of existing canopy, however there are only two significant trees on the property. On-site mitigation is required, which will ultimately benefit the site and surrounding area.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed, are not uncommon for the area.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

- (a) The homeowner's association must be legally established before building permits are granted.
- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements. A condition to this effect is included in the staff report.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General

Plan.

- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, common open spaces, and enhancement of existing natural features. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering detached single-family housing types, lot arrangements, lot dimensions and building setbacks.

The following guiding policies within Residential Neighborhood Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Neighborhood Areas:

12.1.2 Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.

12.1.2 Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

12.1.2 Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.

12.1.2 Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.

12.1.2 Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

(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. The requested R-PZD provides an effective relationship between similar land uses and activities on abutting parcels, while also providing a compact, complete and connected neighborhood.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

- (4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: All uses are proposed as residential.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

- (a) The densities of surrounding development;
- (b) the densities allowed under the current zoning;
- (c) the urban development goals and other policies of the city's General Plan;
- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is mixed in density and use, from traditional neighborhoods developed under the RSF-4 zoning district, large undeveloped agricultural properties, Holcomb Elementary School and Salem Village, which was developed as a Planned Unit Development. The density proposed for this development is appropriate given that the site is clear pasture land adjacent to an elementary school and existing infrastructure.

(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. 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-family development in the surrounding area.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development

scheme.

FINDING: The lot coverage or building area on this project is relatively high in comparison to the RSF-4 zoning district, however the lot coverage is appropriate given the urban environment proposed. Additionally, the site plan provides common open space to be shared by all residents.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to R-PZD 06-2281, with the associated Master Development Plan, allows the principal use on the property to remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Areas this proposal meets. Rezoning the property will accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The rezoning is needed to allow for the creation of a traditional neighborhood development that is also sensitive to the surrounding developed community.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion on surrounding streets. Furthermore, the street improvements required with this development will increase pedestrian safety and create safer traffic movements in the vicinity of Weir Road and Salem Road with the addition of turn lanes and sidewalks.

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

sewer facilities.

Finding: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Engineering: The proposed subdivision has been reviewed for access to public utilities, including water and sewer. Improvements to the water system and sewer system are required to serve all of the proposed lots.

Police: Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Fire: Fire station #7, approximately 3.0 miles away, serves this site. Fire response time to the site is approximately 7.5 minutes, with an anticipated 15 (9 EMS – 6 Fire/Other) calls for service at maximum build-out, based on the Service Delivery Impact included as a part of the staff report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

TO: Jesse Fulcher, Planner
FROM: Alison Jumper, Park Planner
DATE: January 30, 2007
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: February 01, 2007
Item: R-PZD 06-2281 (Holcomb Heights, 245)
Park District: NW
Zoned: RSF-4
Billing Name & Address: Broyles Development 4921 Clear Creek Blvd. Fayetteville, AR
72704

	<u>Current Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ 68 @ \$960 per unit = \$65,280
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$680 per unit = \$ _____

COMMENTS:

- 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. This decision was based on the proximity of the land to Salem Meadows park land as well as Gary Hampton Softball Complex and the park land at Clabber Creek. Additionally, the developer is providing green space and a tot lot for the residents.
- Fees are due in the amount of \$65,280 prior to issuance of building permits.



PC Meeting of February 26, 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 30, 2007

ITEM #: R-PZD 06-2281: Planned Zoning District (Holcomb Heights)

Requirements Submitted:

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

Canopy Measurements:

Total Site Area	
acres	13.40
square feet	583,706
Existing Tree Canopy	
acres	0.29
square feet	12,791
percent of site area	2.19%
Existing Tree Canopy Preserved	
acres	0.17
square feet	7,405.2
percent of total site area	1.27%
Percent Minimum Canopy Required	2.19%

FINDINGS:

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

- **This site has a limited amount of canopy. The species on the site are a wide variety of oak, hackberry, persimmon, and elm. There are only**

two trees that are found to be significant.

Whether the design incorporates the required tree preservation priorities

- **This design takes into consideration the tree preservation priorities. Many of the trees will be found on the lots and within a greenspace area maintained by the POA.**

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

- **Environmental degradation should not occur on the site.**

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 should not be affected by the removal of tree canopy on the site.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of the lot does not reduce flexibility of design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of the trees was found to be fair to good.**

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

- **Many of the trees are found within areas that should be preserved all the way through development of the lots.**

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

- **The only trees removed are due to the installation of drives.**

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

- **This development did not take into consideration the preservation of trees. There are several trees that will be removed for the installation of the road.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on this project and will ultimately benefit**

the site and surrounding area.

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **NA**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following conditions.**

Conditions of Approval:

- 1. Mitigation is required on the site for the 5,227square feet of canopy removed. Using the mid level priority density factor, 18(2) inch caliper large species trees will be required. The applicant has requested and been approved for on-site mitigation.**
- 2. All 18 trees should be planted and a 3-year maintenance and monitoring bond, letter of credit, or check in the amount of \$4500 deposited with the City of Fayetteville before signature of final plat.**



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
From: Captain Dale Riggins
Date: February 21, 2007
Re: Holcomb Heights

R-PZD 06-2281 (Holcomb Heights)

These 13.47 acres are covered by Engine 7 at 835 N Ruppel.

It is 3.1 miles from the station with an anticipated response time of 8 minutes.

This long response time is due to Ruppel Road being narrow and curvy. The improvements to Ruppel Road should reduce the response times somewhat but we cannot estimate this at this time without the upgrades to the street.

This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. It has been proposed (Fayetteville Fire Department: Deployment Study 2003) to build a fire station (Station 9) to cover this northwest part of the city.

The Fire Department anticipates 15(9 EMS – 6 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type 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 to this development.

If you have any question please feel free to contact me.

+★ . . .

**Dale Riggins
Captain
Fayetteville Fire Department**

appian centre for design
planning-landscape architecture-urban design

February 20, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Holcomb Heights

Dear Mr. Pate:

Appian Centre for Design is writing to request waivers granting permission to:

1. Construct curb return radii (CRR) of 20' on all interior street and alley intersections
2. Allow designated on-street parallel parking on Weir Road and Salem Road
3. Design street cross sections differently than are required by the current Master Street Plan standard with regards to the street sections proposed for Holcomb Heights
4. Waiver for the typical city jog requirement of 150' for a local street
5. Construct a centerline radius of 50' at the intersection/curve of Road 2 and Road 4, and a centerline radius of 114.5' around the Village Green (intersection of Road 1 and Road 2).
6. The option to use 18" curb versus the standard 24" curb
7. Construct curb return radii (CRR) of 30' (instead of 50' radius for collector streets) at the intersection of Salem and Weir Roads.

Please consider the following as grounds for granting the waivers:

1. The request is to allow a 20' curb return radius (CRR) at all interior street intersections in order to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe to pedestrians. A 20' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

No above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted within fifteen feet (15') of an intersection of streets. Along with the reinforced curbs and no parking zones designed to allow apparatus to utilize curbs for their turning needs if the roadway is otherwise restricted.

2. The request is for a waiver granting permission to design street cross sections differently than are required by the current Master Street Plan standard with regards to Holcomb Heights. The request is to allow designated on-street parallel parking street cross sections for Weir Road and Salem Road. Parallel parking is a basic element to New Urbanism and traditional neighborhood street design. Our proposed street cross sections are intended to create the backbone of what we hope will be a successful development. We hope our

proposed street cross sections promote a strong connection within community. On-street parallel parking is designed to provide a safe environment for pedestrians on the sidewalk from moving vehicles in the traveled lanes and provide street activity while developing a sense of neighborhood and sense of place.

3. We feel that the typical street cross sections do meet the City Plan 2025 vision for Fayetteville and Holcomb Heights. Our ideal is that the community should be pedestrian-friendly and have strong community character and identity. We intended for Holcomb Heights streets to define this project, creating a sense of place and providing a safe environment for pedestrians. The proposed 23' street section is intended to allow for on street parking.
4. We are unable to meet the city requirement of 150' for the minimum jog between intersections due to site constraints and the connection to an existing street stub-out so we can provide connectivity. We felt this is not a safety issue since the traffic volume will only be residential.
5. Due to site constraints, we are proposing a 50' centerline radius and feel that this is adequate. Also, to construct a CRR of 114.5' at the intersection of Road 1 and Road 2.
6. Use of an 18" curb versus a standard 24" curb uses less concrete and is consistent with traditional neighborhood design in which aesthetics plays a large role.
7. We are requesting a 30' CRR at the intersection of Salem and Weir Roads to match the existing conditions on the East side of Salem Road ,(as discussed with the head of Engineering Department previously), instead of the city requirement of a 50' CRR for a collector street.

Thank you for your time in considering this matter. I look forward to hearing from you. If you have any comments or questions, please do not hesitate to contact me.

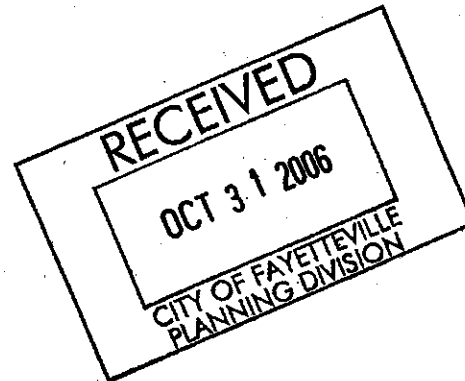
Sincerely,

Todd Jacobs
Appian Centre for Design
466-8115

CC: Glen Newman P.E.	Staff Engineer
Jesse Fulcher	Planner
Matt Casey P.E.	Assistant City Engineer

October 24, 2006

Glenn E. Newman, Jr., P.E.
Staff Engineer
113 West Mountain Street
Fayetteville, AR 72701



Re: Responses to Plat Review Comments

Mr. Newman:

In reference to the technical review comments that were submitted to our offices from the September 27, 2006 Technical Plat Review, I have responded with the following numbered items to address the comments made regarding the drainage study:

22. a). Based on the information provided a detention pond is required and has been sized in order to handle the 100-year design flow. The original T_c used for the pre developed flow included using the sheet flow equation for the first 500' of drainage. We have adjusted the input for the calculations by allowing only the first 300' of runoff to be applied to the sheet flow equation; however in doing this the overall T_c for pre-development was lowered making the intensity higher and therefore making the Q higher for pre-development. Peak allowable out (pre-developed flow) now is estimated to be 40 cfs. The revised preliminary drainage report reflects the changes made.

b). The coefficients have been updated to reflect changes requested by Mr. Newman.

23. a) Input for the pond area is volume required divided by the depth of the planned pond. The volume required to be stored is taken from the difference in the pre and post flows. The attached calculations page covers the calculation for the outlet pipe for the pond. The diameter of the pipe needed to carry is slightly larger than an 18" pipe therefore a 24" CMP is recommended. Tail water calculation for pond discharge in the existing downstream storm drain system has been performed using the 10 year outlet peak flow of 40cfs. Also, the intention of the design is for dry storage. An updated grading plan has been submitted concurrently with these comments.

The downstream network associated with the development of the Salem Meadows subdivision included the placement of a 36" CMP along Salem Road which we plan to use for connectivity. The Salem Meadows subdivision, which was designed to handle an offsite 10 year flow of 79 cfs, will have a lesser flow demand on it (approximately half) as we are dampening the peak flow leaving the site and have designed for adequate storage at each design storm.

The flows anticipated for the receiving 36" pipe calculated by Landtech Engineering is in the southern most portion of the subdivision exiting with a HGL of 1188.10 ft. The anticipated HGL of the additional flow to be added to the receiving pipe has not been calculated at this time, but are not expected to back the pipe up as we are reducing the flow that is flowing to it as well as the open ditch.

Thanks,

Appian Centre for Design

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Jesse Fulcher, Planner

February 20, 2007

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (February 26, 2007 Planning Commission Meeting)

Development: **Holcomb Heights**

Engineer: **Appian Centre for Design**

Grading Plan:

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. Design contours shall extend one foot beyond sidewalk at 2% grade before a cut or fill slope is permitted.
3. Sidewalk shall be elevated 2% above back of curb to the right of way. Revise grading along Salem Road to reflect this requirement.
4. Relocate the storm drain pipe on the running east and west on the south side of lot 69 out of the levee section of the detention pond.
5. Drainage for Alley E discharges into Phase 2. Provide a drainage easement across Phase 2 as needed to connect to Phase 1.
6. Indicate where the storm drain line will terminate on Road 4 as it pertains to Phase 2.
- 7. Provide an access easement for the 5ft sidewalk on lot 69.
8. Provide a 20 ft Drainage Easement 10 ft from the storm drain on the running east and west on lot 69 along the south property line.
9. Provide a Drainage Easement 10 ft from the storm drain on the south east corner of Phase 2 on the north side of Weir Rd. west of Salem Road.
10. Any retaining wall more than four feet in height shall be designed by a registered professional engineer and shall be field inspected by the design engineer.
11. Safety railings are required on any retaining wall greater than 30" in height. The safety railing shall be built in to the more stringent requirements of the SBCC or AASHTO.

Utility Comments

12. Provide a Utility Easement for the Sewer mains on lot 69 south of Alley B. The easement sanitary sewer main must be at least 10 ft from the proposed retaining wall. This will effect the location of the sanitary sewer, water main, and the easement to the north effecting lot 33.

Drainage Report:

13. Revise discharge pipe sizes to meet the maximum velocity of 12 ft/s for the design storm in accordance with the drainage manual for closed conduit systems.
14. Drainage discharge must be designed so that it does not exceed the downstream capacity. Offsite improvements may be required after additional investigation. Model the downstream effects and the depth of flooding for Salem Road and the two entrances to Salem Meadows for each design event. It appears that the downstream capacity for storms greater than 10 yr may affect the detention pond capacity to discharge through the primary outfall and may overtop the pond and spill into Salem Roadway at events less than the 100 yr event.
15. Determine the tailwater condition for the discharge pipe and use a culvert analysis to determine the capacity of the discharge pipe with the head generated by the pond. This will more accurately determine if the pond will use the emergency overflow and the frequency and discharge.

Phase II

16. Phase II has not been thoroughly reviewed at this time. However the configuration of the street island in Phase II is not acceptable.

General Comment

17. This project is within a Sanitary Sewer Assessment Area for potential upgrades to the sewer system capacity in the area. In the event that these upgrades are not necessary before the new treatment plant comes online, these funds will be reimbursed.

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR HOLCOMB HEIGHTS**

Today's Date: 1-19-07

APPLICANT/REPRESENTATIVE CONTACT INFO:

Appian Centre for Design
One East Center Street, Ste 212
Fayetteville, AR 72701
Office 479-445-6009

Broyles Development
4921 Clear Creek Blvd.
Fayetteville, AR 72704
Office 479-442-5766

Subdivision Meeting:

Thursday, 2-01-07 9:00 am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

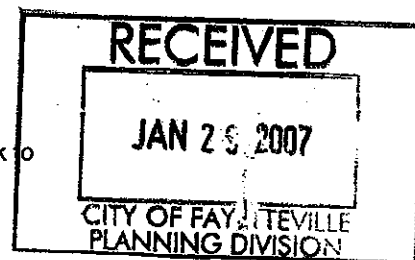
Monday, 2-12-07 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

Holcomb Heights is a residential development located approximately at the southwest corner of the intersection of Weir and Salem Roads. Holcomb Heights was designed in the Traditional Neighborhood Design (TND) style. The goal of TND is to revitalize suburban life and reconnect suburban lives by the design of pedestrian friendly neighborhoods. While the use of a TND neighborhood cannot halt or reverse suburban sprawl that has evolved over the past sixty years, it can at least slow it and provide centers within communities where life is more pleasant. Rather than keep the current RSF-4 zoning for the property which would only allow for homogenous blocks of housing served by strip malls as is typical to the region, the developers and design firm are creating a more compact, complete and well connected neighborhood. The Holcomb Heights neighborhood will also reduce land consumption and automobile dependence by improving land-use patterns. This design also promotes pedestrian activity, decreases polluted storm water run-off, and creates a community that is both pleasant and sustainable. An ideal planned neighborhood features a defined edge, no more than five minute walk to the central area. Holcomb Heights creates this center by its well defined pattern of sidewalks and parks. Holcomb Heights also provides an orderly yet varied street layout and pedestrian pass-throughs which serve as mini-greenways to allow for easy pedestrian movement. The presence of schools serves to attract a residential population that has greater age diversity.

For more information regarding the Holcomb Heights Community feel free to call or stop by our office so we can answer any questions you might have.

ADJOINING PROPERTY OWNERS COMMENTS
Return Comments concerning Holcomb Heights PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701



I have been notified of the above meetings for the described project.

I do not object to the project described above.

☒ I do object to the project described above because: *not all of our property is fenced and you can't have it and the pond you propose is harmful. Insects will be an issue. Stop sending certified mail also.*

D. Merle Houston
Name of Property Owner (Printed)

D. Merle Houston
Signature of Property Owner

Kathy Houston

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR HOLCOMB HEIGHTS**

Today's Date: 1-19-07

APPLICANT/REPRESENTATIVE CONTACT INFO:

Appian Centre for Design
One East Center Street, Ste 212
Fayetteville, AR 72701
Office 479-445-6009

Broyles Development
4921 Clear Creek Blvd.
Fayetteville, AR 72704
Office 479-442-5766

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Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 2-12-07 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

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[REDACTED] is a residential development located approximately at the southwest corner of the intersection of Weir and Salem Roads. Holcomb Heights was designed in the Traditional Neighborhood Design (TND) style. The goal of TND is to revitalize suburban life and reconnect suburban lives by the design of pedestrian friendly neighborhoods. While the use of a TND neighborhood cannot halt or reverse suburban sprawl that has evolved over the past sixty years, it can at least slow it and provide centers within communities where life is more pleasant. Rather than keep the current RSF-4 zoning for the property which would only allow for homogenous blocks of housing served by strip malls as is typical to the region, the developers and design firm are creating a more compact, complete and well connected neighborhood. The Holcomb Heights neighborhood will also reduce land consumption and automobile dependence by improving land-use patterns. This design also promotes pedestrian activity, decreases polluted storm water run-off, and creates a community that is both pleasant and sustainable. An ideal planned neighborhood features a defined edge, no more than five minute walk to the central area. Holcomb Heights creates this center by its well defined pattern of sidewalks and parks. Holcomb Heights also provides an orderly yet varied street layout and pedestrian pass-throughs which serve as mini-greenways to allow for easy pedestrian movement. The presence of schools serves to attract a residential population that has greater age diversity.

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ADJOINING PROPERTY OWNERS COMMENTS

Return Comments concerning Holcomb Heights PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

☒ I have been notified of the above meetings for the described project.

☒ I do not object to the project described above.

☐ I do object to the project described above because:

Misti Bowen
Name of Property Owner (Printed)

Misti Bowen
Signature of Property Owner

PS: Don't you have send us an in more Certified mail It is a waste of time to stand @ post office for an hour just to hear this!

C. 3
R-PZD 06-2261 (Holcomb Heights)

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR HOLCOMB HEIGHTS**

Today's Date: 10-19-06

APPLICANT/REPRESENTATIVE CONTACT INFO:

Critical Path Design, Inc.
21 W. Mountain, Ste 224
Fayetteville, AR 72701
Office 479-527-0055
Fax 479-527-2798
Attention: Todd Jacobs - Project Manager - Work Cell 479-466-8115

Home # 479 582 2422

Subdivision Meeting:

Thursday, 11-2-06 9:00 am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 11-13-06 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

The Holcomb Heights is a residential development located approximately at the southwest corner of the intersection of Weir and Salem Road. Holcomb Heights was designed in Traditional Neighborhood Design (TND) style. The goal of TND is to re-invent suburban life and reconnect suburban lives by the design of better neighborhoods. While the use of TND cannot halt or reverse suburban sprawl that has evolved over the past sixty years, it can at least slow it and provide centers within communities where life is more pleasant. Rather than keep the RSF-4 zoning for the property and make homogenous blocks of housing served by strip malls as is typical to the region, the developers and design firm are creating a compact, complete and connected neighborhood. This neighborhood will also reduce land consumption and automobile dependence by improving land-use patterns by including mixed use. This design promotes pedestrian activity, decreases polluted storm water run-off, and creates a community that is both pleasant and sustainable. An ideal planned neighborhood features a defined edge, no more than five minute walk to the central area. This integrated network of walking paths and parks has been provided. Holcomb Heights provides an orderly yet varied street layout, pedestrian pass-throughs which serve as mini-greenways to allow for easy pedestrian movement. The presence of schools serves to attract a residential population that has greater age diversity.

For more information regarding the Holcomb Heights Community feel free to call or stop by our office so we can answer any questions you might have.

Todd Jacobs, Project Manager
Critical Path Design

ADJOINING PROPERTY OWNERS COMMENTS

Return Comments concerning Holcomb Heights PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

*Copied
and
10/20/06*

_____ I have been notified of the above meetings for the described project.

_____ I do not object to the project described above.

☒ I do object to the project described above because: *When we purchased our home we were told that this would not happen. Also, some of our property lays outside of fence. You can't have it. There are already too many developments going in on Salem Rd. You're just going to cause my yard to flood even more! This will also affect our property value & taxes.*

Kathy A. Houston
Name of Property Owner (Printed)
Kathy A. Houston
Signature of Property Owner
DALLAS HOUSTON
Dallas Houston

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR HOLCOMB HEIGHTS**

Today's Date: 10-19-06

APPLICANT/REPRESENTATIVE CONTACT INFO:

Critical Path Design, Inc.
21 W. Mountain, Ste 224
Fayetteville, AR 72701
Office 479-527-0055
Fax 479-527-2798
Attention: Todd Jacobs - Project Manager - Work Cell 479-466-8115

Subdivision Meeting:

Thursday, 11-2-06 9:00 am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 11-13-06 5:30 pm
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113 W. Mountain Street, Room 219

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Todd Jacobs, Project Manager
Critical Path Design

ADJOINING PROPERTY OWNERS COMMENTS

Return Comments concerning Holcomb Heights PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

☐ I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

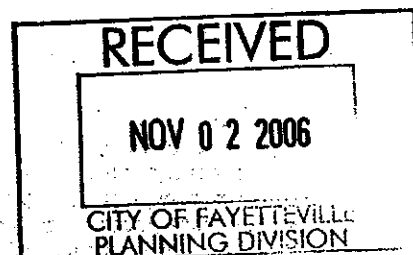
☒ I do object to the project described above because:

Jeff & Tammy Curbow

Name of Property Owner (Printed)

Tammy Vines - Curbow

Signature of Property Owner



We Oppose Any project that lowers the Value of
Our property and compromises our Quality of life
We Sought by living outside City limits.

Date: November 1, 2006

TO: Critical Path Design

Jeremy Pate, Director of Planning
City of Fayetteville

Ron Petree - City Engineer -
City of Fayetteville

Jesse Fulcher - Planner - City of Fayetteville

Subject: Holcomb Heights Subdivision

There are serious drainage problems in the Salem Meadows Subdivision that are the result of storm water run-off from the land that encompasses the proposed Holcomb Heights Subdivision. I am requesting that the developer and the City of Fayetteville work together to insure that this problem is corrected through adequate engineering and oversight. Thank you very much.

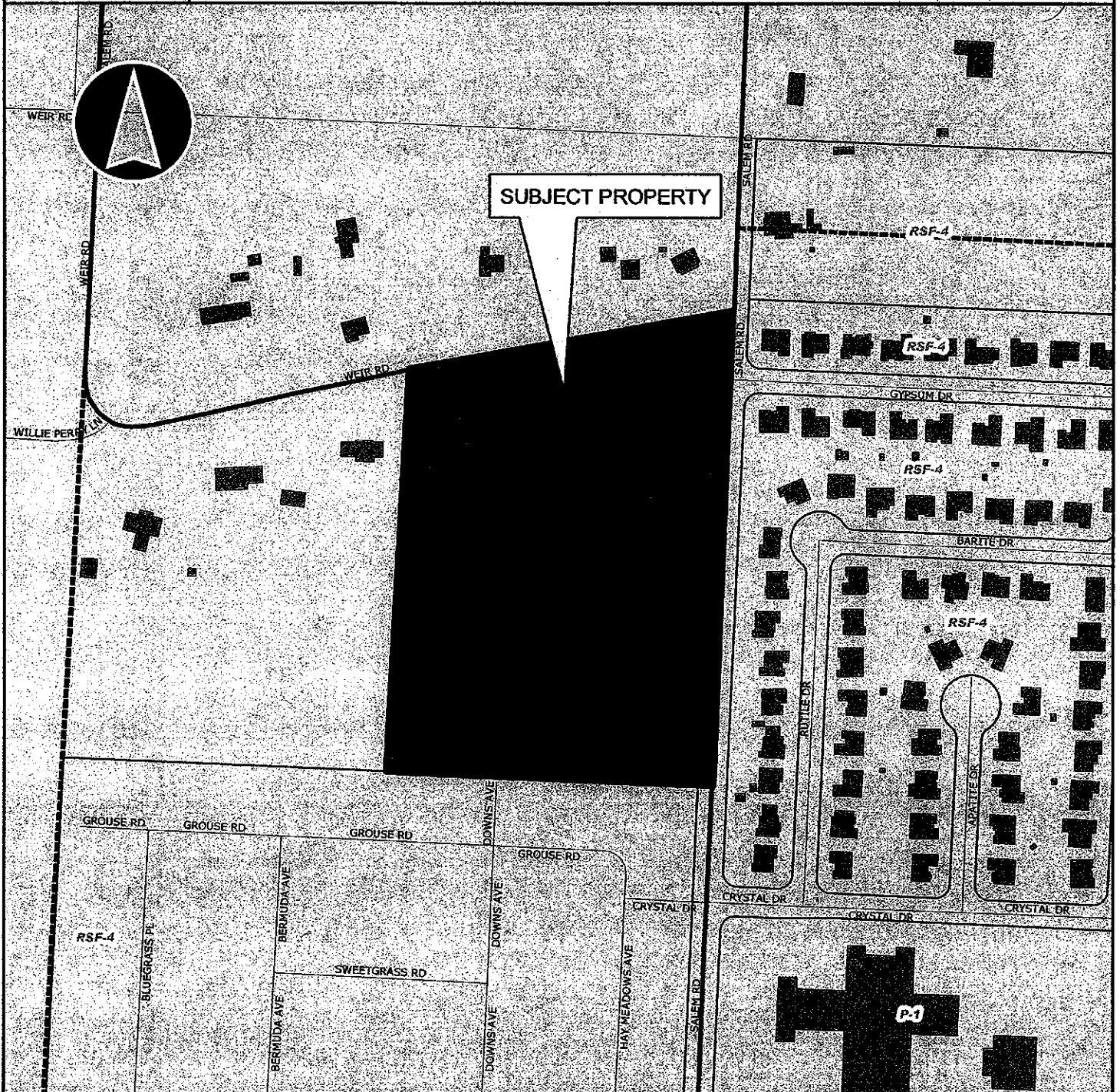
Sincerely,

Rebecca Sue Jones
3648 Grouse Rd
Fayetteville, AR 72704

RPZD06-2281

HOLCOMB HEIGHTS

Close Up View



Overview

Legend

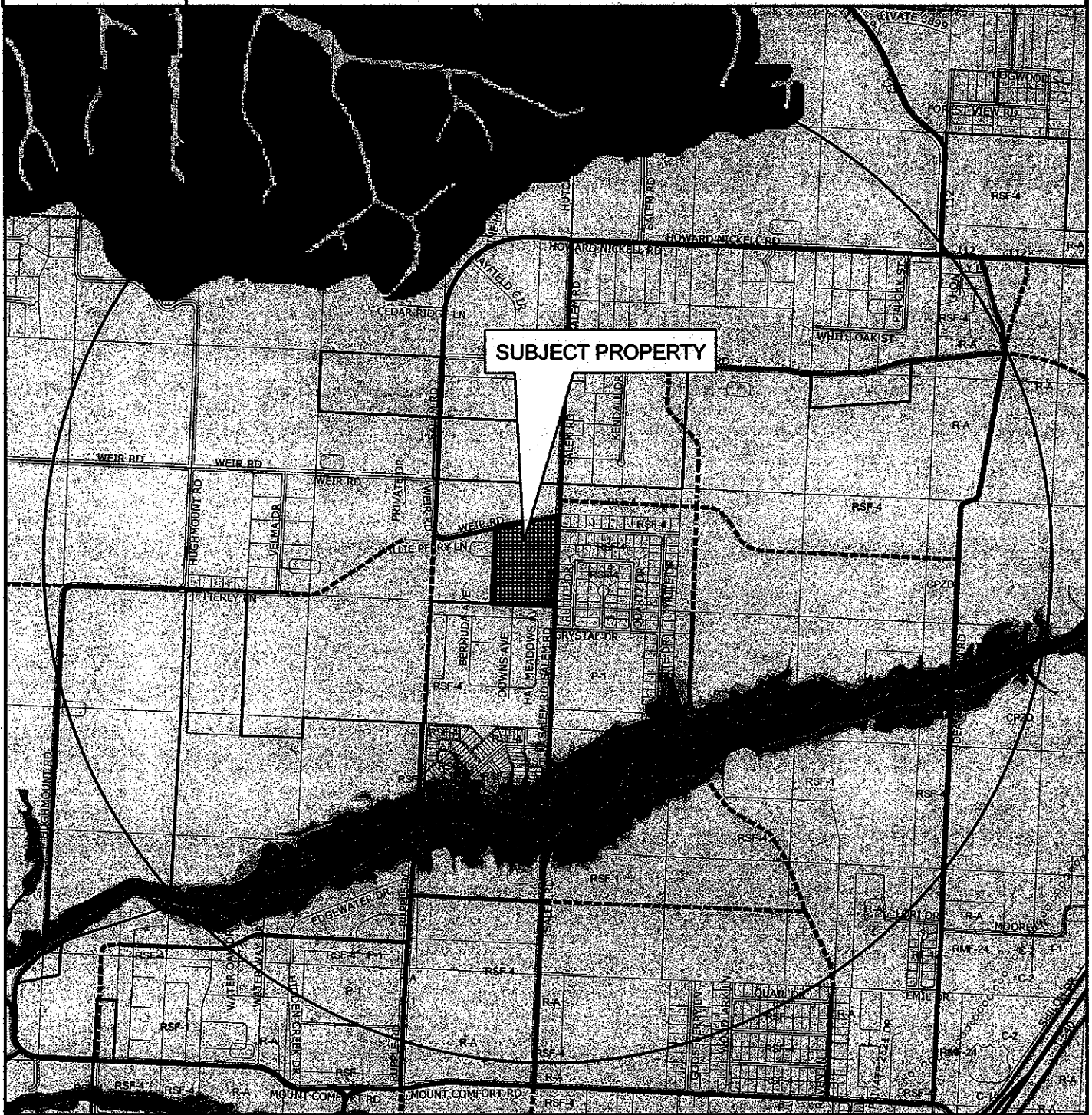
- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2281
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



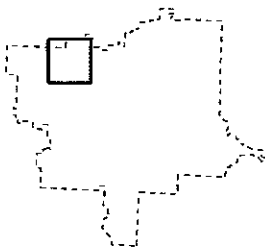
RPZD06-2281

HOLCOMB HEIGHTS

One Mile View



Overview



Legend

Subject Property

RPZD06-2281

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
Miles

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

20-Mar-07

City Council Meeting Date

Jeremy Pate *AMC for JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 07-2477: Administrative Item (BIOBASED, 638): Submitted by McClelland Engineers for property located at the southeast corner of Cato Springs Road and Razorback Road. Pursuant to the real estate sales contract (Ordinance No. 4787) between the City of Fayetteville and BioBased Realty, LLC, all elevations/building materials shall be presented to the City Council for its approval prior to building construction. The request is for City Council review and approval of the modified building elevations/materials.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

Project Number

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 3-2-07
Department Director Date

[Signature] 3-2-07
City Attorney Date

Paul a. Buh 3-2-07
Finance and Internal Service Director Date

[Signature] 3/5/07
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office

ENTERED
3/2/07

Received in Mayor's Office

ENTERED
3/2/07

Comments:

City Council Meeting of March 20, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Director of Current Planning

Date: March 02, 2007

Subject: BioBased (ADM 07-2477)

BACKGROUND

Planning Staff recommended in favor of and the Subdivision Committee approved a major modification of the approved large scale development for BioBased on March 01, 2007, finding that the revised building elevations depict a structure that is well articulated and in compliance with the requirements set forth under commercial design standards.

DISCUSSION

Pursuant to the real estate sales contract (Ordinance No. 4787) between the City of Fayetteville and BioBased Realty, LLC, all elevations/building materials shall be presented to the City Council for its approval prior to building construction. Since the building elevations and materials have changed from that which the City Council originally approved, they need to be reviewed again. The original contract language reads as follows:

*Prior to closing, Biobased Realty in conjunction with BioBased Technologies/BioBased Systems will provide the City of Fayetteville with a Master Plan layout of the property acceptable to the City Council. BioBased Realty or BioBased Technologies/BioBased Systems shall take all reasonable action to ensure that any minor possible odor or pollution emissions do not affect surrounding areas. BioBased agrees to build in scrubbers to proect air quality where reasonably appropriate. **Each building's general design (including construction materials) shall be presented to the City Council for its approval prior to the building's construction.** Normal city developmental requirements such as Large Scale Development standards, etc. shall still be required.*

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CHANGE IN THE BUILDING ELEVATIONS AND MATERIALS PREVIOUSLY APPROVED BY THE CITY COUNCIL AS REQUIRED IN ITS CONTRACT WITH BIOBASED REALTY, LLC.

WHEREAS, BioBased Realty, LLC, BioBased Technologies, LLC and BioBased Systems, LLC. agreed in paragraph 13 of its contract with the City of Fayetteville that "(e)ach building's general design (including construction materials) shall be presented to the City Council for its approval prior to the building's construction"; and

WHEREAS, the City Council previously approved such general design and construction materials, but BioBased wishes to alter the design and materials and thus has presented its new design and material list to the City Council and seeks its approval for such altered design and materials.

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 new general design (including building materials) presented by BioBased and agrees those can be substituted for the previous design and materials. The new design and materials list is attached as Exhibit A.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer



SC Meeting of March 01, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Subdivision Committee Members
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~February 28, 2007~~ Updated March 01, 2007

ADM 07-2477: Administrative Item (BIOBASED, 638): Submitted by MCCLELLAND ENGINEERS for property located at the SE CORNER OF CATO SPRING AND RAZORBACK RD. The property is zoned I-1, HEAVY COMMERCIAL, LIGHT INDUSTRIAL. The request is for a major modification to the approved large scale development (LSD 06-2105).

Planner: JESSE FULCHER

BACKGROUND

Project Description: The subject property is located at the southeast corner of Cato Springs Road and Razorback Road. The property has multiple structures on site which formerly housed the City's Water and Sewer Operations Center. The site is surrounded by various zoning districts, including RMF-24, C-1, C-2 and I-1. The Subdivision Committee approved the large scale development proposal on June 15, 2006.

Proposal: The applicant requests the following modification to the approved Large Scale Development:

1. Modified building elevations.
2. A larger building (approximately 2,000 sq. ft.) with a modified parking design, including a fire truck turn around at the end of the parking lot.

DISCUSSION

The proposed modifications to the approved large scale development and architectural plans have been determined a major modification. In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the Subdivision Committee or Planning Commission for approval, if they meet all applicable codes.

The layout of the development, including parking and building locations are almost identical to that which was approved under the original large scale development. The necessity for a major modification is due to the fact that the building elevations are significantly different than those reviewed and approved with the large scale development.

RECOMMENDATION

Recommendation: Staff recommends approval of ADM 07-2477, finding that the proposal meets all aspects of the Unified Development Code for large scale developments. Additionally, staff finds that the proposed building elevations are well articulated and meet the minimum requirements set forth under commercial design standards and therefore staff is recommending approval with the following conditions:

1. All other conditions of approval from the approved large scale development (LSD 06-2105) shall remain in force.
2. The proposed building elevations shall be reviewed by the City Council pursuant to the contract agreement between the City of Fayetteville and the applicant.

Subdivision Committee Action: ☒ Approved ☐ Tabled ☐ Denied

Motion: **Myers**

Second: **Bryant**

Vote: **3-0-0**

Meeting Date: **March 01, 2007**

Comments: _____

CHAPTER 166: DEVELOPMENT

166.05 Large Scale Development (LSD)

(F) *Modifications.*

- (1) *Minor modifications.*** The Zoning and Development Administrator may authorize minor modifications in an approved large scale development. Minor modifications shall include, but not be limited to, substitutions of one approved structural type for another or minor variations in placement of buildings in such a way that the overall limits of approved floor area, open space or rooms per acre are not increased.
- (2) *Major modifications.*** In the event that a developer wishes to make major modifications to an approved development, such modifications shall be submitted to the Subdivisions Committee in a form which compares the approved submission with the desired changes. After submission, the Subdivision Committee shall approve or disapprove the requested modifications at its next meeting.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 West Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: McClelland Consulting Engineers

From: Matt Casey P.E. Assistant City Engineer

Date: May 31, 2006

Re: Plat Review Comments (May 31, 2006 Tech. Plat Meeting)

Development: LSD 06-2105 Bio-Based

1. An assessment is required for improvements to Cato Springs Road for 14' from centerline including curb and gutter, pavement, storm drains and sidewalk. Provide a cost estimate for these improvements.
2. The sidewalk shall be continuous through driveways with a maximum of 2% cross slope and elevated 2% above top of curb.
3. Driveway approaches shall be constructed of Portland Cement Concrete with a broom finish back to the ROW.
4. Easements are required a minimum of 10 feet from each side of water and sewer lines. If the depth is greater than 10' feet the easement will need to increase proportional to the depth of the proposed main.
5. Additional easements may be necessary based on requirements from the Water and Sewer Administrator.



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

To: The City of Fayetteville – Planning Staff

From: McClelland Consulting Engineers

Date: February 1, 2007

Subject: **LSD 00-2105**
BioBased Campus – Phase I
Major Modification to approved LSD plans

Due to building changes and site alterations, submitted as a major modification are the enclosed plans for Biobased Campus – Phase I. Proposed is a stand-alone, two story building consisting of approximately 30,000 square feet (25,418 sf of lab space and 4,560 sf of office). Associated parking, greenspace, landscaping, utility connections, and grading are very similar to the original review set. Building elevations have changed significantly and are submitted with this package for your review.

Please let me know if you have any questions/concerns, or need any additional information at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. Morgan", is written over a horizontal line.

Michael G. Morgan
McClelland Consulting Engineers
479.443.2377
Mmorgan@McClelland-engrs.com



SC Meeting of June 15, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Subdivision Committee
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: June 14, 2006 Updated June 15, 2006

LSD 06-2105: Large Scale Development (BIO-BASED, 638): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at SE CORNER OF CATO SPRINGS AND RAZORBACK ROAD. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUSTRIAL and contains approximately 19.47 acres. The request is for a 28,000 s.f. office and laboratory with 67 parking spaces.

Property Owner: CITY OF FAYETTEVILLE
Planner: JESSE FULCHER

Findings:

Property: The subject property is located at the southeast corner of Cato Springs Road and Razorback Road. The property has multiple structures on-site which formerly housed the City's Water and Sewer Operations Center. The site is surrounded by various zoning districts, including RMF-24, C-1, C-2 and I-1.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Residential	C-1, Neighborhood Commercial
South	Residential	C-2, Thoroughfare Commercial
East	Retail	I-1
West	Vacant	RMF-24, Residential 24 Units/Acre

Proposal: The applicant proposes to construct a 28,000 square foot building with professional office and laboratory space, as well as associated parking. This is the first phase of a multi-phased project. The development will utilize the existing curb-cut, however it will be constructed to current ordinance standards.

Request: The request is for Large Scale Development approval of the submitted site plans for the proposed office/laboratory building and new parking facilities.

Right-of-way being dedicated: 45' from centerline right-of-way for Cato Springs Road along the project frontage; Razorback Road currently has adequate right-of-way to meet Master Street Plan requirements of 55' from centerline.

Adjacent Master Street Plan Streets: Cato Springs Road (Minor Arterial); Razorback Road (Local Street)

Water/Sewer: Water and sewer are available to the site and will be extended to the facilities.

Tree Preservation: Existing Canopy: 2.1%
Preserved Canopy: 2.1%
Required Canopy: 2.1%
Mitigation: None required.

Recommendation: Staff recommends approval of **LSD 06-2105** with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of Commercial Design Standards for the proposed office/laboratory building. *Staff finds that the proposed structure and industrial style with metal siding, EIFS and native stone is well articulated and provides good transition and compatibility with surrounding industrial development. The City Council has also approved a conceptual Master Plan of this development, which the present project seems to be following.*

THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE PROPOSED ELEVATIONS, FINDING THAT THE BUILDING WAS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH UNDER COMMERCIAL DESIGN STANDARDS.

2. Planning Commission determination of street improvements. *Staff recommends that street improvements be assessed for paving 14' from centerline with curb, gutter, storm drainage and a 6' sidewalk along the property's Cato Springs Road frontage, to tie into the state improvements for Razorback Road. The assessment shall be submitted prior to building permit.*

THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE RECOMMENDED ASSESSMENT FOR STREET IMPROVMENTS ALONG CATO SPRINGS ROAD.

3. Per the conditions of approval for the vacation of right-of-way (VAC 06-2068) within the subject property, the following items are required. If any utility work is performed as part of the development and any of these lines changed, abandoned, or rerouted, then easement requirements would change accordingly, as they would for any development. Easements shall be dedicated by easement plat.
 - a. The north-south 12" waterline requires a 25' wide easement centered on the pipe.
 - b. The 6" waterline running west from the 12", between the two buildings requires a 20' easement centered on the pipe and extending 10' past the end of the pipe. This requirement also applies to the 6" line running north from the westbound 6" line.

- c. The 24" waterline running east-west parallel to the south property line requires a 50' easement centered on the pipe. Much of this easement is in the 1475 Cato Springs lot.
- d. The north-south sewer line running down the driveway needs to have a 20' wide easement centered on the pipe. This easement must be extended to the south property line.
- e. All other water and sewer mains on the lot must have a 20' wide easement centered on the pipes. These easement shall extend 10' beyond the end of the line at dead end manholes or dead ends of pipes.
- f. There needs to be an easement extended southwest from the dead end manhole on the west end of the east-west sewer line. This easement should be situated such that the house on the southwest lot can have a main run to it from the manhole. If the house area is split off as a separate lot, there must be a sewer main that runs to it. Currently, the service line from the house ties to the dead end manhole and can be identified by the cleanouts located every 100'. This service no longer meets requirements if the house becomes part of a separate lot. The new main need not follow the path of the existing sewer line (which is a service, as the house is on the same platted lot as the two brick buildings). It simply needs to tie to the service at the property line.
- g. The adequacy of the water and sewer systems must be evaluated for any new development. All sewer services must be placed, as they do not meet current plumbing codes. Water service lines on both sides of the meter loop may need to be replaced; they are also required to meet current plumbing codes.
- h. Any utility work performed under contract shall go through the standard review, approval and inspection process administered by the City Engineer's office.

4. Incorporate the following plat revisions:

- a. Change 20' parking stalls to 19' in length.
- 5. Right-of-way dedication in the amount of 45' from centerline along Cato Springs Road shall occur prior to building permit.
 - 6. Razor and/or barbed wire fences are prohibited if visible from street right-of-way or a residence. All fencing shall be reviewed by Planning Staff to ensure compliance with applicable codes.
 - 7. With future development of the site, a view-obscuring fence or view-obscuring vegetation, or a combination of the two shall be required between the proposed commercial/industrial use and the adjacent residential property to the south.
 - 8. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

Standard Conditions of Approval:

9. All freestanding and wall signs shall be permitted by a separate sign permit application prior to installation. Signs are not allowed to be placed in utility easements.
10. 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.
11. 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).
12. Provide a CD containing the proposed Large Scale Development drawings in AutoCad or similar digital format.
13. 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.
14. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
15. Large scale development shall be valid for one calendar year.
16. 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 and all utility easements.
 - c. Project Disk with all final revisions
 - d. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions:

17. _____
 18. _____
-

Subdivision Committee Action: ☒ Approval ☐ Forwarded to P.C. ☐ Tabled
Motion: **Graves**
Second: **Myers**
Vote: **3-0-0**
Meeting Date: **June 15, 2006**

Comments:

The “**Conditions of Approval**” listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature

Date

ORDINANCE NO. 4787

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.27, CODE OF FAYETTEVILLE AND APPROVING A REAL ESTATE SALES CONTRACT WITH BIOBASED TECHNOLOGIES IN THE AMOUNT OF \$940,000.00 FOR THE PURCHASE OF THE WATER & SEWER OPERATIONS CENTER ON CATO SPRINGS ROAD; DESIGNATING THE PROCEEDS FOR ECONOMIC DEVELOPMENT PURPOSES; AND APPROVING A BUDGET ADJUSTMENT IMPLEMENTING THE DESIGNATION.

NOV 07 2005

ALP

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of §34.27, Code of Fayetteville, and approves a Real Estate Sales Contract with BioBased Technologies in the amount of \$940,000.00 for the purchase of the Water & Sewer Operations Center on Cato Springs Road. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

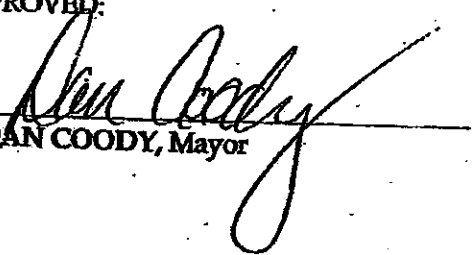
Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the proceeds of this sale for Economic Development purposes.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment implementing said designation of proceeds.

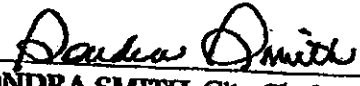
Section 4. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said contract with BioBased Technologies.

PASSED and APPROVED this 1st day of November, 2005.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA SMITH, City Clerk

REAL ESTATE SALES CONTRACT

1. The City of Fayetteville, Arkansas offers to sell and BioBased Realty, LLC offers to buy, subject to obtaining acceptable financing and other terms and conditions set forth in this contract, approximately 19.5 acres including all of Parcel 765-03017-000 and Parcel 756-15399-010 except for a one acre parcel where the Children's House is currently located and a right of way easement where the Children's House driveway is not located. This property is more particularly described in Exhibit "A" attached hereto and made a part hereof.

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

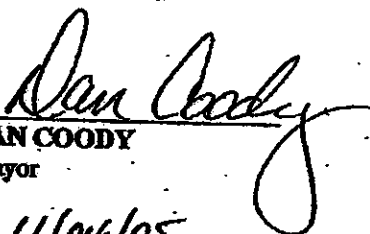
2. **Purchase Price:** Subject to the following conditions, BioBased Realty, LLC shall pay for the property at closing, the total cash payment of Nine Hundred Forty Thousand Dollars (\$940,000.00).
3. Conveyance will be made BioBased Realty by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.
4. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. The City of Fayetteville shall pay the cost of the title insurance.
5. The City of Fayetteville agrees to allow BioBased Realty, if BioBased Realty so desires, at BioBased Realty's expense, to survey the property. The City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville. The City of Fayetteville shall provide at its expense a survey of the one acre tract for Children House and right of way easement as depicted on Exhibit "B".
6. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
7. The closing date shall be within one hundred twenty (120) after approval of this offer by the City Council, which can be extended by agreement of the Mayor for an additional sixty (60) days. If such date of closing falls on a weekend or holiday, it will be held the following working day.
8. Possession of the property shall be delivered to BioBased Realty on the date of closing.
9. The City of Fayetteville hereby grants permission for BioBased Realty or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
10. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.

11. The City of Fayetteville shall disclose to BioBased Realty any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, the City of Fayetteville shall bare the costs of any and all testing for the existence of environmental hazards, including Phase I environmental study and a Phase II study if necessary. Should the existence of environmental hazards be discovered, the City of Fayetteville shall either cure such at its expense or BioBased Realty may terminate this contract.
12. The City of Fayetteville will remove at its expense the existing buildings (not including Children's House) and debris in coordination with BioBased Realty prior to or immediately after closing.
13. Prior to closing, BioBased Realty in conjunction with BioBased Technologies/BioBased Systems will provide the City of Fayetteville with a Master Plan layout of the property acceptable to the City Council. BioBased Realty or BioBased Technologies/BioBased Systems shall take all reasonable action to ensure that any minor possible odor or pollution emissions do not affect surrounding areas. BioBased agrees to build in scrubbers to protect air quality where reasonably appropriate. Each building's general design (including construction materials) shall be presented to the City Council for its approval prior to the building's construction. Normal city developmental requirements such as Large Scale Development standards, etc. shall still be required.
14. If any portion of the land conveyed by this contract is sold by BioBased Realty within the first five years of the date of closing, an independent appraisal of the land's value (not to include the value of any building thereon) shall be performed. BioBased Realty shall pay 75% of the increase in appraised value of the land (with prorated sales cost deducted) to the City of Fayetteville. BioBased Realty shall pay the City of Fayetteville 40% of the increase in appraised value of the land (with prorated sales costs deducted) for any sales after 5 years until 10 years from the closing date.
15. BioBased Realty is granted an option to purchase the remaining acre where Children's House is located eight years after the closing date. BioBased Realty may exercise this option to purchase at any time during the year following the eight year period after the closing date. BioBased Realty and the City agree the price shall be determined at that time as follows:
 - (a) The property including improvements thereon shall be appraised by an independent appraiser.
 - (b) BioBased Realty shall receive an offset from the appraisal value using the following formula: For every full \$100,000.00 in annual payroll paid to BioBased Technologies/Systems and related companies' employees working in Fayetteville over the Two Million Dollar annual payroll estimated for 2008, BioBased Realty shall receive a reduction of \$25,000.00 from the appraised value of this remaining acre.
 - (c) Reductions allowed in paragraph (b) shall not reduce the final price for this acre parcel below \$60,000.00.

(d) The City of Fayetteville may sell to BioBased Realty this acre at any mutually agreeable time prior to the expiration of the eight year period upon terms agreeable to both parties.

16. This agreement shall be governed by the laws of the State of Arkansas.
17. This agreement, when executed by both BioBased Realty and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all prior or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.

CITY OF FAYETTEVILLE
A Municipal Corporation

By: 
DAN COODY
Mayor

Date: 11/04/05

Attest:


Sondra Smith, City Clerk

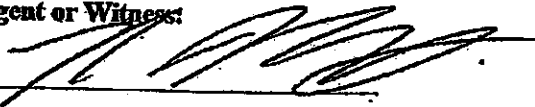
Date: 11/04/05

BIOBASED REALTY, LLC
BIOBASED TECHNOLOGIES, LLC
BIOBASED SYSTEMS, LLC

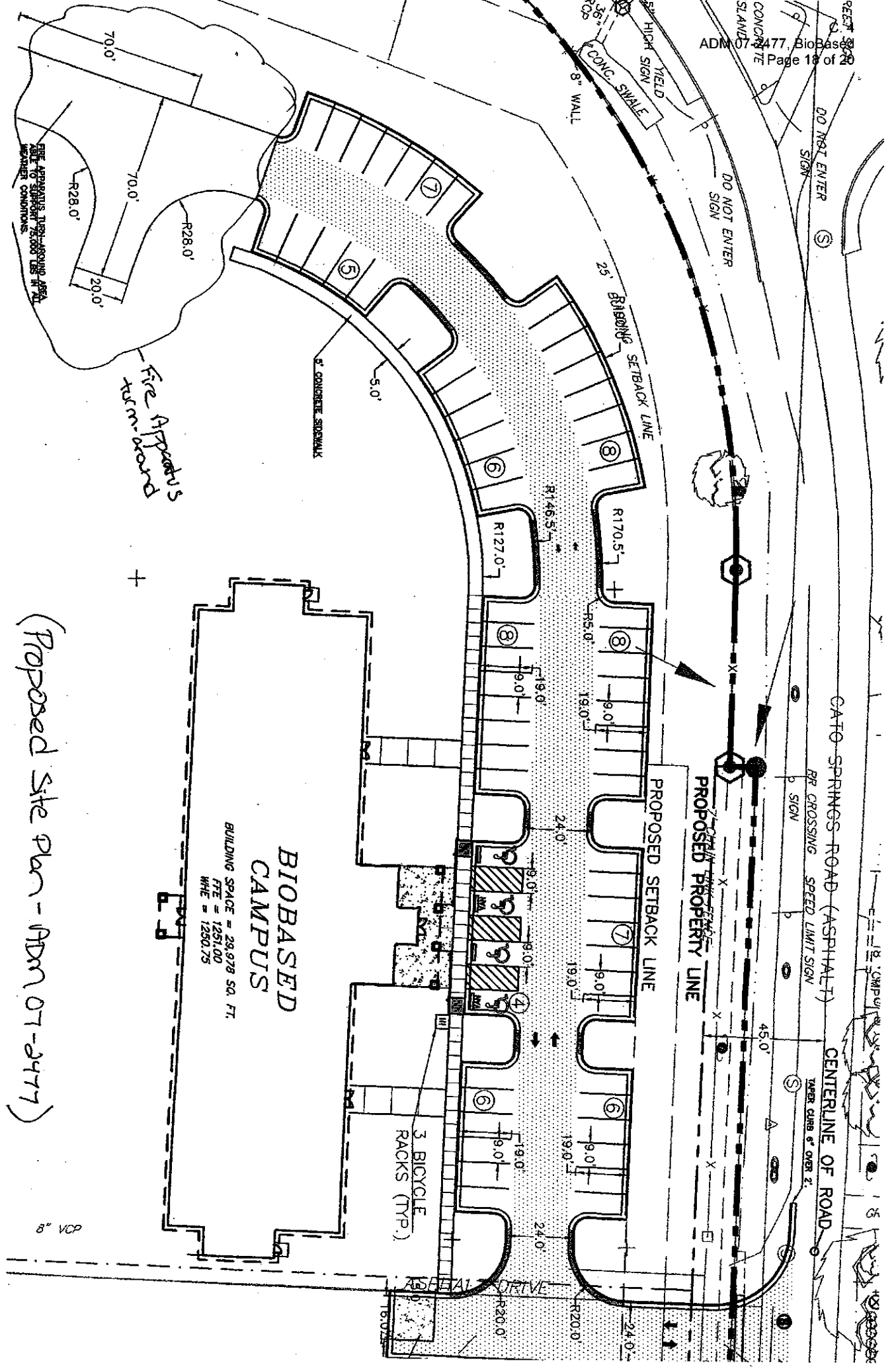
By: 
TOM MUCCIO
CEO

Date: 10-21-05

Agent or Witness:



Date: 10-21-05

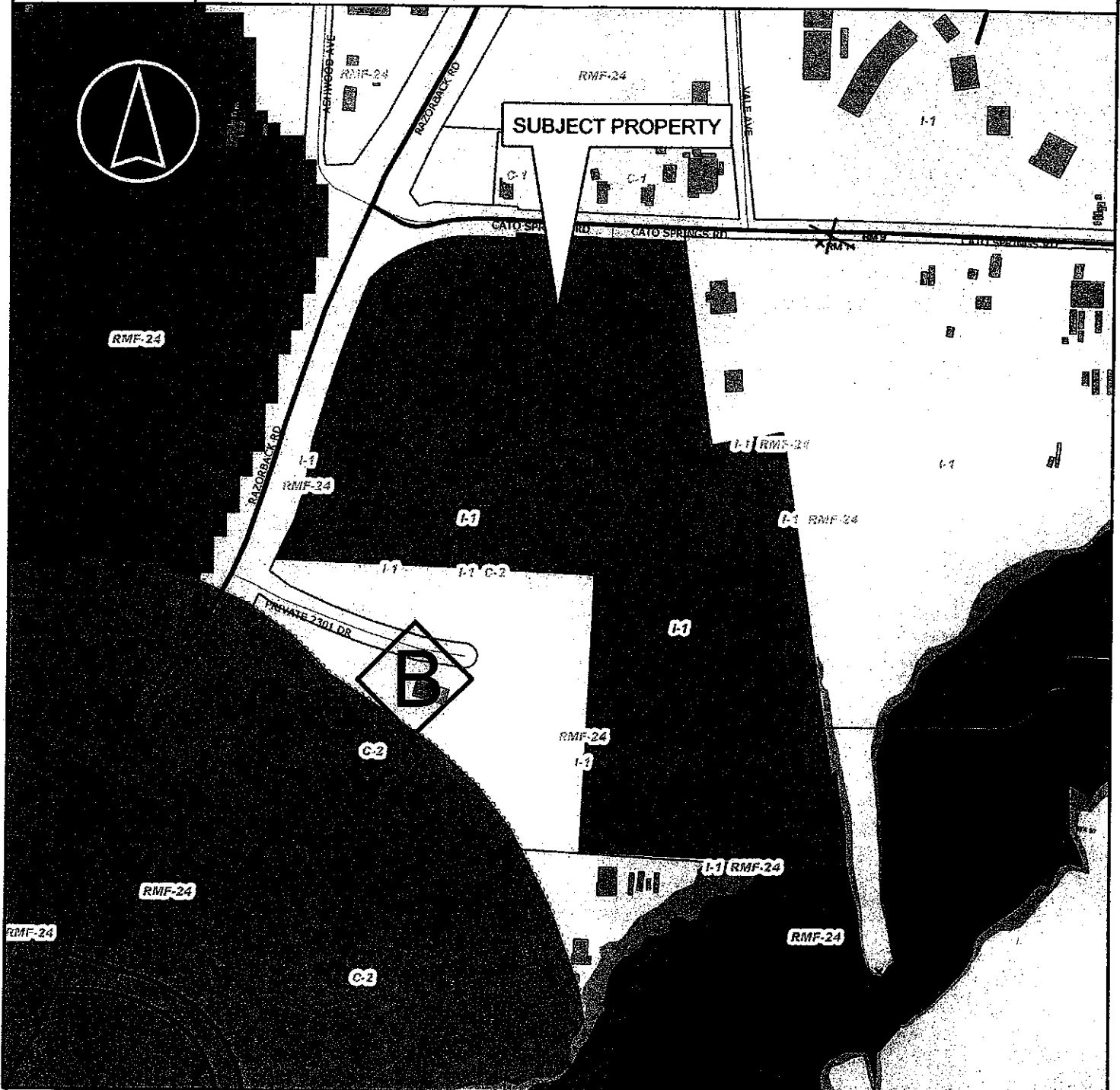


(Proposed Site Plan - ADM 07-2477)

LSD06-2105

Close Up View

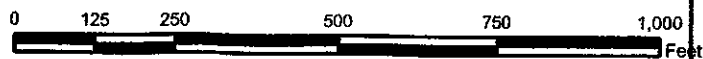
BIO-BASED



Overview

Legend

- Overlay District
- FLOODWAY
- 500 YEAR
- 100 YEAR
- LIMIT OF STUDY
- - - BaseLine Profile
- Fayetteville
- Outside City
- LSD06-2105
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District



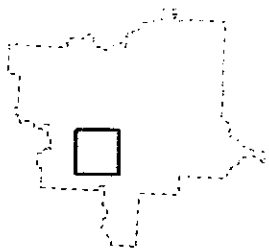
LSD06-2105

One Mile View

BIO-BASED



Overview



Legend

Subject Property

LSD06-2105

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0.0 0.125 0.25

0.5

0.75

1

Miles

ALDERMAN AGENDA REQUEST FORM

C. 5
Amend Chapter 92 -Animal Ordinance
Page 1 of 10

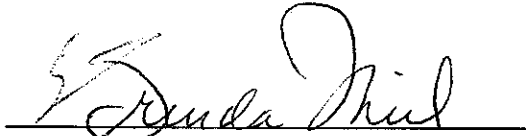
FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM: ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

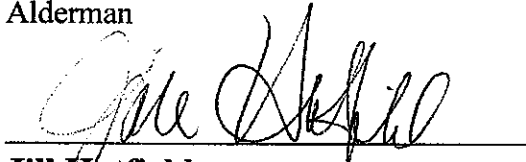
An Ordinance Amending Chapter 92 Animals, Code of Fayetteville, To Improve The Treatment Of Animals And Ensure The Safety Of The Citizens Of Fayetteville

APPROVED FOR AGENDA:



Brenda Thiel
Alderman

3/1/07
Date



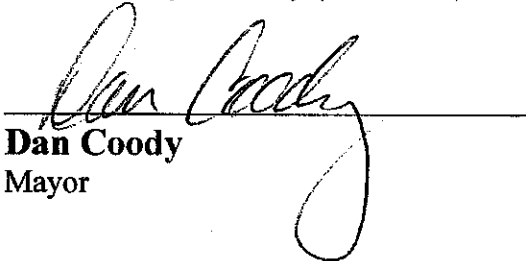
Jill Hatfield
Animal Services

3/5/07
Date



David J. Whitaker
Assistant City Attorney (as to form)

3/5/2007
Date



Dan Coody
Mayor

3/6/07
Date



ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 92, ANIMALS, CODE OF FAYETTEVILLE, TO IMPROVE THE TREATMENT OF ANIMALS AND ENSURE THE SAFETY OF THE CITIZENS OF FAYETTEVILLE.

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

Section 1. That Chapter 92, Animals, Code of Fayetteville is hereby repealed, and Exhibit "A," attached hereto and made a part hereof, is inserted in its stead.

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

APPROVED:

ATTEST

By: DAN COODY, Mayor

By: SONDRA SMITH, City Clerk/Treasurer

CHAPTER 92: ANIMALS

92.01 Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandon. Any person who knowingly deserts an animal on public or private property.

Animal. Any living creature, domestic or wild.

Animal shelter. Any facility operated by a humane society, municipal agency or its authorized agent(s) for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

At large. Not under the physical control of the animal's owner or harbinger, or his authorized representative, either by leash, trolley system, or enclosure. An animal intruding upon or damaging the property of another person or upon public property, trespassing on school grounds, harassing passersby or passing vehicles, or interfering with refuse collection, harassing meter readers and not under the physical control referred to herein shall be deemed "running at large." An animal within an automobile or other vehicle shall not be deemed "running at large" if the animal is physically confined to the vehicle. An animal shall not be considered "at large" when on the premises of the owner or harbinger thereof and accompanied by the owner or harbinger.

Cat. A feline of either sex, including one neutered or sterilized.

City. City of Fayetteville, Arkansas.

Dangerous Animal. Any animal which, when unprovoked, approaches in a manner of attack any person or domestic animal upon the streets, sidewalks, or any other public ground or place.

Dog. A canine of either sex, including one neutered or sterilized.

Enclosure. A fence or pen, or structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping. Owners confining dogs or cats by means of an enclosure must provide a minimum space of 100 square feet (10x10) per dog or cat four (4) months of age or older.

Harbor. For a period of three days or more, to keep and care for an animal or provide a premises to which the animal returns.

Hobbyist. An individual who owns unsterilized dogs or cats for the purpose of breeding, competing, or hunting. Such individual is a member of the American Kennel Club (AKC), United Kennel Club (UKC), Cat Fanciers' Association (CFA), The International Cat Association (TICA), or holds a current state hunting license with the Arkansas Fish and Game Commission.

Kennel and/or pet shop. As used herein, the term "kennel" and "pet shop" shall be construed to include any individual or establishment with the intent and purpose of raising, training, boarding, or selling of dogs, cats, birds, mice, rats, reptiles, fowl or fish or other small animals for hire or profit. A kennel and/or pet shop are only allowed in those districts so designated by the zoning code.

License. A permit and animal tag issued by the city to indicate that an animal is vaccinated against rabies in accordance with city ordinance and that the owner or harbinger has remitted to the city the levied permit fee.

Locked Enclosure. A fence or pen, or structure with all gates or entrances locked with a key or combination device. The structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping.

Noisy Animals. Any domestic animal which barks, whines, or howls in an unwarranted, or continuous, or loud, or frequent fashion.

Restrained. Any animal secured by leash and under the control of owner or harbinger. At public events of 100 persons or more, leashes shall be a maximum length of 6 feet. The animal must be within 4 feet of the owner or harbinger.

Special Event. A specified or designated public occurrence, affair, or event at which more than three hundred (300) persons are reasonably expected by the organizer or sponsor thereof to be in attendance.

Tether. A rope, chain, or cable of appropriate strength that is firmly anchored to the bed of an open bed pickup truck or similar vehicle in at least two places. Tether is to be used to restrain the animal and fastened to the animal by means

of a harness or collar and to be the appropriate length as to afford the animal freedom to move about the vehicle, but to restrict the animal to a set radius to prevent it from reaching either side or the rear of the vehicle so that the animal cannot be thrown from, fall from, or jump from the vehicle.

Trolley System. A confinement system utilizing cables and a pulley. Only one dog may be on each trolley system. The cable must be attached to a properly fitting collar and of at least 8 feet in length. The trolley cable must be fixed to two permanent points and no less than 10 feet long and mounted 4 to 7 feet off the ground. There must be a swivel on at least one end of the affixed cable to prevent entanglement and have the ability to slide on the horizontal cable with a stop at each end. No obstructions shall be in the trolley area. The system shall provide adequate room for normal postural adjustments, for exercise and access to water, food, and shelter.

Vicious Animal.

1) Any animal which without provocation, bites or attacks a human being or domestic animal on public or private property excluding the dog owner's private property and enclosures: or

2) Any animal owned or harbored primarily or in part for the purpose of animal fighting or any animal trained for animal fighting.

Notwithstanding the above definition, no animal shall be declared vicious if the person attacked or bitten by said animal was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

No animal shall be declared vicious if a domestic animal which was bitten or attacked was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

Wild animal. Any nonhuman primate, raccoon, skunk, fox, wolf, coyote, poisonous snake, leopard, panther, tiger, lion, lynx, or any other warm blooded animal which can normally be found in the wild state, or the offspring borne to wild animals bred with domestic dogs or cats.

92.02 Animal Care

(A) No owner shall fail to provide his animals with sufficient good and wholesome food and water; shelter which provides protection from the weather including four sides with opening, roof, and floor; veterinary care when needed to prevent suffering; and with humane care and treatment.

(B) No person shall beat, cruelly ill-treat, torment, tease, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(C) No owner of an animal shall abandon such animal.

(D) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and report the accident to the appropriate law enforcement agency or to the local animal control authority.

(E) No person shall expose any known poisonous substance or toxic chemical whether mixed with food or not so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose, on his property, common rat poison mixed only with vegetable substance.

(F) No dog shall be chained or staked to a fixed point. Dogs shall be kept in an enclosure or by trolley system, so placed that the animal may not intrude on other property, whether public or private, and provide adequate room for normal postural adjustments, exercise, and access to water, food, and shelter. The area where any animal is confined must provide proper and adequate drainage. The owner or harbinger of the animal shall be on the premises when the animal is confined to the trolley system.

92.03 Shooting, Killing Or Molesting Wild Animals Prohibited

It shall be unlawful for any person to shoot, hunt, kill, chase, wound, or molest any wild animal within the corporate limits of the city.

92.04 Sale Of Diseased Animals; Kennel And Pet Shop Regulation

(A) It shall be unlawful for any person, pet shop, or kennel to sell, offer to sell, or expose any diseased or poisonous animal or any animal the sale of which is prohibited by federal law.

(B) Every place used as a kennel or pet shop shall be kept in a clean and sanitary condition, and no refuse or waste materials shall be allowed to remain thereon for more than 24 hours. The owner or operator of a kennel or pet shop shall properly treat any diseased animal and shall properly isolate those animals having a disease

contagious to animal or human life; provided, any animal which is diseased past recovery shall be destroyed. All animals in a kennel or pet shop shall be humanely treated and properly nourished. Animals shall not be confined in one area in such numbers that access to food and water is not readily available.

92.05 Noisy Animals Restricted

It shall be unlawful for any person to keep on his premises or under his control any noisy animal which shall disturb the peace and quiet of any person who may reside within reasonable proximity of the place where such animal is kept. An owner or harbinger violating this section may be required to train the animal with a humane "bark collar" or other devices for noise control. The owner or harbinger shall be notified of the opportunity to appeal this requirement within 10 days upon issuance of such requirements to the Animal Services Superintendent.

92.06 Animal Waste, Offensive Odors Prohibited

(A) The owner of an animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, public parks, or private property.

(B) It shall be unlawful for any person keeping or harboring any animal to fail to keep the premises where such animal is kept free from offensive odors to the extent that such odors are disturbing to any person residing within a reasonable proximity of said premises; and it shall be unlawful to allow the premises where any animal is kept to become unclean and a threat to the public health by failing to diligently and systematically remove all waste material from the premises.

92.07-92.19 Repealed

92.20 Annual License And Tag

(A) Levy and amount of license. There is hereby levied and there shall be collected an animal licensing fee in the amount hereinafter provided on each dog or cat owned or kept within the city. Said fee shall be paid to the city or to a licensed veterinarian. It shall be the duty of any licensed veterinarian collecting a fee under the provisions of this section to remit such fee to the city by the 10th of the month next following the month in which said fee is collected. The issuing veterinarian shall be permitted to keep twenty percent (20%) of the licensing fee collected as a handling fee.

(1) For each neutered male or spayed female the levied fee shall be in the amount of \$5.00 annually. The fee for each unspayed female or unneutered male shall be \$75.00, with exceptions for any animal under six months of age, the fee shall be \$5.00 or the unspayed or unneutered animal is licensed under the hobbyist's permit.

(2) Should a dog or cat be brought into the city, the person owning or keeping such dog or cat shall have 30 days in which to pay the licensing fee levied hereby. Any person failing to pay said fee within such period shall be required to pay an additional fee of \$5.00.

(B) Issuance of license receipt and tag. The city official or a licensed veterinarian to whom the fee levied by subsection (A) above is paid shall issue a receipt therefore and shall issue to each person paying said fee a metal tag indicating that said fee has been paid; provided a tag for any dog or cat shall not be issued unless a certificate from a licensed veterinarian is presented which indicates that said dog or cat has been vaccinated for rabies according to state law.

(C) License period. A license, if not revoked, shall be valid for one year from the date of issue. A new license shall be obtained each year by every owner and a new fee paid. An owner shall have 30 days from the date the license expires to obtain a new license without penalty. Any person failing to obtain a license within such period shall be required to pay an additional fee of \$5.00.

(D) Tag to be attached to animal in a reasonable manner. It shall be the duty of the owner or keeper of every dog or cat within the city to attach the tag provided for in subsection (B) to said dog or cat in a reasonable manner.

(E) Nothing in this section shall be construed to apply to any dog or cat under the age of three months, or to dogs or cats brought to the city on a temporary basis for show or exhibition.

92.21 Rabies Vaccination Required

(A) All dogs and cats in the city and other pets which are subject to rabies shall be vaccinated against rabies according to state law by an accredited veterinarian. A metal tag evidencing such vaccination shall be attached to the harness or collar of every dog in the city, and shall be attached to every cat in the city by a reasonable method. Any person who shall keep any pet which is subject to rabies in the city without first having such pet vaccinated for rabies, at least once a year, shall be guilty of a misdemeanor.

(B) In case a tag for the animal licensing fee or rabies vaccination required by this chapter is lost or destroyed, a duplicate shall be issued by the city upon presentation of a receipt or other verification showing payment of said fee or receipt of such duplicate tag. No tag shall be transferable from one animal to another. No refunds shall be made on any fee from one animal to another. No refunds shall be made on any fee because of the death of the animal or because the owner leaves the city before the expiration of the license period.

92.22 Running At Large Prohibited

(A) It shall be unlawful for the owner or person in charge of any horse, mule, colt, sheep, cow, calf, bull, jack, jenny, goat, hog, or swine of any kind to permit or suffer the same to run at large within the corporate limits of the city at any time.

(B) It shall be unlawful for any person owning or having control of any chickens, turkeys, or other fowl to permit the same to run at large within the city.

(C) It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to run at large within the corporate limits of the city at any time.

(D) It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to be without proper restraint at a public event.

(E) The term "permit" shall include the failure of the owner or person having charge of said animal to physically restrain the animal. The animal control officer shall be authorized to enter onto private property for the purpose of impounding an animal found running at large.

(F) Every female dog or cat in heat or estrous shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

92.23 Impoundment

(A) The Fayetteville Animal Shelter is authorized to accept from the animal control officer or any private citizen, and to impound, any dog or cat found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request has confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer

may use humane animal traps or tranquilizers to assist in confining the cat.

(B) Whenever any animal in the animal shelter bears a city tag, it shall be the duty of the animal control officer to notify the owner or the person to whom the tag was issued, if such person or owner can be found, that the animal has been taken up and placed in the animal shelter and will be destroyed or placed for adoption within 10 days unless the fee hereinafter prescribed is paid. If the owner or person to whom the tag was issued cannot be found, the animal control officer shall, by registered mail sent to said person's last known address, notify said person that the animal has been impounded at the animal shelter, and will be destroyed or placed for adoption within 10 days if the fee hereinafter prescribed is not paid. For the purpose of this section, the first day of taking up shall be counted as the first day of the impoundment period provided herein.

92.24 Redemption Of Animals

(A) After the expiration of 10 days impoundment in the case of a licensed animal, or the expiration of five days' impoundment in the case of an unlicensed animal, said animal shall become the property of the city, and the city shall be empowered to place for adoption or to destroy and dispose of said animal as provided for in §92.23 (B) above. The animal control officer is hereby authorized to place for adoption or to destroy such animal and dispose of the carcass. For the purpose of this section, the day of taking up shall be counted as the first day of the impoundment.

(B) An owner reclaiming an impounded animal shall pay the cost of such impoundment. Said costs are hereby ascertained to be \$10.00 for the first impoundment if the animal has a rabies vaccination and is currently licensed in the city with current city license and rabies tags attached; \$25.00 for the first impoundment if the animal is not currently vaccinated and licensed in accordance with this chapter; animal shall be microchipped at time of redemption at the owner's expense. \$50.00 for the second impoundment for the same animal within a 12 month period; at the time of the 1st or 2nd redemption the owner of an intact animal shall be offered spay or neuter services at a reduced cost. If sterilization is performed, the city licensing fee will be reduced to \$5 at the first impound. \$100.00 fee for the third impoundment for the same animal within a 12 month period; and at such time an intact animal shall be considered a public nuisance and shall be spayed/neutered at the time of redemption at the owner's expense; and \$200.00 for the fourth and subsequent impoundments of the same animal within a 12

month period. In addition to the impoundment fees, a boarding fee of \$10.00 per day per animal shall be charged for each day such animal is impounded in the animal shelter, together with the licensing fee for such animal, if the same has not been paid, plus the cost of having an unvaccinated animal vaccinated for rabies.

C) The owner of an impounded animal who refuses to reclaim his animal may be proceeded against for abandonment under the provisions of §92.02.

(D) No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adopter guaranteeing that such animal will be sterilized, and after the adoption fee has been paid. A voucher will be issued to the adopter and said voucher may be used at the time the animal is sterilized. An adopter who fails to comply with the sterilization provision of the agreement shall be guilty of a misdemeanor.

92.25 Confinement When Person Bitten

Any animal suspected of biting a human shall be quarantined in accordance with the provisions of A.C.A. 20-19-301 (The Rabies Control Act).

92.26 Vicious Animal Restricted

(A) Once a citation has been issued by an Animal Services Officer or a complaint has been filed in the district court against the owner or harbinger of an animal for violation of this section, the animal shall be relinquished by the owner or harbinger to the animal services officer and kept at the animal shelter, the animal shall not be released except on order of the court, which order may also direct the owner or harbinger to pay a fine, all impoundment fees, and/or obtain liability insurance in amount to be determined. Upon a finding that such animal is a vicious animal, the court may order the animal to be euthanized in a humane manner. Surrender of an animal by the owner or harbinger thereof to the animal control officer shall not render the owner or harbinger immune from the fines and fees prescribed by this chapter.

(B) Once a complaint has been filed in the Fayetteville District Court and the alleged vicious animal is impounded at the Animal Shelter, the arraignment shall be held within seven calendar days and the trial of the charges shall be held within two weeks of the arraignment date unless the defendant/owner of the impounded animal requests a continuance and pays a cash deposit into court in an amount equal to the

impoundment and board fees through the requested court date.

(C) It shall be unlawful for a vicious animal to be outside of a dwelling or locked enclosure unless it is necessary for the owner or harbinger thereof to obtain veterinary care for the vicious animal or to comply with commands or directions of an animal control officer with respect to the vicious animal; and, the owner or harbinger of an animal in violation of this section shall be subject to criminal prosecution. In such event, the vicious animal shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, shall be collared with a blaze orange collar and shall be under the direct control and supervision of the owner or harbinger. The owner or harbinger shall not be under the age of 18 years. A vicious animal owner shall immediately notify animal services if the animal is loose or unconfined, bites or attacks a person, has been moved to a different address or dies; whereupon the owner must provide proof of death. The vicious animal shall not be sold or given away.

(D) All vicious animals, when kept inside a dwelling shall not be allowed access to screened only windows or doors. A secure obstacle shall be in place to prevent animal from exiting the structure.

(E) All vicious animals shall be sterilized and microchipped at the time of release from impoundment at the owner's expense.

(F) All vicious animals shall be confined in a locked enclosure. It shall be unlawful for any person to keep or harbor a vicious animal upon any premises which does not have a locked enclosure. The owner shall display signs stating "Beware of Vicious Animal" along with a symbol for same easily seen by children. The signs displayed shall be easily seen from the public roadway.

(G) Failure to comply with all restrictions of this subchapter will result in forfeiture of ownership. The vicious animal will be impounded by the Animal Services Division and euthanized in a humane manner at owner's expense.

(H) The provisions of this section shall not apply to animals owned by a law enforcement agency and used for law enforcement purposes.

92.27 Abuse Of Police Dogs Prohibited

It shall be unlawful for any person to willfully strike, kick, beat, torment, torture, injure, kill or

harass any dog used by the police department in the performance of any departmental functions or duties. Any person convicted of violating this section shall be punished as provided in §92.99.

92.28 Keeping of Wild Animals

(A) No person shall keep or permit to be kept any wild animal as a pet within the corporate limits of the city.

(B) No person shall keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

92.29 Transportation Of Animals

No person shall transport or carry any animal by motorized means unless the animal is safely enclosed within the vehicle or trailer, or enclosed in a portable kennel, crate, or dog box designed for this purpose, which is then fastened by a secure and appropriate means to the bed or the chassis of the vehicle. Dogs may be transported in open beds of pickup trucks provided they are secured in the vehicle by means of a humane cross tether and/or harness, or if the sides and back of the pickup truck's bed are at least five feet high. In all cases where animals are transported by motorized vehicles, it must be in a safe and humane manner that will prevent the animal from falling from, being thrown from, or jumping from the motorized vehicle or trailer being pulled by such.

92.30 Prohibition Of Sale Of Animals From Certain Locations

Except for established animal business enterprises with permanent structures, and the Fayetteville Animal Shelter, the sale, distribution and giving away of animals from public property and from commercially and industrially zoned land is prohibited.

92.31 Dangerous Animals Restricted

(A) Once a complaint has been filed with the Animal Services division against the owner or harbinger of an animal and based on the behavioral observation of the animal by an Animal Services Officer, may result in finding the animal dangerous as defined in 92.01 Dangerous Animals. The animal shall be kept and confined in accordance with this section.

(B) All dangerous animals shall be confined in a locked enclosure. It shall be unlawful for any person to permit a dangerous animal out of a locked enclosure unless said animal is securely leashed with a leash no longer than 4 feet in length. Said person shall have physical control of the leash and of 18 years of age or older. When not on the property of the owner, the animal shall be muzzled. After finding said animal dangerous, the owner of said animal shall immediately notify animal services if the animal is loose, unconfined, bites or attacks a person, has been moved to a different address or dies; whereupon the owner must provide proof of death. The dangerous animal shall not be sold or given away.

(C) All dangerous animals, when kept inside a dwelling shall not be allowed access to screened only windows or doors. A secure obstacle shall be in place to prevent animal from exiting the structure.

(D) The owner shall display signs stating "Beware of Dangerous Animal" along with a symbol for same easily seen by children. The signs displayed shall be easily seen from the public roadway.

(E) All dangerous animals shall be sterilized and micro-chipped at the owner's expense at the time the animal has been determined to be dangerous.

(F) The owner shall be notified of the ability to appeal within 10 days upon issuance of such requirements to the Animal Services Superintendent.

(G) Any owner or harbinger violating the requirements of this section shall be issued a citation to court for violation of this section.

92.32 Animals at Special Events Prohibited

(A) The Chief of Police may prohibit the bringing of animals to Special Events as defined herein, if in his or her judgment, their presence would constitute an unreasonable hazard to public safety or health.

(B) Service animals, recognized performing animals and police dogs shall be exempt from the provisions of this section.

92.33 Annual Hobbyist Permit

(A) Levy and amount of permit. There is hereby levied and there shall be collected an annual permit fee in the amount hereinafter provided on each dog or cat owned or kept within the city for

the purposes of breeding, competing, or hunting. Said permit fee shall be paid to the city animal services division along with a \$25 non-refundable application fee. For each unneutered male or unsprayed female over six months of age the levied fee shall be in the amount of \$25.00 annually.

(B) Issuance of permit and tag. The city animal services division to whom the fee levied by subsection (A) above is paid shall issue a permit after the following requirements have been documented and a successful inspection of the hobbyist's premises is complete.

(1) Hobbyist permit application is filed with the animal services division stating hobbyist's intent with said dog or cat.

(2) Documentation for breeding purposes testifying that said animal is registered with the AKC, UKC, CFA, or TICA as a purebred. The hobbyist holds membership within the past 12 months in a national, regional or local kennel club; provides a signed copy of the Code of Ethics for the breed club of which the hobbyist belongs; provides documentation of all necessary health clearances for breeding specific type of breed and health records for litter.

(3) Documentation for competing purposes testifying that said animal has competed in at least one dog show or sporting competition sanctioned by a national or regional registry within the past 12 months. The hobbyist holds membership within the past 12 months in a national, regional or local kennel club.

(4) For hunting purposes hobbyist holds a current state hunting license with the Arkansas Fish and Game Commission and the hobbyist can successfully perform obedience commands with said animal.

(C) License period. A license, if not revoked, shall be valid for one year from the date of issue. A new permit shall be obtained each year by every hobbyist and a new fee paid. An owner shall have 30 days from the date the license expires to obtain a new license without penalty. Any hobbyist failing to obtain a license within such period shall be required to pay an additional fee of \$10.00.

(D) Revocation of Permit. A permit may be revoked if the animal services division determines that any of the following conditions exist.

(1) The hobbyist has been convicted of or pleads guilty to cruelty to animals;

(2) The hobbyist has failed to comply with the conditions of the permit;

(3) The hobbyist has violated the provisions of this Chapter twice in one permit year;

(E) Nothing in this section shall be construed to apply to any dog or cat under the age of three months, or to dogs or cats brought to the city on a temporary basis for show or exhibition.

ARTICLE II ENFORCEMENT

92.40 Animal Control Officer

(A) There is hereby created the office of animal control officer. The animal control officer shall be appointed by the mayor and shall perform the duties and exercise the powers prescribed by this chapter. In addition, the animal control officer shall perform such duties as may be delegated to him by the mayor or the City Council.

(B) The city's animal control officers are authorized to issue a citation to any person violating any provision of this chapter in the presence of said animal control officer.

92.41 Interference With Animal Control Officer Prohibited

It shall be unlawful for any person to forcibly interfere or forcibly attempt to interfere with the animal control officer or other authorized persons in order to hinder him in the performance of his duties. Further, it shall be unlawful for any person to refuse to deliver any unlicensed or unvaccinated animal or any animal observed to be running at large to the animal control officer, or police officer, upon demand for impounding.

92.42-92.98 Reserved 92.99 Penalty

(A) Whenever in this chapter an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such chapter the doing of an act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this chapter shall be punished by a fine of not more than \$500.00 or double that sum for each repetition of such offense, or violation; provided, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. If the violation of the chapter is, in its nature, continuous in respect to time, the penalty for allowing the continuation thereof shall not

exceed \$250.00 for each day that the same is unlawfully continued.

(B) Any person who resides in the city convicted of violating or pleads guilty to state law ACA section 5.62.101. Cruelty to Animals, may lose the privilege of owning animals within the city limits for up to one year in addition to fines.

(C) Any person violating or failing to comply with any of the provisions of §92.04 shall be deemed or both.

guilty of a misdemeanor and upon conviction shall be fined in a sum not less than \$25.00 or more than \$100.00. Each day's violation shall constitute a separate offense.

(D) Any person convicted of violating §92.27, Abuse of police dogs prohibited, shall be punished as provided in subsection (A) of this section or imprisoned in the city jail for up to 30 days,

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

20-Mar-07
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Approval of an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons, and an announcement of a public hearing discussing this rate change on 3 April, 2007 during the City Council meeting.

\$0.00
Cost of this request

\$0.00
Category / Project Budget

Water and Wastewater
Program Category / Project Name

N/A
Account Number

\$ -
Funds Used to Date

Water and Wastewater
Program / Project Category Name

N/A
Project Number

\$0.00
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature]
Department Director

21 MAR 07
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature]
City Attorney

3/6/07
Date

Original Contract Number: _____

Paul A. Becker
Finance and Internal Service Director

3-7-07
Date

Received in City Clerk's Office

ENTERED
3/2/07

[Signature]
Mayor

3/7/07
Date

Received in Mayor's Office

Comments:

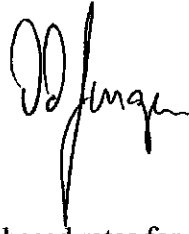
City Council Meeting of March 20, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: 1 March 2007

Subject: Approval of an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons, and an announcement of a public hearing discussing this rate change on 3 April, 2007 during the City Council meeting.

RECOMMENDATION

City Administration recommends approval of an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons, and an announcement of a public hearing discussing this rate change on April 3, 2007, during the City Council meeting.

BACKGROUND

The City of Fayetteville, based on agreements with Farmington and Greenland, and in accordance with applicable state codes and industry standards, establishes rates based on the cost of service. For rates outside of the city limits of Fayetteville, these rates include a provision for a return on investment. In 2003, Black and Veatch conducted a rate study for the City of Fayetteville that established the rate structure that was enacted at that time and is in place today.

State codes dictate a schedule and sequence of events for any change in sewer rates. These require that the rate change ordinance be read, a public hearing be scheduled and announced, the ordinance be published, and the public hearing take place at least ten days after the initial reading and publication of the ordinance. The rate ordinance can be approved any time after the public hearing.

Farmington and Greenland have established additional sewer charges of \$0.17/1,000 gallons and \$0.40/1,000 gallons respectively for sewer service in their cities. These funds are remitted to the respective cities, and are independent of this change in sewer rates.

DISCUSSION

Contract negotiations with the City of Farmington included discussion of sewer rates for customers in that City. Through agreement between the negotiating teams from both Cities, the volume based sewer rates for customers outside the City of Fayetteville are being changed from the current rate of \$7.16 per 1,000 gallons to a rate of \$4.66 per 1,000 gallons. Only volume based rates will be changed; the monthly sewer service charge based on meter size shall remain the same. This rate change has no impact on customers inside the City of Fayetteville.

BUDGET IMPACT

This rate change will not result in any increased costs to the City of Fayetteville. It will result in a reduction of approximately \$330,000 From budgeted revenues for 2007.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 51, WATER AND SEWERS, OF THE
CODE OF FAYETTEVILLE, TO ADJUST MONTHLY SEWER RATES.

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

Section 1. That § 51.137(A)(1), **Table E-1**, Code of Fayetteville is hereby repealed, and the
following is inserted in its stead:

51.137 Monthly Sewer Rates

(A) *Monthly sewer rates.* All monthly sewer charges shall be calculated from the customer's monthly water usage.
The following monthly rates are hereby fixed as rates to be charged for sewer services:

(1) Monthly sewer quantity charge:

Table E-1
Monthly Sewer Quantity Charge - Usage Rates Per 1,000 Gallons Beginning May 1, 2007

Residential*	\$ 3.10
Commercial/Industrial*	2.42
Outside city limits**	4.66
Elkins**	2.81

PASSED and APPROVED this _____ day of _____, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

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

C. 7
Public Hearing
Sewer Volume Based Rate
Page 1 of 2

20-Mar-07

City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Announcing a Public Hearing to be held on 3 April 2007 during the regular City Council Meeting to receive public comment pertaining to an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons. The rate ordinance will be at its second reading at the 3 April 2007 City Council meeting.

\$0.00

Cost of this request

\$0.00

Category / Project Budget

Water and Wastewater

Program Category / Project Name

N/A

Account Number

\$

-

Funds Used to Date

Water and Wastewater

Program / Project Category Name

N/A

Project Number

\$0.00

Remaining Balance

Water/Sewer

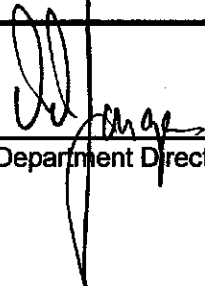
Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

☐


Department Director

7/1/07
Date

Previous Ordinance or Resolution #

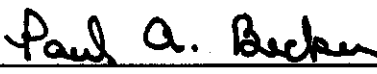
Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office


Finance and Internal Service Director

7 MARCH 07
Date

Received in Mayor's Office

Mayor

Date

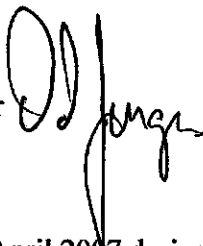
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: 2 March 2007

Subject: Announcing a Public Hearing to be held on 3 April 2007 during the regular City Council Meeting to receive public comment pertaining to an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons. The rate ordinance will be at its second reading at the 3 April 2007 City Council meeting..

RECOMMENDATION

City Administration recommends announcing a Public Hearing to be held on 3 April 2007 during the regular City Council Meeting to receive public comment pertaining to an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons. The rate ordinance will be at its second reading at the 3 April 2007 City Council meeting..

BACKGROUND

Contract negotiations with the City of Farmington included discussion of sewer rates for customers in that City. Through agreement between the negotiating teams from both Cities, the volume based sewer rates for customers outside the City of Fayetteville are being changed from the current rate of \$7.16 per 1,000 gallons to a rate of \$4.66 per 1,000 gallons. Only volume based rates will be changed; the monthly sewer service charge based on meter size shall remain the same. This rate change has no impact on rates for customers inside the City of Fayetteville.

DISCUSSION

The City of Fayetteville is considering an ordinance changing the volume based rates for sewer service for customers outside the City of Fayetteville from \$7.16/1,000 gallons to \$4.66/1,000 gallons. Any change in sewer rates requires a formal Public Hearing.

BUDGET IMPACT

This rate change will not result in any increased costs to the City of Fayetteville. It will result in a reduction of approximately \$330,000 from budgeted revenues for 2007.

Agenda Session
3/13/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
March 20, 2007**

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

Fayetteville Public Library – The Big Read

~~Citizen Survey 2007 Discussion Agenda Session only~~

~~Farmington De-annexation discussion-Agenda Session only.~~

A. CONSENT:

1. **Approval of the March 6, 2007 City Council meeting minutes.**
2. **CEMS Ambulance Services for 2007:** A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.
3. **Arkoma Playgrounds and Supply, Bid # 07-22:** A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.
4. **A. Camp Equipment, Bid # 07-21:** A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.

Add:
⑤ Appointment of Library Board of Trustees
② Confirmation of A.P. Commission Appointment

- Move to #1 New Business*
- ⑤ **SWEPCO Public Service Commission Hearing:** A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.

B. UNFINISHED BUSINESS:

- Get info from Jeremy*
1. **VAC 06-2364 (Cruz Bay):** An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. *This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*
2. **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 appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.*
3. **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 ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.*
4. **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, and to repeal § 156.02 (B)(6). *This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*

Add

5. Farmington De-annexation - Get ordinance from Kit

C. NEW BUSINESS:

1. **Power Secure, Inc. Bid Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamstring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.
2. **ANX 06-2288 (Broyles):** An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.
3. **R-PZD 06-2281 (Holcomb Heights):** An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision: containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

- ✓ 4. **ADM 07-2477, BioBased:** A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.
- ✓ 5. **Amend Chapter 92 – Animal Ordinance:** An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.
- ✓ 6. **Amend Chapter 51 – Sewer Volume Based Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.
- ✓ 7. **Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.**

D. INFORMATIONAL:

City Council Tour: ~~March 19, 2007~~

NONE

Consent — Add: NW Arkansas Diversity Council Membership Fees.

Add: Forrest F. Brooks Revocable Trust Land Purchase.

Pre-Agenda 3/1/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
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March 20, 2007**

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**Call to Order
Roll Call
Pledge of Allegiance**

Fayetteville Public Library – The Big Read

Citizen Survey 2007 Discussion – Agenda Session only.

Farmington Deannexation Discussion – Agenda Session Only.

A. CONSENT:

1. **Approval of the March 6, 2007 City Council meeting minutes.**
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3. **Arkoma Playgrounds and Supply, Bid # 07-22:** A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.
4. **A. Camp Equipment, Bid # 07-21:** A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.



The first part of the report deals with the general situation of the country and the progress of the work during the last year. It is a summary of the work done and the results obtained. The second part of the report deals with the specific work done during the last year. It is a detailed account of the work done and the results obtained.

Summary of the work done during the last year

The work done during the last year has been very successful. The results obtained are very satisfactory. The work done during the last year has been very successful. The results obtained are very satisfactory.

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5. **SWEPCO Public Service Commission Hearing:** A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.

① 30 min
B. UNFINISHED BUSINESS:

1. **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 appeal was Tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.*
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① 30 min
② 15 min
③ 15 min
C. NEW BUSINESS:

1. **Power Secure, Inc. Bid Waiver:** An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamstring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.
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3. **R-PZD 06-2281 (Holcomb Heights):** An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision; containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

4. ✓ **ADM 07-2477, BioBased:** A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.

- (Dead) 5. ~~**ADM 07-2516, Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the setback of the principle façade on buildings located in the Main Street Center Zoning District.~~

6. ✓ **Amend Chapter 92 – Animal Ordinance:** An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.

7. ✓ **Amend Chapter 51 – Sewer Volume Based Rates:** An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.

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

9. **Brooks Hummel Property – Kyle Cook will get the information to us. SES 02/27/07**

D. INFORMATIONAL:

City Council Tour: March 19, 2007

call Kyle

Kyle will add at regarding
Agenda Session Sewer
Volume
Based
Rates

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

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

DATE: **March 21, 2007**

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

1. **CEMS Ambulance Services for 2007:** Resolution approving contract Amendment #1 to contract with CEMS for emergency medical transport services;
2. **Arkoma Playgrounds & Supply Bid #07-22:** Resolution awarding Bid #07-22 and approving contract with Arkoma Playgrounds & Supply, Inc. in amount of \$138,530.50 for installation of park amenities at Harmony Pointe Park; approving a 9.5% contingency in amount of \$13,160.40 and approving budget adjustment in amount of \$50,000.00;
3. **A. Camp Equipment Bid #07-21:** Resolution awarding Bid #07-21 to A. Camp Equipment for purchase of one Wirtgen Milling Machine in amount of \$392,500.00 for use by Transportation Division;
4. **NWA Diversity Council Membership Fee:** Resolution authorizing City to join the NWA Diversity Council and pay the \$500.00 membership fee for services;
5. **Wedington Circle Appeal:** Resolution approving in part and denying in part the appeal of Wedington Circle PPL 06-2302 by the developer;
6. **SWEPCO Public Service Commission Hearing:** Resolution expressing intent of the City Council for the Public Service Commission hearing on SWEPCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville;

7. **Power Secure, Inc. Bid Waiver:** Ordinance waiving requirements of formal competitive bidding and approving contract with Power Secure, Inc. for purchase of back-up generation equipment and installation services for West Side Wastewater Treatment Plant and then Hamstring Sewer Lift Station in amount of \$1,986,786.68 and approving a 2% contingency of \$40,000.00;

8. **Forrest F. Brooks Revocable Trust Land Purchase:** Resolution to negotiate purchase of 13.75 acres from Forrest F. Brooks Revocable Trust located north (and below) Lake Lucille spillway for less than \$496,000.00 and to sell 1.89 acres to United Presbyterian Church for \$68,000.00 and to sell the development rights of the remainder to Fayetteville Natural Heritage Assoc. and neighbors for \$179,500.00.

From: Sondra Smith
To: Pearman, Clarice
Date: 3.6.07 5:02 PM
Subject: Fwd: RE: FPL Launches The Big Read
Attachments: Sondra Smith1.vcf

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> "Sarah Terry" <sterry@faylib.org> 3/6/2007 4:53 PM >>>
Yes. Fayetteville Public Library -- The Big Read sounds good.
Thanks so much for getting us on first thing. We really appreciate it.
See you then!

Sarah Terry
Manager, Communications and Marketing
Fayetteville Public Library
401 W. Mountain Street
Fayetteville, AR 72701
479.571.2222 x 4305

www.faylib.org
"Fayetteville Public Library: 2005 Library of the Year"

Our mission is to strengthen our community and empower our citizens
through free and public access to knowledge.

-----Original Message-----

From: Sondra Smith [<mailto:ssmith@ci.fayetteville.ar.us>]
Sent: Tuesday, March 06, 2007 3:35 PM
To: Sarah Terry
Subject: Re: FPL Launches The Big Read

I know how busy you are. I don't think it ever slows down for any of
us. We will put you on the agenda for the March 20, 2007 City Council
meeting. We will add you to the beginning of the agenda. Do you want me
to title it
Fayetteville Public Library - The Big Read ?

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> "Sarah Terry" <sterry@faylib.org> 3/6/2007 2:54 PM >>>
Hey Sondra,

How is everything going with your office? I can't believe it's March, and I still haven't had the chance to stop in.

This year is flying by!

I wanted to see about the library (probably either Shawna Thorup or me) making an announcement at the start of the March 20 City Council meeting to discuss The Big Read, an effort to encourage literary reading by asking everyone to read the same book.

The library received a grant to carry out this program, and we're asking everyone to read Fahrenheit 451 by Ray Bradbury. We'll have a week of programming around the book from April 14-21. The National Endowment for the Arts is sponsoring the program, and they've provided reader's guides and audio guides and teacher's guides for us to distribute. We've also bought 3,000 copies of the book with grant money, and we're hosting an event next Wednesday (the 14th) at 2 to kick it off. (Please come by if you're interested.)

The NEA has also provided us with big posters to promote the event. I've got the go ahead from the mayor to put one up in the council chamber (it will be similar to the one for the special census). It will go up on the 15th, so the meeting on the 20th would be a great time to let people know about it. We'll also hand out books and other information about the program before the council meeting starts.

I wasn't sure if I needed to contact you about us presenting at the start of the meeting or if I need to go to someone else.

Thanks, Sarah

Sarah Terry

Manager, Communications and Marketing

Fayetteville Public Library

401 W. Mountain Street

Fayetteville, AR 72701

479.571.2222 x 4305

www.faylib.org

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From: Sondra Smith
To: Pearman, Clarice
Date: 3.6.07 4:11 PM
Subject: Fwd: Re: FPL Launches The Big Read
Attachments: Sondra Smith1.vcf; Sondra Smith1.vcf

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
(479) 718-7695 (Fax)
ssmith@ci.fayetteville.ar.us

>>> Sondra Smith 3/6/2007 3:34 PM >>>

I know how busy you are. I don't think it ever slows down for any of us. We will put you on the agenda for the March 20, 2007 City Council meeting. We will add you to the beginning of the agenda. Do you want me to title it Fayetteville Public Library - The Big Read ?

Sondra Smith
City Clerk
City of Fayetteville
113 West Mountain
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Thanks, Sarah

Sarah Terry

Manager, Communications and Marketing

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Fayetteville, AR 72701

479.571.2222 x 4305

www.faylib.org

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Our mission is to strengthen our community and empower our citizens through free and public access to knowledge.

From: "Sarah Terry" <sterry@faylib.org>
To: "Sondra Smith" <:ssmith@ci.fayetteville.ar.us>
Date: 3/6/2007 2:55 PM
Subject: FPL Launches The Big Read

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Thanks, Sarah

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Manager, Communications and Marketing

Fayetteville Public Library

401 W. Mountain Street

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479.571.2222 x 4305

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Our mission is to strengthen our community and empower our citizens through free and public access to knowledge.

From: Susan Thomas
To: City Clerk
Date: 2/26/2007 2:18 PM
Subject: Mar 13 Agenda Session

For the March 20 Council meeting, will you please add ~~Citizen Survey 2007 Discussion~~. Agenda Session only. Thanks.

Susan

Susan B. Thomas, Ph.D.
Public Information and Policy Advisor
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
479-575-8330

3/20/07
Agenda folder

From: "Victoria Sowder" <vsowder@equitynet.com>
To: <ward1_pos1@ci.fayetteville.ar.us>, <bthiel@cox.net>, <jdseed@swbell.net...
Date: 3/19/2007 11:09 AM
Subject: newly-proposed height restrictions vs. Downtown Master Plan height restrictions

CC: <city_clerk@ci.fayetteville.ar.us>

Untitled StationeryGood morning.

I am a resident of Fayetteville (on Rockwood Trail) and a registered voter in Ward 1. I am writing to express my belief in and my support of our Downtown Master Plan in its current form. I personally do not feel that additional height restrictions are warranted at this time.

Thank you for your consideration of my opinion and for your service to our City.

Victoria Sowder
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From: "Victoria Sowder" <vsowder@equitynet.com>
To: "Victoria Sowder" <vsowder@equitynet.com>, <ward1_pos1@ci.fayetteville.a...
Date: 3/19/2007 2:13 PM
Subject: support for Ruskin Heights

CC: <city_clerk@ci.fayetteville.ar.us>, <agarner@ci.fayetteville.ar.us>

Untitled StationeryGood afternoon:

In November 2006 I wrote to you with a strong expression of my personal concerns about the Ruskin Heights neighborhood as it was planned at that time.

I am writing to you today because of the responsiveness of the developers to the concerns and fears of the immediate and extended neighborhoods and because of substantial changes that have subsequently been made to the Ruskin Heights plans in the past few months.

I met recently with two engineers from Community by Design, a local company associated with the Ruskin Heights developers. It is my understanding that the developers have made the following changes in response to neighborhood comment and criticism:

a.. The tower, originally planned for the public parkland area of Ruskin Heights, has been removed from the plans. The approximately \$230,000 that originally would have been donated to the City to build the tower will be used by the City for other park/rec area uses in the southeast Fayetteville quadrant.

b.. Only single-family residences will be along the perimeters shared with single-family residences in existing neighborhoods.

c.. So-called "tree houses" (those platted for areas of Ruskin Heights with existing trees) will not "sit on the soil" but rather will be built on piers to minimize the impact on the soil and vegetation.

d.. All hillside development regulations will be observed, and, although the hillside regulations do not require engineered foundations for impacted homes, Ruskin Heights architectural codes will require engineered foundations.

e.. The density has been concentrated in the center and front of the development, along Mission Boulevard.

f.. Vehicles exiting Ruskin Heights onto Greenview can only turn right to minimize traffic routing through existing uphill neighborhoods. There will also be a landscaped buffer area that separates this exit even more from the neighboring homes around the Greenview exit area.

g.. Privacy fences will be built at developers' expense along the shared property lines along the perimeter alley with existing neighborhood homes. Current property owners will have input into the type of privacy fence installed along their property line.

h.. DPZ will produce strict architectural standards, and development covenants will require adherence to these standards, which dictate Craftsman-style homes and materials associated with Craftsman-style homes, even on those homes not built by the Ruskin Heights developers.

i.. Future construction of so-called "granny flats" must receive Conditional Use Approval from the City and must go through the normal processes for applying for such approvals.

j.. Preliminary construction plans have been filed with the AHTD, and turning lanes on Mission have been approved. It is anticipated that enough

traffic will be generated by completion of the development's Phase 3 or 4 to have met two of the warrants (conditions) for installation of a traffic signal on Mission Boulevard.

k.. Density currently is at at 103 single-family homes, 98 live-work/townhome units, and 94 mixed-used/condo residences. Current planned commercial space is 58,500 square feet.

Given the compromises embodied in these changes that, I believe, reflect the sincere desire of the developers to respond to our City's expressed desire to minimize and mitigate sprawl by developing real communities, I am greatly encouraged and impressed by the planned development. I support Ruskin Heights and encourage a go-ahead vote by the City Council Tuesday evening.

As always, I am grateful for the opportunity to present my personal opinion, and I thank you for your dedication to Fayetteville and its future.

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Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

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FAYETTEVILLE, AR 72702

PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Erin Emis, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of:

FINAL AGENDA

Was inserted in the Regular Editions:

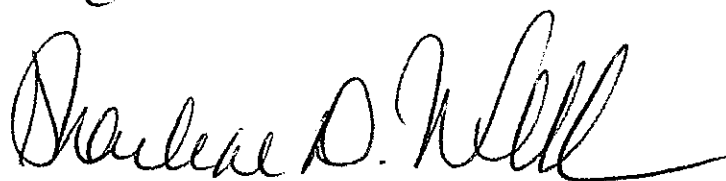
March 19, 2007

Publication Charge: \$189.90

Subscribed and sworn to before me

This 19 day of MARCH, 2007.

Notary Public



My Commission Expires:

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

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MAR 22 2007

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

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
MARCH 20, 2007**

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on March 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

Fayetteville Public Library - The Big Read

Nominating Committee Report

Mayor's appointment of Fayetteville Public Library Board of Trustees.

Confirmation of the Advertising & Promotion Commission appointment.

A. CONSENT:

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

2. CEMS Ambulance Services for 2007: A resolution approving contract Amendment # 1 to the contract with Central Emergency Medical Services, Inc. (CEMS) for emergency medical transport services.

3. Arkoma Playgrounds and Supply, Bid # 07-22: A resolution awarding Bid # 07-22 and approving a contract with Arkoma Playgrounds and Supply in the amount of \$138,530.50 for the installation of park amenities at Harmony Pointe Park; approving a 9.5% project contingency in the amount of \$13,160.40; and approving a budget adjustment in the amount of \$50,000.00.

4. A. Camp Equipment, Bid # 07-21: A resolution awarding Bid # 07-21 to A. Camp Equipment for the purchase of one (1) Wirtgen Milling Machine in the amount of \$392,500.00 for use by the Transportation Division.

5. Northwest Arkansas Diversity Council Membership Fee: A resolution to authorize the City to join the Northwest Arkansas Diversity Council and pay the \$500.00 membership fee for services.

B. UNFINISHED BUSINESS:

1. VAC 06-2364 (Cruz Bay): An ordinance approving VAC 06-2364 submitted by Mandy Bunch for property located north of 5th Street between South School Avenue and South Locust Avenue, vacating 150' of the 12' alley on the subject property. *This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*

2. 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 appeal was tabled at the February 20, 2007 City Council meeting to the March 20, 2007 City Council meeting.*

3. 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 ordinance was left on the First Reading at the February 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the March 6, 2007 City Council meeting.*

4. 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, and to repeal § 156.02 (B)(6). *This ordinance was tabled at the February 20, 2007 City Council meeting to the March 6, 2007 City Council meeting. This ordinance was left on the First Reading at the March 6, 2007 City Council meeting.*

5. Farmington De-annexation:

C. NEW BUSINESS:

1. SWEPCO Public Service Commission Hearings: A resolution to express the intent of the City Council for the Public Service Commission hearing on SWEPCO's proposed enlargement of its 69kV transmission line to a 161kV transmission line in Fayetteville.

2. Power Secure, Inc. Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving a contract with Power Secure, Inc. for the purchase of back-up power generation equipment and installation services for the West Side Wastewater Treatment Plant and the Hamestring Sewer Lift Station in the amount of \$1,986,786.68; and approving a 2% contingency of \$40,000.00.

3. ANX 06-2288 (Broyles): An ordinance annexing that property described in annexation petition ANX 06-2288, located at 3601, 3611, 3677 Weir Road, containing approximately 10.61 acres.

4. R-PZD 06-2281 (Holcomb Heights): An ordinance establishing a residential planned zoning district titled R-PZD 06-2281, Holcomb Heights, located at the southwest corner of Weir and Salem Roads, north of Salem Meadows Subdivision; containing approximately 13.47 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

5. ADM 07-2477, BioBased: A resolution to approve a change in the building elevations and materials previously approved by the City Council as required in its contract with BioBased Realty, LLC.

6. Amend Chapter 92 - Animal Ordinance: An ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve the treatment of animals and ensure the safety of the citizens of Fayetteville.

7. Amend Chapter 51 - Sewer Volume Based Rates: An ordinance amending Chapter 51, Water and Sewers, of the Code of Fayetteville, to adjust monthly sewer rates.

8. Announcement of a Public Hearing to be held on April 3, 2007 regarding the sewer volume based rates.

9. Forrest F. Brooks Revocable Trust Land Purchase: A resolution to purchase 13.75 acres from the Forrest F. Brooks Revocable Trust located north (and below) the Lake Lucille Spillway for \$495,000.00 and to sell 1.89 acres to the United Presbyterian Church for \$68,000.00 and to sell the development rights of the remainder to the Fayetteville Natural Heritage Association and Neighbors for \$179,500.00.

D. INFORMATIONAL:

City Council Tour: None

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MAR 22 2007

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