

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
April 17, 2007**

A meeting of the Fayetteville City Council will be held on April 17, 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**

A. CONSENT:

- 1. Approval of the March 20, 2007 City Council meeting minutes and the March 27, 2007 Special City Council meeting minutes.**

THE MINUTES FOR MARCH 20, 2007 WERE REMOVED FROM AGENDA AND THE CITY COUNCIL APPROVED THE MINUTES FOR MARCH 27, 2007.

- 2. Ford Escape Hybrid Purchase:** A resolution approving the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 63-07.

- 3. Bid #07-26 Scott Construction Equipment:** A resolution awarding Bid #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division; and approving a budget adjustment in the amount of \$1,020.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 64-07.

4. **Bid #07-27 Diamond International:** A resolution awarding Bid #07-27 to Diamond International for the purchase of one (1) asphalt distributor truck (chassis only) in the amount of \$59,988.54 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 65-07.

5. **Bid #07-28 Clark Machinery Company:** A resolution awarding Bid #07-28 to Clark Machinery Company of Fort Smith for the purchase of one (1) chassis-mounted asphalt distributor in the amount of \$76,356.00 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 66-07.

6. **Bid #07-31 Williams Tractor of Fayetteville and Hugg & Hall Equipment:** A resolution awarding a portion of Bid #07-31 to Williams Tractor of Fayetteville for the purchase of one (1) compact track loader in the amount of \$39,504.38 and to Hugg & Hall Equipment for the purchase of one (1) trailer to haul the track loader in the amount of \$6,924.61, both for use by the Water & Sewer Division; and approving a budget adjustment in the amount of \$46,429.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 67-07.

7. **Bid #07-32 United Rental of Fayetteville and Hertz Rental:** A resolution awarding a portion of Bid #07-32 to United Rental of Fayetteville for the purchase of one (1) trench roller in the amount of \$30,202.18 and to Hertz Equipment for the purchase of one (1) trailer to haul the trench roller in the amount of \$3,835.96 both for use by the Water and Sewer Division; and approving a budget adjustment in the amount of \$34,400.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 68-07.

8. **Bid #06-36 Downing Sales & Service:** A resolution awarding an additional purchase from Bid #06-36 to Downing Sales & Service for the purchase of three (3) additional recycling trucks in the amount of \$442,314.00 for use by the Solid Waste & Recycling Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 69-07.

9. **Boston Mountain Solid Waste District Recycling Grant:** A resolution authorizing the Solid Waste & Recycling Division to accept a recycling grant from the Boston Mountain Solid Waste District in the amount of \$81,605.00 to partially fund the purchase of a new baler for the recycling center.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 70-07.

10. **Sugar Creek Rolloff, LLC:** A resolution authorizing the mayor to execute a contract with Sugar Creek Rolloff, LLC to haul and dispose of solid waste within the city limits of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 71-07.

B. UNFINISHED BUSINESS:

1. **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 resolution was Tabled at the March 20, 2007 City Council meeting to the April 3, 2007 City Council meeting. This resolution was Tabled at the April 3, 2007 City Council meeting to the April 17, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 72-07.

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

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5002.

3. **Amend Chapter 177, Landscape Regulations:** An ordinance amending Chapter 177, Landscape Regulations, of the Unified Development Code to require minimum eight-foot wide sidewalks when utilized in conjunction with Urban Tree Wells. *This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5003.

C. NEW BUSINESS:

1. **Temporary Continuation of Medical Insurance:** A resolution authorizing the temporary continuation of medical insurance for permanently disabled employees who would otherwise lose access to medical care while awaiting approval of long-term disability insurance or social security disability benefits.

THIS ITEM WAS ADDED AT THE CITY COUNCIL MEETING, PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 73-07.

2. **Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 19 Oakbrooke Subdivision Infrastructure Project.

THIS ITEM WAS TABLED INDEFINITELY.

3. **Mount Sequoyah Methodist Assembly Center – Waive of Building Permit Fees:** An ordinance to waive the building permit fees for the remodeling of a building owned by the nonprofit Mount Sequoyah Methodist Assembly Center.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5004.

4. **VAC 07-2549 (Spencer):** An ordinance approving VAC 07-2549 submitted by Darryl Spencer for property located at 1791 N. Trillium Lane vacating a 25' sewer easement on the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5005.

5. **Fayetteville E911 House Numbering:** A resolution to change the names of several streets or roads within Fayetteville because of duplicate or confusing street names within annexed areas.

THIS ITEM WAS TABLED TO THE MAY 1, 2007 CITY COUNCIL MEETING.

6. **Solar Splash International Boating Competition:** An ordinance to waive various provisions of § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2007 and each June through 2011; and approving the agreement with Solar Splash International.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5006.

7. **RZN 07-2504 (Sloan/Cobblestone):** An ordinance rezoning that property described in rezoning petition RZN 07-2504, for approximately 17.22 acres, located south of Salem Road and east of Crystal Springs Subdivision in the interior of the Cobblestone Subdivision from RSF-4, Residential Single-Family, 4 units per acre, to RSF-8, Residential Single-Family, 8 units per acre.

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

8. **ANX 07-2507 (Spencer):** An ordinance annexing that property described in annexation petition ANX 07-2507, for property located at 835 South Lewis Woods Lane, west of Lake Sequoyah, containing approximately 13.22 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5007.

9. **Amend Chapter 155, Appeals:** An ordinance repealing and replacing Chapter 155, Appeals, of the Unified Development Code to amend and clarify the appeals process for decisions made under the authority of the Unified Development Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5008.

10. **Roll Off Service, Inc:** A resolution denying renewal of the contract with Roll Off Service, Inc. to haul and dispose of solid waste within the city limits of Fayetteville.

THIS ITEM WAS TABLED TO THE MAY 1, 2007 CITY COUNCIL MEETING.

11. **The Links at Fayetteville Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2452, The Links at Fayetteville, located at the northeast corner of Wedington and Ruppel Road; containing approximately 152.23 acres;

amending the official zoning map of the city of Fayetteville; and adopting the Associated Master Development Plan.

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

12. VAC 07-2484 (Rhoads): An ordinance approving VAC 07-2484 submitted by Jorgensen and Associates for property located at 2791 North Shadybrook Cove to vacate 12.5' of a 25' utility easement, a total of 1,277 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5009.

D. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 9:45 p.m.

Adjourn: 9:45 PM

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

8-0

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
Approve March 27 Special Minutes Remove March 20, 2007 minutes passed	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	Absent during the vote.			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

7-0

Res. 63-07 to 71-07

with 3/20/07 Minutes removed.

Subject: ADM 07-2477 (Bio Based)					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
B.1. Unfinished Business passed 72-07	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

8-0

Subject: Amend Chapter 92 - Animal Ordinance					
Motion To:		3rd Read	Amend as stated by Alderman Thiel		Amend to Change definition
Motion By:		Jordan	Thiel		Thiel
Seconded:		Lucas	Cook		Lucas
B.2. Unfinished Business	Jordan	✓	✓		N
	Gray	✓	✓		✓
	Thiel	✓	✓		✓
	Cook	✓	✓		✓
	Allen	✓	✓		✓
	Rhoads	✓	✓		✓
	Ferrell	✓	✓		✓
	Lucas	✓	✓		N
	Mayor Coody				

8-0

8-0

6-2

Subject: Amend Chapter 92- Animal Ordinance					
Motion To:		Amend for Medical Exemption		Pass	NAN Landon
Motion By:		Thiel			
Seconded:		Allen			
B.2. Unfinished Business passed 5002	Jordan	✓		✓	
	Gray	✓		✓	
	Thiel	✓		✓	
	Cook	✓		✓	
	Allen	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		N	
	Lucas	✓		✓	
	Mayor Coody				

8-0

7-1

Subject: Amend Chapter 177, Landscape Regulations					
Motion To:		3rd read	Pass		
Motion By:		Jordan			
Seconded:		Ferrell			
B.3. Unfinished Business passed 5003	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	absent during the vote		
	Cook	✓	✓		
	Allen	✓	absent during the vote		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	absent during the vote.	absent during the vote.		
	Mayor Coody				

7-0

5-0

Subject: Medical Insurance for Permanently Disabled Employees					
Motion To:		Add to the agenda	Approve		
Motion By:		Cook	Cook		
Seconded:		Jordan	Jordan		
Add to the Agenda passed 73-07	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	Absent during the vote.	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	Absent during the vote.	✓		
	Lucas	✓	✓		
	Mayor Coody				
6-0 8-0					

Subject: Jayetteville Municipal Property Owners' Improvement District #19 Oakbrooke.					
Motion To:		Table Indef.			
Motion By:		Jordan			
Seconded:		Ferrell			
New Business: C.I. Jailed Indefinitely	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				
8-0					

Subject: Mount Dequoyah Methodist Assembly Center					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Jordan		
Seconded:		Jordan	Thiel		
C.2. New Business <u>Passed</u> 5004	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

Subject: VAC 07-2549 (Spencer)					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C.3. New Business <u>Passed</u> 5005	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

City Council Meeting April 17, 2007

Subject: Jayetteville E911 House Numbering.					
Motion To:		Amend Street Name to Stonehenge	Stonehenge	Table to May 1st Meeting	John Gibson with the County
Motion By:		Lucas		Ferrell	
Seconded:		Jordan		Jordan	
C.4. New Business Tabled to May 1, 2007 City Council Meeting.	Jordan	✓		✓	
	Gray	✓		✓	
	Thiel	Absent during the vote		Absent during the vote	
	Cook	✓		✓	
	Allen	✓		✓	
	Rhoads	✓		✓	
	Ferrell	✓		✓	
	Lucas	✓		✓	
	Mayor Coody				
7-0			7-0		

Subject: Solar Splash International Boating Competition					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Jordan		
Seconded:		Jordan	Ferrell		
C.5 New Business Passed 5006	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent during the vote	Absent during the vote	Absent during the vote	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				
7-0		7-0		7-0	

Subject: RZN 07-2504 (Sloan / Cobblestone)					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C. 6. New Business Left on the Second Reading	Jordan	✓			
	Gray	✓			
	Thiel	Absent during the vote.			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

7-0

Subject: ANX 07-2507 (Spencer)					
Motion To:		2nd read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Gray	Allen		
C. 7. New Business Passed 5007	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent during the vote.	absent during the vote.	absent during the vote.	
	Cook	✓	✓	NO	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				

7-0

7-0

6-1

Subject: Amend Chapter 155, Appeals					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Jordan	Jordan		
C.8, New Business <u>Passed</u> 5008	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent during the votes			
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

Subject: Roll Off Services, Inc. Begin Side 4					
Motion To:		Amend the resolution to Adopt the Modified Contract			Gary Dumas
Motion By:		Rhoads			There are on
Seconded:		Ferrell			Some others
C.9. New Business	Jordan	N			occasionally that
	Gray	N			late pay.
	Thiel	Absent during the vote.			
	Cook	N			
	Allen	N			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	N			
	Mayor Coody				

2-5 failed

Subject: Roll Off Services, Inc.					
Motion To:		Tabled to May 1, 2007			
Motion By:		Ferrell			
Seconded:		Cook			
C.9. New Business Tabled to May 1, 2007	Jordan	✓			
	Gray	✓			
	Thiel	Absent during the vote			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

7-0

Subject: The Links at Fayetteville Appeal					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
C.10. New Business Left on the Second Reading.	Jordan	✓			
	Gray	✓			
	Thiel	Absent during the vote			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Mayor Coody				

7-0

City Council Meeting April 17, 2007

Subject: VAC 07-2484 (Rhoads)					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Jordan	Jordan		
C.11 New Business <u>Passed</u>	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	absent during the vote			
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	Recuse	Recuse	Recuse	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Mayor Coody				
		6-0	6-0	6-0	

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

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D. INFORMATIONAL:

City Council Tour: None

RESOLUTION NO. _____

A RESOLUTION AWARDING A PORTION OF BID #07-32 TO UNITED RENTAL OF FAYETTEVILLE FOR THE PURCHASE OF ONE (1) TRENCH ROLLER IN THE AMOUNT OF \$30,202.18 AND TO HERTZ EQUIPMENT FOR THE PURCHASE OF ONE (1) TRAILER TO HAUL THE TRENCH ROLLER IN THE AMOUNT OF \$3,835.96, BOTH FOR USE BY THE WATER & SEWER DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$34,400.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a portion of Bid #07-32 to United Rental of Fayetteville for the purchase of one (1) Trench Roller in the amount of \$30,202.18 for use by the Water & Sewer Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby awards a portion of Bid #07-32 to Hertz Equipment for the purchase of one (1) trailer to haul the Trench Roller in the amount of \$3,835.96 for use by the Water & Sewer Division.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$34,400.00.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**MEMORANDUM**

TO: City Council and Mayor Coody
FROM: Jill Hatfield, Animal Services Superintendent,
Ad Hoc Animal Ordinance Committee
DATE: April 10, 2007
RE: Proposed Animal Ordinance – Supplemental Information

In an attempt to answer questions raised by Council members at the April 3 City Council meeting, please find attached information and documents regarding Animal Services programs, photo copies, and statistics relevant to the City of Fayetteville.

Concerning cost of services and operating hours, Animal Services operates the Low Cost Spay/Neuter program through the week and also on Saturdays for those who work during the week and cannot take of time from work. The program is based on income. To qualify a one person household maximum income is \$19,660. Many students fall within this category and take advantage of the program. A two person household maximum income is \$22,680, three person household is \$25,560, four person household is \$28,380. For more than 4 persons in a household the maximum is \$30,660. To participate in the program, anyone over 18 years of age needs to complete an application, and provide a copy of income verification such as w-2, income tax statement, social security, disability statement or recent check stub. We also make a copy of any form of photo identification. The application and other information can be emailed, faxed, sent standard mail, or the form can be printed off the [accessfayetteville](http://accessfayetteville.com) website.

The shelter is open for adoptions six days a week including Saturdays and Sundays from 11 a.m. to 4 p.m. The adoption fee is \$60 and includes micro-chipping, spay or neuter, and rabies vaccination along with other health and welfare benefits. The Shelter has two programs for responsible pet adopters who cannot afford the adoption fee. Compassionate hearts program waives the fee for individuals 62 or older and those who have disabilities if the animal came into the shelter spayed or neutered. The other is sponsorship of by volunteers who pay the adoption fee of animals that are highly adoptable. Both programs allow individuals the ability to adopt without causing hardship. With both the adoption programs and the low cost program, the animals license fee would be only \$5 annually at the time the animal receives its rabies vaccination. The shelter also hosts a low cost rabies vaccination clinic once a month. The fee for the vaccination along with a booster vaccine is \$7 and is given by our volunteer veterinarian. The program has been in place for over 10 years, usually on the third Saturday of each month.

When the Ad Hoc Committee researched space requirements and the anti-chaining ordinance, the first draft did give space requirements according to the size of the animal. It read "Each dog or cat under 40 pounds requires a minimum enclosure area of 10 feet by 6 feet. Each dog 40 to 80 pounds requires a 10 feet by 10 feet enclosure area. Dogs over 80 pounds requires an enclosure area of 10 feet by 15 feet." The committee felt it would be labor intensive to require this by weight. The officer would need to confirm the weight in some manner. The committee went with a standard size as many other cities have done.

Please find attached photos of some dogs that are living on chains in Fayetteville. The last photo on the page is of a dog that died on his chain during the 90 and above degree days last summer. Two dogs were chained in the privacy fence area with no water and no shade. The black dog perished while tangled in part of a doghouse. Many others have hung themselves and starved to death while chained and out of sight. Solely for humane reasons the anti-chaining ordinance would allow Animal Services Officers the ability to view the dog, educate the owner on responsible pet ownership before the dog suffers and many times dies a horrific death.

The anti-chaining ordinance along with the enclosure area requirements, hobbyist permits, and dangerous ordinances, would give the Animal Services Officer more depth to the current ordinances. Officers currently advise owners of the best ways to care for an animal but without requiring humane treatment in these areas there is little an officer or neighbor can do until the animal is starving, infested with parasites or injured.

The Dangerous Animal section 92.31 also allows the officer to view the animal and discuss the behavior issues with the owner. The requirements could solve many neighborhood disputes by alleviating the animal behavior problem before it becomes escalated. This would be done only when the animal shows a dangerous and aggressive behavior, witnessed not only by complainants but also the Animal Services Officer and Animal Services Superintendent with complete documentation. In 2005, ten animal owners were issued a citation for vicious animal and in 2006, eleven were issued a vicious citation.

Also in 2006, 2328 city licenses were sold. 1,895 (81%) were dogs and 433 (19%) were cats licensed. 1,546 (66%) were spay/neutered animals while 782 (34%) were intact. If the number of licenses sold in 2007 doubled with the assistance of a new Animal Services Officer focusing on licensing, the increased license fee revenue would be \$66,380. That amount could fund the additional officer position needed.

The Humane Society of the United States estimates 1.7 dogs per U.S. household and 2.4 cats per household. That would mean over 150,000 owned dogs and cats live in the city limits of Fayetteville. Many more are stray and feral living without an owner.



The Price is Right!

While you can't put a price tag on a lifetime of hugs, kisses, companionship and unconditional love, there are costs involved in maintaining a healthy pet.

When you adopt a companion animal from the Fayetteville Animal Services Shelter, we've already performed procedures that are critical for maintaining his or her good health. These important benefits are provided to you at a greatly reduced cost.

We think you'll agree that the pets at the Fayetteville Animal Service Shelter are not only the best in the world, but the best value around!

Adoption Fee: \$60

Dogs and Puppies:

- ♦ Spaying/Neutering
- ♦ Micro-chipping
- ♦ Rabies Vaccination
- ♦ Booster Shots
- ♦ De-Worming
- ♦ Flea & Tick Treatment
- ♦ City License First Year
- ♦ Heartworm Testing
- ♦ Free Behavior & Training Advice
- ♦ Science Diet Food Sample

Cats and Kittens:

- ♦ Spaying/Neutering
- ♦ Micro-chipping
- ♦ Rabies Vaccination
- ♦ Booster Shots
- ♦ De-Worming
- ♦ Flea & Tick Treatment
- ♦ City License First Year
- ♦ Feline Leukemia Testing
- ♦ Free Behavior & Training Advice
- ♦ Science Diet Food Sample

What would it Cost to get a "Free Pet" and provide the same Basic Health Services?

Dogs & Puppies: \$170 - \$200

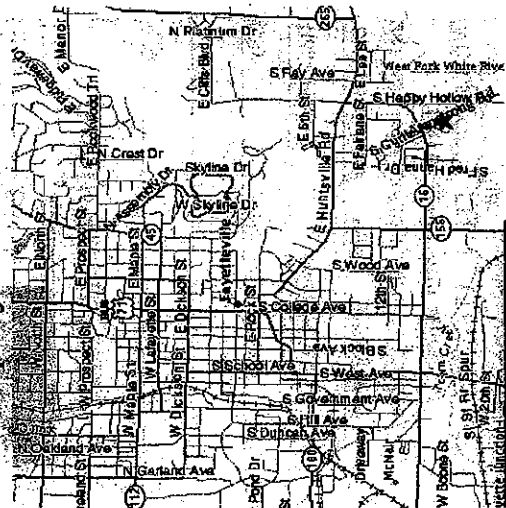
Cats & Kittens: \$120 - \$150

* Costs are based on an average of prices quoted for similar services by several local veterinary clinics. The services provided by Fayetteville Animal Services are in no way intended to be a substitution for regular professional veterinary care. Animal caregivers will be happy to make the names and addresses of veterinarians in your area available.

Chained and tethered dogs in Fayetteville 2006



Stop by for a visit!



Fayetteville's Dog Park

Located next to the shelter.

The area is fenced with running water.

Open from 8 a.m. to Dusk

Monday thru Sunday

All dogs must be current on vaccinations, city license & spay/neutered to play.

Volunteers are always welcome. Please pickup a volunteer application and we'll get you started.

Fayetteville Animal Services



Promoting Knowledge while

Protecting People & Pets

1640 Armstrong Avenue

479/444-3456

Fax: 479/444-3459

Email Address:

animal_services@ci.fayetteville.ar.us

Website Addresses:

www.accessfayetteville.org

www.fayettevilleanimals.petfinder.com

www.myspace.com

fayettevilleanimalshelter

Shelter Hours:

Monday, Tuesday,

Thursday, Friday 10 a.m. to 5:30 p.m.

Saturday & Sunday 11 a.m. to 4 p.m.

Adoption Areas Closed on Wednesday

Phone Hours:

Monday -Friday 8 a.m. to 5 p.m.

Saturday & Sunday 11 a.m. to 4 p.m.

After Hours Emergencies 587-3555

You, Your Pet & The Law

For the sake of public health and safety, and in order to improve the quality of life for both people and their animals, the City of Fayetteville has enacted ordinances for dogs, cats, and other animals living in the city. The Animal Services Division is responsible for enforcing these ordinances.

Rabies Vaccinations:

Dogs and cats over the age of four months must be vaccinated every year by a licensed veterinarian. All vaccinated animals must wear the tag proving the animal is current at all times in the city limits. The shelter holds a low cost rabies vaccination clinic once a month on Saturday.

Animal Licensing:

All dogs and cats must be licensed every year. The annual fee for a sterilized animal is \$5; for an un-sterilized animal the license fee is \$15. Licenses may be obtained from local veterinarian clinics, the shelter, or City Hall, after the animal has been vaccinated against Rabies. Any person failing to vaccinate and license their animal is guilty of a misdemeanor and may be cited and fined for not complying with the ordinance.

Barking:

No person may keep on his premises or in his control any animal which by loud or frequent barking, howling, or otherwise shall disturb the peace and quiet of others. Persons failing to control their animal may be summoned to court and fined.

Animals Running at Large:

All dogs and cats must be under the physical control of their owners at all times. Physical control is defined as behind an enclosed area, inside the residence, or on a leash or chain. Any animal found running at large may be impounded by an Animal Services Officer. If the animal is impounded it must be claimed at the shelter, and a fee must be paid. Any person who fails to claim an impounded animal within 10 days may be charged with abandonment, which carries a maximum penalty of one year in jail and/or a fine of up to \$1,000.

Humane Care:

Food and Water: Fresh water must be provided for all animals at all times, and sufficient wholesome food must be given.

Shelter: An animal must have shelter from the weather, consisting of a structure with a floor, four walls, roof, and an entrance. The shelter must be available at all times. A chain, rope, or cable used to contain an animal must be at least 6 feet long and placed so that the animal may not intrude on other property, public or private.

Veterinary Care: Any animal with an injury or condition which causes it suffering must be provided veterinary care.

Cruelty: No person may beat, ill-treat, torment, tease, overwork, or otherwise abuse an animal. Nor shall an animal be exposed to toxic chemicals or poisonous substances. Persons charged with cruelty may be fined up to \$1,000 and/or one year in jail.

Services

Pet Adoptions

People who want to choose a friend for life must complete an adoption application. The process may take up to 48 hours to make sure your current pets are up to date with rabies vaccinations and allow time for the shelter veterinarian to spay/neuter and complete a medical exam. We also want to check with your landlord if you rent, to make sure pets are allowed. We also want to be sure everyone is prepared for their new friend, and that includes having food, shelter and all the necessary items on hand. The Adoption fee is \$60 and includes the spay/neuter, microchipping, canine heartworm or feline Leukemia/FIV test, booster shots, deworming, rabies vaccination along with a city license for the first year. The microchip is a HomeAgain device embedded under the skin, so the animal can be scanned by shelters and vet clinics if he/she is ever lost. The chip is a permanent identification tool and does not harm the animal in any way. All animals adopted from shelters must be spayed/neutered - It's a state law. Money can buy love and it's the best deal around. We Thank You in advance for being patient through our process.

Compassionate Hearts Program

The \$60 Adoption fee is waived for persons who are mentally or physically challenged, or persons over the age of 62. The animals eligible for this adoption must be spayed or neutered before arriving at the shelter. Please ask the office staff which animals are eligible.

Low Cost Vaccination Clinics

The shelter offers a monthly low-cost vaccination clinic for anyone who wants to participate. The clinic is usually held the third Saturday from 8 a.m. to 10 a.m. Appointments are requested so that waiting can be kept to a minimum. For only \$7 an animal receives a rabies vaccination, plus a vaccination for canine distemper, infectious hepatitis, adenovirus type 2, leptovirus, enteritis, and parvovirus for dogs. Feline rhinotracheitis, calicivirus, panleukopenia, and chlamydia psittaci for cats. A feline leukemia vaccination is also available, but because of the cost of the vaccine, there is an additional fee of \$8.

Lost and Found Pets

If you have lost or found an animal, please notify the Shelter. We keep a list of lost and found animals and can often match a lost pet to an owner. So many times pet owners do not look in the shelters for their lost pets. The shelter holds lost animals for five days, hoping an owner will come and reclaim the pet. An animal with identification, of course, always has a better chance of getting home again. Call 444-3456 to report a lost or found animal.

Pets in Crisis Program

The shelter provides a unique service to citizens in need. Ensuring a safe place for pets whose owners are going through a difficult time. The shelter provides up to 10 days of free care in emergency situations. If more time is needed, foster care can be arranged for the pet. Please contact the office staff concerning this program.

Low Cost Spay/Neuter Program

Application Form

Name _____
Address _____
City _____ State _____ Zip _____
Home Phone # _____ Work Phone # _____
Driver's License # _____ State _____ Date of Birth _____
How many in the household? Adults _____ Children _____
Tell us about your animal...
What species? ☐ Dog ☐ Cat
Age: _____
Breed: _____ Color: _____
Sex: _____ Approx. Weight: _____
Is the animal in heat or pregnant? _____
Has your animal been vaccinated in the past 12 months? _____ Date _____
Who is your veterinarian? _____
Does your animal have any health problems that you know of? _____

I swear/affirm that these answers are true and

Signature _____ Date _____
To be eligible for this program, you must show proof of your income, last year's w-2, social security, or disability income statement. A copy of photo identification such as a Driver's License will also be requested. After verification has been made, you will be called by our clinic to set up an appointment to bring your animal in for surgery. For more information, please call 444-3456.

The City of Fayetteville operates a low cost spay/neuter program for individuals of low income. It is our hope that this program will help to eliminate the pet overpopulation crisis in our area. Every year between 8,000 and 12,000 dogs and cats enter Northwest Arkansas shelters. Approximately 6,000 of these animals are euthanized because there are not enough homes for them. To participate in the program individuals must meet the following criteria for income.

Qualifying incomes are per household:

1 person: \$19,660 2 persons: \$22,680
3 persons: \$25,560 4 persons: \$28,380
More than 4 persons: \$30,660

The cost of the spay/neuter is a flat rate of \$10 due to generous donations to help combat the overpopulation problem in our community. Donations are accepted by the shelter for the Low Cost Program. Checks may be earmarked for the program by specifying to: The Spay/Neuter Donation Account

State law requires all animals be vaccinated for rabies every 12 months, if you do not have proof of current vaccinations by a licensed veterinarian, there will be an additional cost of \$10. The surgery will be performed by the shelter veterinarian. After your application is approved, you will be contacted and an appointment will be set. The animal will be scheduled to be dropped off in the morning and picked up by 5 p.m. the same day.

Added at
Agenda Session
4/10/07

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

C. 1
Fayetteville Municipal Property Owners'
Improvement District No. 19 - Oakbrooke
Page 1 of 14

April 17, 2007

City Council Meeting Date

Sondra Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

An ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Subdivision Infrastructure Project. This petition is being filed under the Arkansas Municipal Property Owners' Improvement District law. Arkansas Code Ann. Sec. 14-94-101 et seq. The petition is being filed by James N. McCord, on behalf of the Improvement District.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

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City Clerk/Treasurer Division

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

April 9, 2007

Honorable Dan Coody, Mayor
City Administration Building
113 W. Mountain
Fayetteville, AR 72701

RE: Petition to form Fayetteville Municipal Property Owners'
Improvement District No. 19
Oakbrooke Subdivision Infrastructure Project

Dear Mayor:

Pursuant to Arkansas Code Ann. Sec. 14-94-105 (e)(3), you are hereby notified that the enclosed Petition to form Fayetteville Municipal Property Owners' Improvement District No. 19 – Oakbrooke Subdivision Infrastructure Project has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106 (a)(1), I hereby present you with the Petition.

Sincerely,

Sondra E. Smith
City Clerk/Treasurer

cc: Kit Williams, City Attorney
James N. McCord

JAMES N. McCORD
Attorney at Law
11 N. WEST AVE.
SUITE #202
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 695-1135
jimmccordlaw@alltel.net

April 6, 2007

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

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 19- Oakbrooke Subdivision Infrastructure Project

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three executed counterparts of a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 19- Oakbrooke Subdivision Infrastructure Project. Please file mark each Petition, retain one for the City's permanent file and for presentation to the Mayor, and return the other counterparts to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq.

Ark. Code Ann. Sec. 14-94-106 provides:

- (a)(1) Upon the filing of the petition with the clerk, it shall be the duty of the clerk to present the petition to the mayor.
- (2) The mayor shall thereupon set a date and time not later than fifteen (15) days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition.
- (b)(1) At the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district.

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

- (2) If the governing body determines that all the owners of the real property to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

* * *

- (c) The ordinance establishing the district shall be published within thirty (30) days after its adoption by one (1) insertion in some newspaper of general circulation in the municipality in which the district lies.

Enclosed, for filing in the office of the City Clerk, is an executed Abstracter's Certificate certifying that the improvement district petition is signed by the owner of the record title to all the real property described in the Petition. I have drafted and enclose an ordinance which would establish the district and name the commissioners.

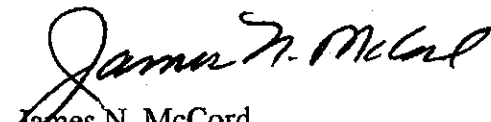
Formation of a municipal property owners' improvement district is merely a financing alternative for the cost of subdivision infrastructure. The developer must comply with all city development ordinances. The completed infrastructure improvements are dedicated to the city.

The improvement district issues special assessment bonds, bond proceeds are used to construct or purchase the improvements, the district levies an annual tax on each lot in the district to pay debt service on the bonds, the annual taxes are collected by the county tax collector and paid to the bond trustee, and the trustee makes debt service payments to the bondholders.

Oakbrooke will have 109 lots on 31.39 acres located adjacent to the west side of Ruppel Road north of Wedington Drive.

Should there be any questions, please contact me.

Sincerely,


James N. McCord

pc: Hon. Dan Coody, Mayor
Kit Williams, City Attorney

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 19 - OAKBROOKE
SUBDIVISION INFRASTRUCTURE PROJECT**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Subdivision Infrastructure Project has been filed with the Fayetteville City Clerk; and

WHEREAS, the City Clerk has presented said petition to the Mayor; and

WHEREAS, the Mayor has set April 17, 2007, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of said petition; and

WHEREAS, the Fayetteville City Council has determined from an abstracter's certificate of property ownership that those signing the petition constitute all the owners of the real property to be located in the district; and

WHEREAS, the Arkansas Municipal Property Owners' Improvement District Law provides at Ark. Code Ann. Sec. 14-94-106(b)(2) that if the governing body determines that all the owners of the record title to the real property to be located in the district have petitioned for the improvements, it shall then be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Subdivision Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

SECTION 2: The following three individuals are hereby appointed as commissioners of said improvement district: Tracy K. Hoskins, L. Celeste Hoskins and Glenda J. Harp.

SECTION 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 19- Oakbrooke Subdivision Infrastructure Project.

SECTION 4. The district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

PASSED AND APPROVED this ____ day of _____, 2007.

APPROVED:

MAYOR

ATTEST:

CITY Clerk

EXHIBIT "A"

SURVEYOR'S DESCRIPTION PARENT TRACT 'A'

A PART OF THE SOUTH HALF (S1/2) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 1, TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY ONE (31) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID EIGHTY (80) ACRE TRACT; THENCE N02°17'42"E 1069.16 (D.C. 1074.45) FEET; THENCE S87°49'42"E 428.22 (D.C. 430.20) FEET; THENCE S02°48'45"W 371.68 FEET; THENCE S87°13'56"E 700.29 FEET; THENCE S02°50'14"W 253.09 (D.C. 153.00) FEET; THENCE N87°22'17"W 28.37 (D.C. 28.45) FEET; THENCE S02°49'27"W 389.76 (D.C. 390.00) FEET; THENCE S87°10'42"E 254.30 FEET; THENCE S25°22'44"W 64.97 (D.C. 64.95) FEET; THENCE N87°10'42"W 1319.64 TO THE POINT OF BEGINNING AND CONTAINING 21.749 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

PROPERTY DESCRIPTION PARENT TRACT 'B'

A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE FRACTIONAL SECTION 1, T-16-N, R-31-W, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID 80 ACRE TRACT; THENCE S87°11'02"E 418.88 FEET (D.C. 419 FEET); THENCE N02°54'06"E 59.96 FEET; THENCE N02°46'26"E 642.29 FEET (D.C. 419 FEET EAST AND 703 FEET NORTH) TO THE POINT OF BEGINNING; THENCE N02°48'45"E 371.68 FEET (D.C. 371.42 FEET); THENCE S87°09'15"E 1404.23 FEET; THENCE S08°18'00"W 225.89 FEET (D.C. 225.96'); THENCE N87°00'35"W 354.57 FEET (D.C. 353.80'); THENCE S02°48'25"W 146.65 FEET (D.C. 146.5'); THENCE N87°12'48"W 1028.07 FEET (D.C. 1028') TO THE POINT OF BEGINNING, AND CONTAINING 10.642 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY OF RUPPLE ROAD.

NOTICE

YOUR SIGNATURE HEREON SHOWS THAT YOU FAVOR THE ESTABLISHMENT OF AN IMPROVEMENT DISTRICT. IF THE DISTRICT IS FORMED, YOU MAY BE CHARGED FOR THE COSTS OF THE IMPROVEMENTS.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 19- OAKBROOKE SUBDIVISION
INFRASTRUCTURE PROJECT**

For its petition to form Fayetteville Municipal Property Owners' Improvement District No. 19- Oakbrooke Subdivision Infrastructure Project, the undersigned petitioner states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington, County Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.
2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be established and laid off into a municipal property owners' improvement district pursuant to Ark. Code Ann. Sec. 14-94-101 et seq. for the purpose of constructing, purchasing, accepting as a gift

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

or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

3. Petitioners desire that the district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioners name the following three individuals, pursuant to Ark. Code Ann. 14-94-105(a)(2)(B), as designated representatives of Petitioner to be appointed as commissioners of the district: Tracy K. Hoskins, L. Celeste Hoskins and Glenda J. Harp.

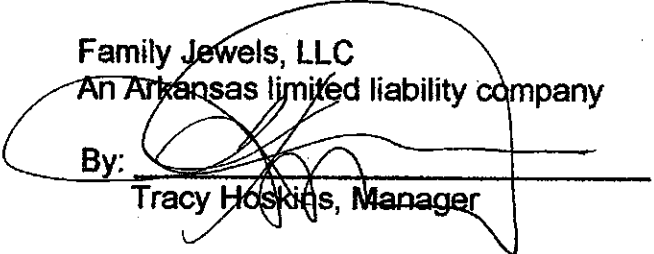
5. Petitioners propose that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 19- Oakbrooke Subdivision Infrastructure Project.

WHEREFORE, the undersigned Petitioner hereby petitions the City Council of Fayetteville Arkansas to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 19- Oakbrooke Subdivision Infrastructure Project for the purpose of constructing,

purchasing, accepting as a gift or maintaining facilities for waterworks recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

DATED this 6th day of April, 2007.

Family Jewels, LLC
An Arkansas limited liability company

By: 

Tracy Hoskins, Manager

EXHIBIT "A"

SURVEYOR'S DESCRIPTION PARENT TRACT 'A'

A PART OF THE SOUTH HALF (S1/2) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 1, TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY ONE (31) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID EIGHTY (80) ACRE TRACT; THENCE N02°17'42"E 1069.16 (D.C. 1074.45) FEET; THENCE S87°49'42"E 428.22 (D.C. 430.20) FEET; THENCE S02°48'45"W 371.68 FEET; THENCE S87°13'56"E 700.29 FEET; THENCE S02°50'14"W 253.09 (D.C. 153.00) FEET; THENCE N87°22'17"W 28.37 (D.C. 28.45) FEET; THENCE S02°49'27"W 389.76 (D.C. 390.00) FEET; THENCE S87°10'42"E 254.30 FEET; THENCE S25°22'44"W 64.97 (D.C. 64.95) FEET; THENCE N87°10'42"W 1319.64 TO THE POINT OF BEGINNING AND CONTAINING 21.749 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

PROPERTY DESCRIPTION PARENT TRACT 'B'

A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE FRACTIONAL SECTION 1, T-16-N, R-31-W, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID 80 ACRE TRACT; THENCE S87°11'02"E 418.88 FEET (D.C. 419 FEET); THENCE N02°51'06"E 59.96 FEET; THENCE N02°16'26"E 642.29 FEET (D.C. 419 FEET EAST AND 703 FEET NORTH) TO THE POINT OF BEGINNING; THENCE N02°48'45"E 371.68 FEET (D.C. 371.42 FEET); THENCE S87°09'15"E 1404.23 FEET; THENCE S08°18'00"W 225.89 FEET (D.C. 225.96'); THENCE N87°00'35"W 354.57 FEET (D.C. 353.80'); THENCE S02°48'25"W 146.65 FEET (D.C. 146.5'); THENCE N87°12'48"W 1028.07 FEET (D.C. 1028') TO THE POINT OF BEGINNING, AND CONTAINING 10.642 ACRES, MORE OR LESS. SUBJECT TO THE RIGHT-OF-WAY OF RUPPLE ROAD.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS
PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 19- OAKBROOKE SUBDIVISION
INFRASTRUCTURE PROJECT

ABSTRACTER'S CERTIFICATE OF PROPERTY OWNERSHIP

Bronson Abstract Company, Inc. hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following is the owner of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke Subdivision Infrastructure Project, a copy of which Exhibit "A" is attached hereto and made a part hereof:

Family Jewels, LLC

DATED this 6th day of April, 2007.

Bronson Abstract Company, Inc.

By: Winifred S. Bronson
AUTHORIZED REPRESENTATIVE

RECEIVED

APR 06 2007

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

EXHIBIT "A"

SURVEYOR'S DESCRIPTION PARENT TRACT 'A'

A PART OF THE SOUTH HALF (S1/2) OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF SECTION 1, TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY ONE (31) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID EIGHTY (80) ACRE TRACT; THENCE N02°17'42"E 1069.16 (D.C. 1074.45) FEET; THENCE S87°49'42"E 428.22 (D.C. 430.20) FEET; THENCE S02°48'45"W 371.68 FEET; THENCE S87°13'56"E 700.29 FEET; THENCE S02°50'14"W 253.09 (D.C. 153.00) FEET; THENCE N87°22'17"W 28.37 (D.C. 28.45) FEET; THENCE S02°49'27"W 389.76 (D.C. 390.00) FEET; THENCE S87°10'42"E 254.30 FEET; THENCE S25°22'44"W 64.97 (D.C. 64.95) FEET; THENCE N87°10'42"W 1319.64 TO THE POINT OF BEGINNING AND CONTAINING 21.749 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS.

PROPERTY DESCRIPTION PARENT TRACT 'B'

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Added to Agenda Session 4/10/07
ALDERMAN AGENDA REQUEST FORM

C. 2
Mount Sequoyah Methodist
Assembly Center - Waive of
Building Permit Fees
Page 1 of 2

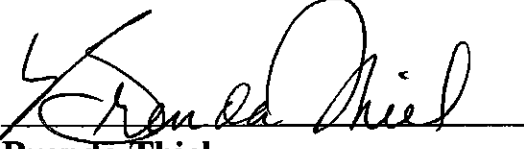
FOR: COUNCIL MEETING OF APRIL 17, 2007

FROM: ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Waive The Building Permit Fees For The Remodeling Of A Building Owned By The Nonprofit Mount Sequoyah Methodist Assembly Center

APPROVED FOR AGENDA:


Brenda Thiel
Alderman

4/10/07
Date


Kit Williams
City Attorney (as to form)

4/10/07
Date

ORDINANCE NO. _____

**AN ORDINANCE TO WAIVE THE BUILDING PERMIT FEES
FOR THE REMODELING OF A BUILDING OWNED BY THE
NONPROFIT MOUNT SEQUOYAH METHODIST ASSEMBLY
CENTER**

WHEREAS, §159.01 (c)(11) requires building permit fees as set forth within the Unified Development Code, but allows exemptions for certain historical structures; and

WHEREAS, the nonprofit Mount Sequoyah Methodist Assembly Center desires to remodel a building that had been used to shelter and house Hurricane Katrina victims; and

WHEREAS, the Mount Sequoyah Methodist Assembly Center has allowed free use of its facilities to the City and community groups.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the building permit fees for the remodeling of a building by the nonprofit Mount Sequoyah Methodist Assembly Center in recognition of its history allowing free use of its facilities for City meetings and community gatherings.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Added at Agenda Session 4/10/07
ALDERMAN AGENDA REQUEST FORM

C. 3
VAC 07-2549 (Spencer)
Page 1 of 16

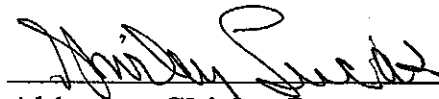
FOR: COUNCIL MEETING OF April 17, 2007

FROM: Shirley Lucas

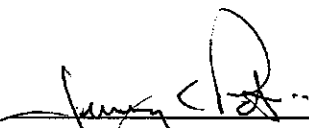
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

VAC 07-2549 (Spencer) - Water/Sewer Easement Vacation
AN ORDINANCE APPROVING VAC 07-2549 TO VACATE A 25-FOOT
SEWER EASEMENT AT 1791 N. TRILLIUM LANE

APPROVED FOR AGENDA:


Alderman Shirley Lucas

4-16-07
Date


Jeremy Pate
Director of Current Planning

04.10.07
Date

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 29, 2007

Subject: Sewer Easement Vacation for Spencer (VAC 07-2549)

RECOMMENDATION

The Planning Commisison and staff recommend approval of an ordinance vacating a 25' sewer easement located on Lot 84 of Bridgeport Addition Phase II, while dedicating an easement over the existing sewer line as necessary.

BACKGROUND

The subject property is Lot 84 of Bridgeport Addition Phase II. It is located south of Mount Comfort Road and zoned RSF-4. The property was platted in 1996. Easements platted on the property include a 20' utility easement along the west/rear property line and an adjacent 25' sewer easement. General utilities were to be located within the 20' utility easement and a sewer line was to be located within the 25' sewer easement. However, a survey has revealed that the general utilities and sewer line are located east of both the 20' easement and 25' sewer easement, thus were not installed within dedicated easements. Since the utility lines are located east of both utility easements, the owner has little room available to construct an in-ground pool, or any other permanent structure. The request is to vacate the existing sewer easement, in which no sewer line is located, and to dedicate adequate easements necessary for the existing sewer line on the property.

DISCUSSION

The Planning Commission voted 8-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval. Notification was provided to appropriate utility representatives, which, in this case, consists only of the Water and Sewer Director as the easement requested for vacation only allows for sewer utilities. Conditions of approval are recommended in order to satisfy the comments made by city division and utility company representatives.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2549 SUBMITTED
BY DARRYL SPENCER FOR PROPERTY LOCATED AT 1791 N. TRILLIUM
LANE, VACATING A 25' SEWER EASEMENT 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 sewer easement 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 sewer easement:

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. The applicant shall file a new 15' sewer easement that is to be centered on the existing sewer main.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A" VAC 07-2549

LOT NUMBERED EIGHTY-FOUR (84), BRIDGEPORT ADDITION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS.

PLAT NOTES:

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE.

EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDED THE SEAL AND SIGNATURE OF THE SURVEYOR.

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY, IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

LOT 84
0.31± ACRES
13,498.5± SQ. FT.

NE COR.
LOT 85

PROPOSED SEWER EASEMENT
AN EASEMENT FOR SANITARY SEWER PURPOSES, SAID EASEMENT BEING SEVEN AND ONE-HALF (7½) FEET EACH SIDE OF AN EXISTING SEWER LINE. THE LOCATION OF SAID SEWER LINE BEING DESCRIBED AS FOLLOWS: A PART OF LOT EIGHTY-FOUR (84), BRIDGEPORT ADDITION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT EIGHTY-FOUR (84); THENCE N70°51'06"E 60.54 FEET ALONG THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84); TO AN EXISTING SEWER LINE FOR THE TRUE POINT OF BEGINNING OF SAID EASEMENT CENTERLINE; THENCE LEAVING THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84) N21°14'52"W 79.93 FEET ALONG SAID EXISTING SEWER LINE TO A POINT ON THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84); SAID POINT BEING THE END OF SAID EASEMENT CENTERLINE. THE SIDELINES OF SAID EASEMENT ARE TO BE LENGTHENED AND/OR SHORTENED SO AS TO TERMINATE IN THE NORTH AND SOUTH BOUNDARY LINES OF SAID LOT EIGHTY-FOUR (84).

SEWER LINE EASEMENT -- TO BE ABANDONED

A PART OF LOT EIGHTY-FOUR (84), BRIDGEPORT ADDITION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT EIGHTY-FOUR (84), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N70°51'06"E 30.00 FEET ALONG THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE WEST LINE OF AN EXISTING SANITARY SEWER LINE EASEMENT FOR THE TRUE POINT OF BEGINNING; THENCE N18°34'06"W 79.92 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT ON THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE N70°51'06"E 25.00 FEET ALONG THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE EAST LINE OF SAID EASEMENT; THENCE S18°34'06"E 79.92 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT ON THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE S70°51'06"W 25.00 FEET TO THE POINT OF BEGINNING.

- SANITARY SEWER MANHOLE
- SET IRON REBAR
- EXISTING IRON REBAR
- SEWER MANHOLE
- PROPERTY LINE
- RIGHT-OF-WAY LINE
- FENCE LINE
- UTILITY EASEMENT LINE
- BUILDING SETBACK LINE
- CENTERLINE ROAD



SELLER: LANCE & KIMBERLY BRAUMAN
BUYER: DARRYL SPENCER
ADDRESS: 1791 TRILLIUM LANE
FAYETTEVILLE, ARKANSAS

Alan Reid & Associates
118 South College Avenue
Fayetteville, Arkansas 72701
(479) 444-8784

DATE: 01/30/07
SCALE: 1"=30'
REVISED:
DRAWN BY: KWC
PROJECT NO. 07023

DARRYL SPENCER

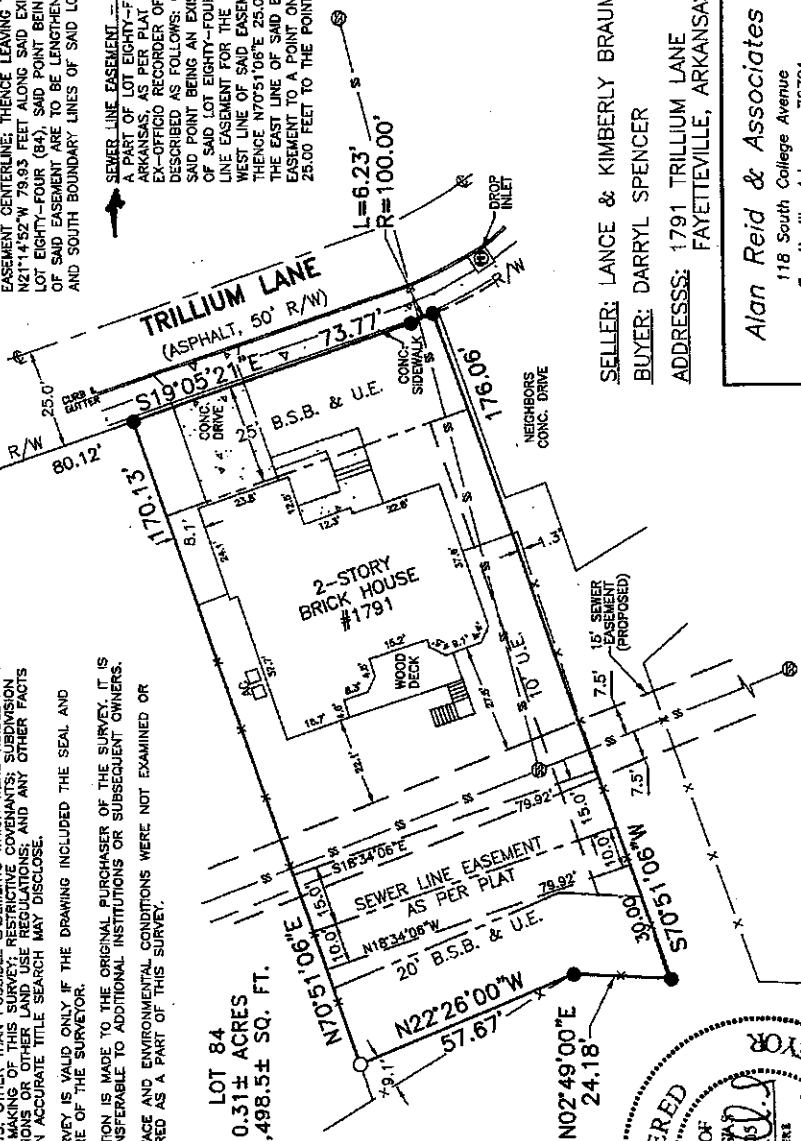
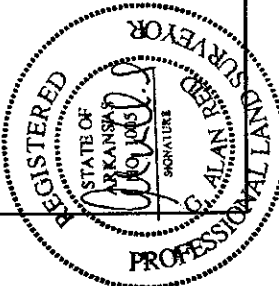


EXHIBIT "B"
VAC 07-2549

SURVEY DESCRIPTION OF 25' SEWER EASEMENT TO BE VACATED:

DESCRIPTION #1:

A PART OF LOT NUMBERED EIGHTY-FOUR (84), BRIDGEPORT ADDITION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT EIGHT-FOUR (84), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N70°51'06"E 30.00 FEET ALONG THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE WEST LINE OF AN EXISTING SANITARY SEWER LINE EASEMENT FOR THE TRUE POINT OF BEGINNING; THENCE N18°34'06"W 79.92 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT ON THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE N70°51'06"E 25.00 FEET ALONG THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE EAST LINE OF SAID EASEMENT; THENCE S18°34'06"E 79.92 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT ON THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE S70°51'06"W 25.00 FEET TO THE POINT OF BEGINNING.



PC Meeting of April 09, 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
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 29, 2007~~ Update April 10, 2007

VAC 07-2549: (SPENCER, 360): Submitted by DARRYL SPENCER for property located at 1791 TRILLIUM LANE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.29 acres. The request is to vacate a 25' sewer easement.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property is Lot 84 of Bridgeport Addition Phase II. It is located south of Mount Comfort Road and zoned RSF-4. The property was platted in 1996. Easements platted on the property include a 20' utility easement along the west/rear property line and an adjacent 25' sewer easement. General utilities were to be located within the 20' utility easement and a sewer line was to be located within the 25' sewer easement. However, a survey has revealed that the general utilities and sewer line are located outside of both easements. Since the utility lines are located east of both utility easements, the owner has little room available to construct an in-ground pool, or any other permanent structure.

Request: The applicant requests vacation of the existing 25' sewer easement to allow for the installation of an in-ground pool between the 20' utility easement and the physical location of the utility lines.

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	Not Applicable
Cox Communications	Not Applicable
Southwestern Electric Power Company	Not Applicable

Arkansas Western Gas

Not Applicable

Southwestern Bell Telephone

Not Applicable

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections provided that a 15' sewer easement is centered on the existing sewer main.

Transportation

No Objections

Solid Waste

No Objections.

Engineering

No Objections

Public Comment: Owners of Lots 85 and 92 have indicated no objections with the proposed utility easement vacation.

Recommendation: Staff recommends forwarding (VAC 07-2549) 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. The applicant shall file a new 15' sewer easement that is to be centered on the existing sewer main.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: April 09, 2007

Motion: Trumbo

Second: Ostner

Vote: 8-0-0

Comments: _____

Request to vacate sewer easement

The request to vacate the sewer easement on my property is to enable us to build a swimming pool. The city's sewer line currently is outside the actual easement, however, we are willing to locate the pool in an alternate location. The only other possible building site is within the legal easement. All utility lines have been marked and none are within the area where the vacation is requested.

**PETITION TO VACATE AN EASEMENT LOCATED IN , CITY OF FAYETTEVILLE,
ARKANSAS**

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot Numbered Eighty-Four (84), Bridgeport Addition, Phase II, to the City of Fayetteville, Arkansas, as per plat of said addition on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

SEWER LINE EASEMENT - TO BE ABANDONED

A PART OF LOT NUMBERED EIGHTY-FOUR (84), BRIDGEPORT ADDITION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT EIGHT-FOUR (84), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N70°51'06"E 30.00 FEET ALONG THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE WEST LINE OF AN EXISTING SANITARY SEWER LINE EASEMENT FOR THE TRUE POINT OF BEGINNING; THENCE N18°34'06"W 79.92 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT ON THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE N70°51'06"E 25.00 FEET ALONG THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE EAST LINE OF SAID EASEMENT; THENCE S18°34'06"E 79.92 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT ON THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE S70°51'06"W 25.00 FEET TO THE POINT OF BEGINNING.

That the abutting real estate affected by said abandonment of the alley are City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said alley.

Dated this 29 day of March, 20 07.

Darryl Spencer
printed name


signature

printed name

signature

SEWER LINE EASEMENT - TO BE ABANDONED

A PART OF LOT NUMBERED EIGHTY-FOUR (84), BRIDGEPORT ADDITION, PHASE II, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID ADDITION ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT EIGHT-FOUR (84), SAID POINT BEING AN EXISTING IRON REBAR; THENCE N70°51'06"E 30.00 FEET ALONG THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE WEST LINE OF AN EXISTING SANITARY SEWER LINE EASEMENT FOR THE TRUE POINT OF BEGINNING; THENCE N18°34'06"W 79.92 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT ON THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE N70°51'06"E 25.00 FEET ALONG THE NORTH LINE OF SAID LOT EIGHTY-FOUR (84) TO A POINT ON THE EAST LINE OF SAID EASEMENT; THENCE S18°34'06"E 79.92 FEET ALONG THE EAST LINE OF SAID EASEMENT TO A POINT ON THE SOUTH LINE OF SAID LOT EIGHTY-FOUR (84); THENCE S70°51'06"W 25.00 FEET TO THE POINT OF BEGINNING.

From: Jan Gambill
To: Fulcher, Jesse
Date: 4/5/07 11:30AM
Subject: Fwd: 1791 N Trillium Ln. easement vacation

Jan Gambill
Senior Planning Clerk
City of Fayetteville
Planning Division
125 W. Mountain Street
Fayetteville AR 72701
479-575-8263
jgambill@ci.fay.ar.us

>>> Tom Hubbard 4/5/2007 11:30 am >>>

Jan,

In respect to the Mr. Spencer easement vacation request # VAC 07-2549.

I received the final copy of the survey from the surveyor by email on Thursday 3-29-2007. After review of the document I think we need to be consistent with the past and retain a minimum of 15 feet easement, 7.5 feet on each side of the center line of the existing sewer main. We must retain 15 feet of easement, not the 10 feet that they are proposing.

Thank you,
Tom Hubbard

PLAT. NOTES:

EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

LIUM LANE
50' R/W)

SELLER: LANCE & KIMBERLY BRAUMAN
BUYER: DARRYL SPENCER
ADDRESS: 1791 TRILLIUM LANE
FAYETTEVILLE, ARKANSAS

Alan Reid & Associates
118 South College Avenue
Fayetteville, Arkansas 72701
(479) 444-8784

DARRYL SPENCER

DATE: 01/30/07	REVISED:	PROJECT NO. 07023
SCALE: 1"=30'	DRAWN BY: KWC	

DATE OF 170/20

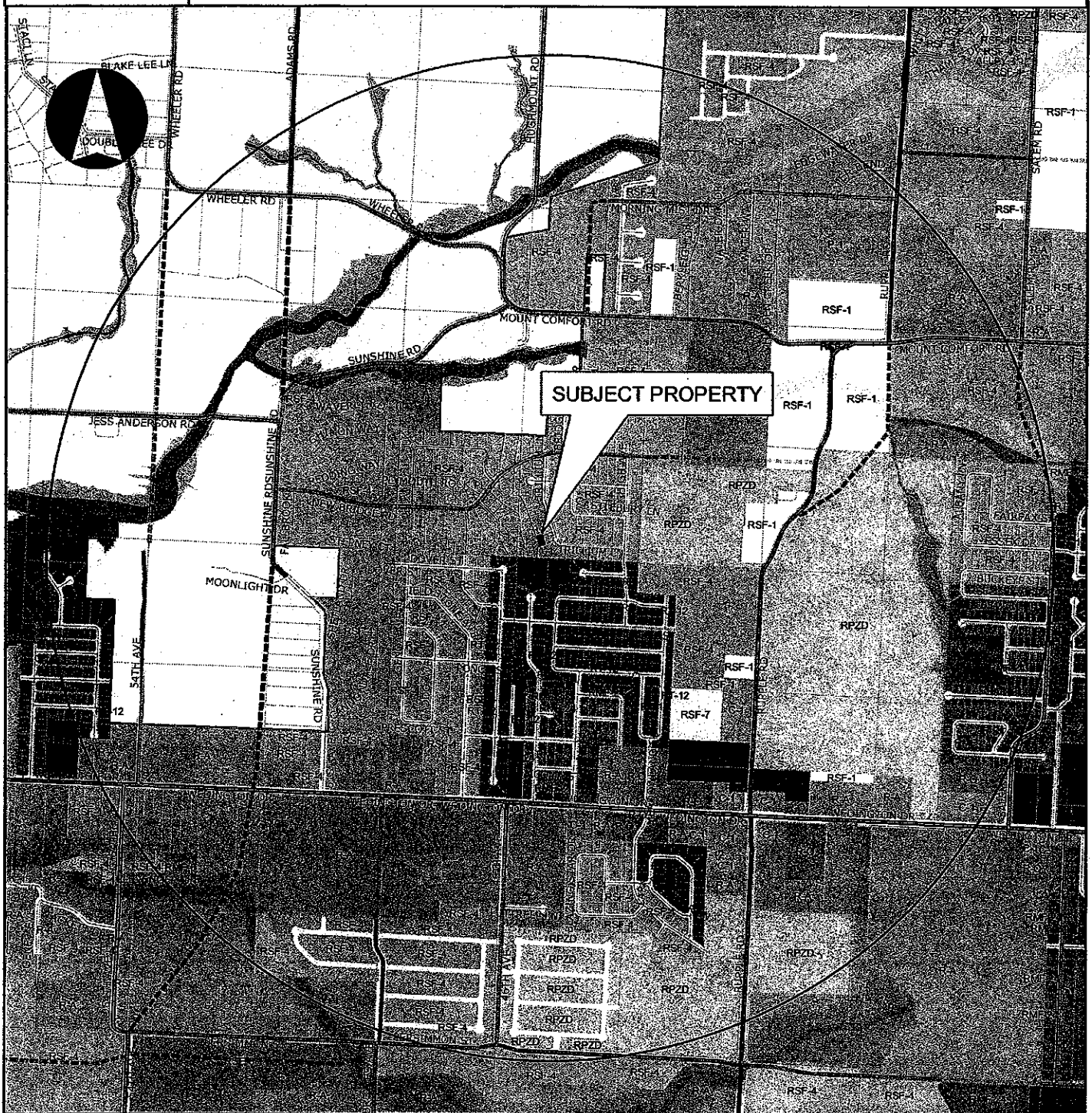
SCALE: 1"=30'	DRAWN BY: KWC
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07023

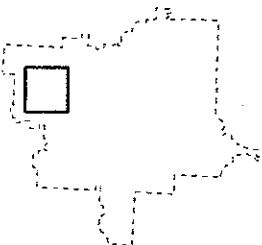
VAC07-2549

SPENCER

One Mile View



Overview



Legend

Subject Property

VAC07-2549

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

VAC07-2549

Close Up View

SPENCER



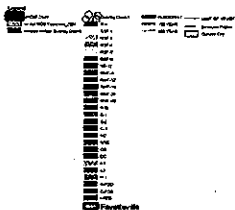
SUBJECT PROPERTY

TRILLIUM LN

TRILLIUM LN

CASTLEBURY LN
RSF

Overview



0 37.5 75 150 225 300 Feet

c. 1.

Fayetteville E911

House Numbering

Handed out at Agenda Session 4/10/07

C. 4
Fayetteville E911
House Numbering
Page 1 of 2

**Park Ridge Estates
Property Owners Association**

Post Office Box 886
Farmington, Arkansas 72730-0886

RECEIVED

APR 09 2007

ENGINEERING DIV.

April 9, 2007

Mr. Dan Coody, Mayor
Mr. Tim Conklin, Planning and Development Management Director
Mr. Tony Johnson, Fire Chief
Mr. Tracy Risley, Deputy Chief of Police
Ms. Becky Stewart, EMS Chief
Ms. Kathy Stocker, Dispatch Manager

RE: Proposed E911 Street Name Change
Hill Side Drive to West Scarborough Drive

To All:

We are writing you in regards to the proposed E911 address change of Hill Side Drive located in the Park Ridge Estates Subdivision to West Scarborough Drive that is currently scheduled for approval at the April 17, 2007 City Council Meeting. The Park Ridge Estates Property Owners Association Board of Directors and those residents currently living in Park Ridge are not in favor of the proposed name of West Scarborough Drive.

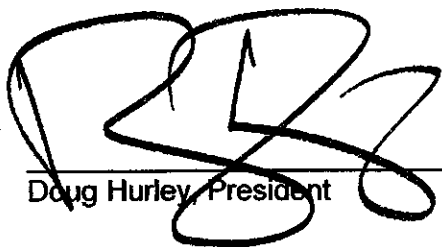
It is our feeling that the proposed name of West Scarborough Drive does not coincide with the other street names in our subdivision or reflect the ambience of the area. We realize the importance of the name change itself and have therefore researched current Fayetteville street names, and have the following suggestions which we feel will be an adequate replacement for Hill Side Drive. We have listed these suggestions in the order of our preference.

1. Stone Ridge Drive
2. Trace Ridge Drive
3. Stonehenge Drive

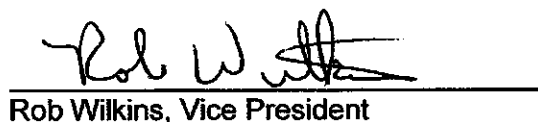
It should be noted that four property owners currently residing in the subdivision contacted the number provided by the mail placard which was received on Friday, April 6, 2007. Those four property owners were told the new street name for Hill Side Drive was as of yet undetermined pending the April 17th City Council Meeting. Only after reviewing the agenda posted on the city website did we learn of the proposed name that was chosen for our subdivision. None of the property owners or members of the Board of Directors in the subdivision were contacted for suggestions regarding a new street name prior to the selection of West Scarborough Drive. We chose to be a part of this new development for many reasons and would like to have a voice in the decisions that affect its growth, perception and prosperity in the future.

We respectfully ask that one of the three selections that we have listed will be approved as the new E911 street name in lieu of the proposed West Scarborough Drive; we feel that these names more closely reflect the remaining street names as well as the character of the subdivision.

Thank you,
Park Ridge Property Association
Board of Directors



Doug Hurley, President



Rob Wilkins, Vice President



Kelly Alford, Treasurer



Jimmy Vinyard, Secretary

C. 6.
Roll Off Service, Inc.

Handed Out at
Agenda Session 4/10/07

**AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE
IN THE CITY OF FAYETTEVILLE**

This Agreement (the "Agreement"), is entered into on this ____ day of _____, 2007, between the **City of Fayetteville, Arkansas**, a municipal corporation (the "City"), and _____ (the "Hauler"), and shall be in full force and effect on the date first written above. City and Hauler agree as follows:

1. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than two (2) years and any subsequent extensions shall be for terms of no more than one (1) year.
2. The term of this Agreement shall be for three (3) years, unless otherwise terminated pursuant to the terms hereof.
3. Hauler agrees and understands that it may only collect and haul Solid Waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables collected in any type container shall be hauled from any customer within the corporate limits of the City of Fayetteville. The collection of scrap metal, cardboard and other source-separated recyclables are not controlled or affected by this contract.
4. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all Class 4 landfill fees to the landfill operator, as they may be established and amended, from time to time.
5. Hauler shall pay all fees due hereunder, along with the required supporting information, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 2% penalty per month. If Hauler failed to pay the fees within forty-five (45) days of the due date, the City may revoke this Agreement upon delivery of written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a blind list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (excluding those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the

hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review certain trade secret information, including rates, frequency of service, customer lists, and other customer information provided that such trade secret information may not be copied or removed by the City. Nor shall such information be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler.

6. Hauler agrees and understands that it shall submit to the City on an annual basis a list of all commercial vehicles used to provide services in the City, proof of appropriate vehicle registration, and proof of the insurance required under Section 16.
7. Hauler agrees and understands that it shall provide a list of vehicle operators collecting and hauling waste in the City of Fayetteville, along with proof of their valid and appropriate commercial drivers' licenses issued by the State of Arkansas. The Hauler shall also provide, maintain, and implement a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
8. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
9. In consideration of the right to provide the services described under this Agreement, Hauler agrees and understands that it shall be required to pay a monthly fee of ten (10%) percent (the "Fee") of the gross revenue received for all services provided under this Agreement. Upon execution of this Agreement, a deposit shall be paid in advance to the City. The deposit shall be equal to one-half of the total fees that were or would have been paid by the Hauler within to the City during the previous twelve (12) months. Such deposit shall be reviewed on an annual basis. Any reasonable disagreement in estimated gross revenue will be decided in the favor of the City. The deposit shall be refunded, less any unpaid fees, when the Hauler ceases operation within the City or this Agreement is terminated, whichever is earlier.
10. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
11. Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator and the Tontitown Landfill operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
12. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable city ordinances. This is a contractual Agreement and is not intended to be part

of or related in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

13. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third party or affiliate.
14. For the purpose of this contract, the Point of Contact of the City of Fayetteville shall be Gary Dumas or his successor. The Point of Contact for the Hauler shall be _____. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.
15. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
16. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
 - (a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - (b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - (c) The types of coverage and limits of liability of all insurance required herein shall be as follows:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability except Automobile	\$1,000,000 each occurrence
Property Damage Liability Except Automobile	\$1,000,000 each aggregate

Automobile Bodily Injury	\$1,000,000 each person
Comprehensive General Liability	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

17. Termination:

- (a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirements or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement fifteen (15) days after the fifteen (15) days in which to cure; or (ii) cure the breach or default at the expense of the Hauler; and (iii) have recourse to any other right or remedy to which it may be entitled by law.
- (b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted against the offending and such proceeding is not dismissed within sixty (60) days.
- (c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

18. All notices required or permitted under this contract shall be submitted in writing to the other party to this contract, by certified mail, return receipt requested, which notice shall be effective three (3) days after deposit therein addressed to the following:

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

Attn: _____

19. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such documents, Hauler 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.

20. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
21. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
22. Each paragraph of this Agreement 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.
23. This contract and the Addendum below constitute the entire understanding of the parties and 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 of Fayetteville and the Hauler.
24. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.
25. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
26. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.
27. This Agreement, referred to as the "Main Agreement," is hereby modified to the extent that should any of the following provisions, referred to as the "Addendum," be found to be in conflict with those contained in the Main Agreement, the requirements of the Addendum shall be deemed controlling.

ADDENDUM

WHEREAS, Roll Off Service, Inc. ("Roll Off") is a solid waste disposal company which operates within the city of Fayetteville, Arkansas ("City").

WHEREAS, Roll Off operations are conducted pursuant to the above Agreement to Haul and Dispose of Solid Waste in the City of Fayetteville ("Contract").

WHEREAS, certain differences have arisen between Roll Off and the City concerning late payment, by Roll Off, of contractually-required fees, resulting in the possibility of Roll Off losing the privilege to operate within the City.

WHEREAS, the parties herein desire to reach an agreement by which Roll Off can continue operating within the City pursuant to the terms of the Main Agreement.

NOW THEREFORE, in consideration of the mutual promises and conditions set forth herein, the parties hereto agree as follows:

1. **Probationary Term:** This Addendum is intended to provide a probationary term of one (1) year, during which Roll Off agrees to comply with certain provisions as stated below.
2. **Fee Payments:** Roll Off agrees to make all required fee payments in accordance with the requirements of the Main Agreement, i.e. all payments must be made on or before the 15th day of each calendar month for the immediately preceding calendar month.
3. **Late Payments:** During the probationary term, Roll Off will be assessed penalties according to the following schedule if the required payments are untimely:
 - a) **First Occurrence:** Roll Off will be assessed a 25% penalty
 - b) **Second Occurrence:** Roll Off will be assessed a 50% penalty
4. **Termination:** The Main Agreement will be terminated upon the third (3rd) occurrence of a late payment within the probationary term.
5. **Main Agreement Reinstatement:** In the event Roll Off complies with the terms of the agreement herein during the probationary term, its probationary status will be removed and the payment terms contained in the Main Agreement will once again apply.
6. **Merger Clause:** This Addendum, together with the Main Agreement, when executed by both the City and Roll Off, shall contain the entire understanding and agreement between the parties with respect to all matters referred to herein and shall supersede all prior or contemporaneous agreements, representations, discussions and understandings, oral or written, with respect to such matters. All the terms of the Main Agreement not specifically addressed herein shall remain in full force and effect and this Addendum is not intended to replace said terms.

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

CITY OF FAYETTEVILLE

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

ROLL OFF SERVICE, INC.

WITNESS:

By: _____
TOM SMITH,

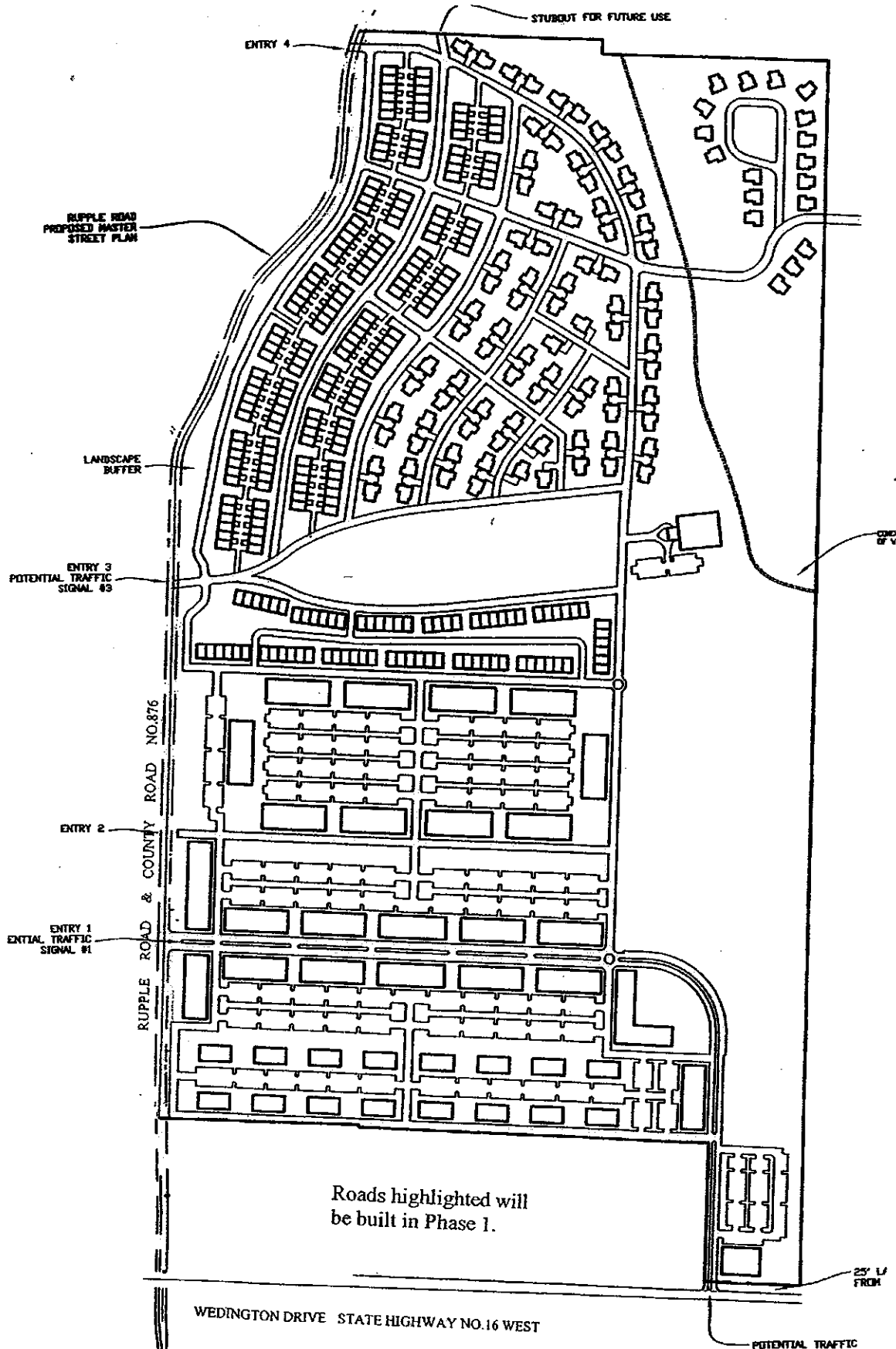
By: _____

Handed
out at
Agenda Session
4/10/07

C.7. The Links at Fayetteville Appeal

Quick Reference Sheet Wellspring PZD / Links at Fayetteville PZD Comparison 04/10/2007

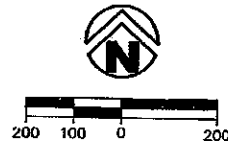
Item of Comparison		Wellspring PZD	Links at Fayetteville PZD
Acreage		152.23 acres	152.23 acres
Total Dwelling Units		1175	1258
	Single Family	150 (13%)	74 (6%)
	Townhome	300 (26%)	75 (6%)
	Mixed Use	225 (19%)	108 (9%)
	Condo/Apartment	500 (43%)	1000 (79%)
Dedicated Parkland		21 acres (14%)	17.32 acres (11%)
Estimated Vehicle Trips Generated		19,709 vpd	14,141 vpd



Public Streets: Links P20

SITATION FROM THE CORE TOWN
WIDE AN AFFORDABLE DETACHED

PLANNING AREA VII
SINGLE FAMILY / GOLF COURSE



BUILDING ELEVATIONS THAT
THE DESCRIPTION OF BUILDINGS
BRICK/MASONRY.

PLANNIN
PUBLI

PLANNING AREA IV
TOWN CENTER / MIXED USE

PLANNING AREA VI
PARKWAY TOWNHOMES

PLANNING AREA I
MARKET DISTRICT

PLANNING
CLUBH

TOWNSHIP 16 NORTH, RANGE 30 WEST,
TOWNSHIP 16 NORTH, RANGE 31
TOWNSHIP 16 NORTH, RANGE 31 WEST, ALL
IP 16 NORTH, RANGE 31 WEST, ALL
1, TO-WIT: BEGINNING AT A POINT
OF THE SOUTHWEST QUARTER OF
TO A SET IRON PIN, THENCE
IRON PIN, THENCE N87°46'42"W
ST QUARTER OF THE SOUTHWEST
ED AT THE NORTHEAST CORNER OF
6°58'50"W 751.69' TO THE
10°34'W 65.18', S09°16'42"W 44.03',
28°W 55.76', S13°38'10"W 52.31',
16°W 60.06', S46°48'24"W 67.32',
8°12'W 58.87', S22°23'40"W 54.61',
21°W 57.48', S21°21'38"W 54.39',
03°W 49.97', S02°30'26"W 51.03',
15°W 48.89', S02°33'25"W 54.35',
15°W 44.03', S03°12'55"W 52.16',
107°W 52.35', S02°31'09"W 51.19',
18°W 50.94', S02°42'26"W 49.47',
55°W 360.64', THENCE LEAVING
TO A SET IRON PIN, THENCE
S87°02'59"E 209.22' TO THE POINT
RIGHTS-OF-WAY OF RECORD.

PLANNING AREA III
MULTI FAMILY / GOLF COURSE

PLANNING AREA I
MARKET DISTRICT

WEDDINGTON ROAD

RUPPLE ROAD

PUBLIC STREET

PUBLIC STREET

PUBLIC STREET

PUBLIC STREET

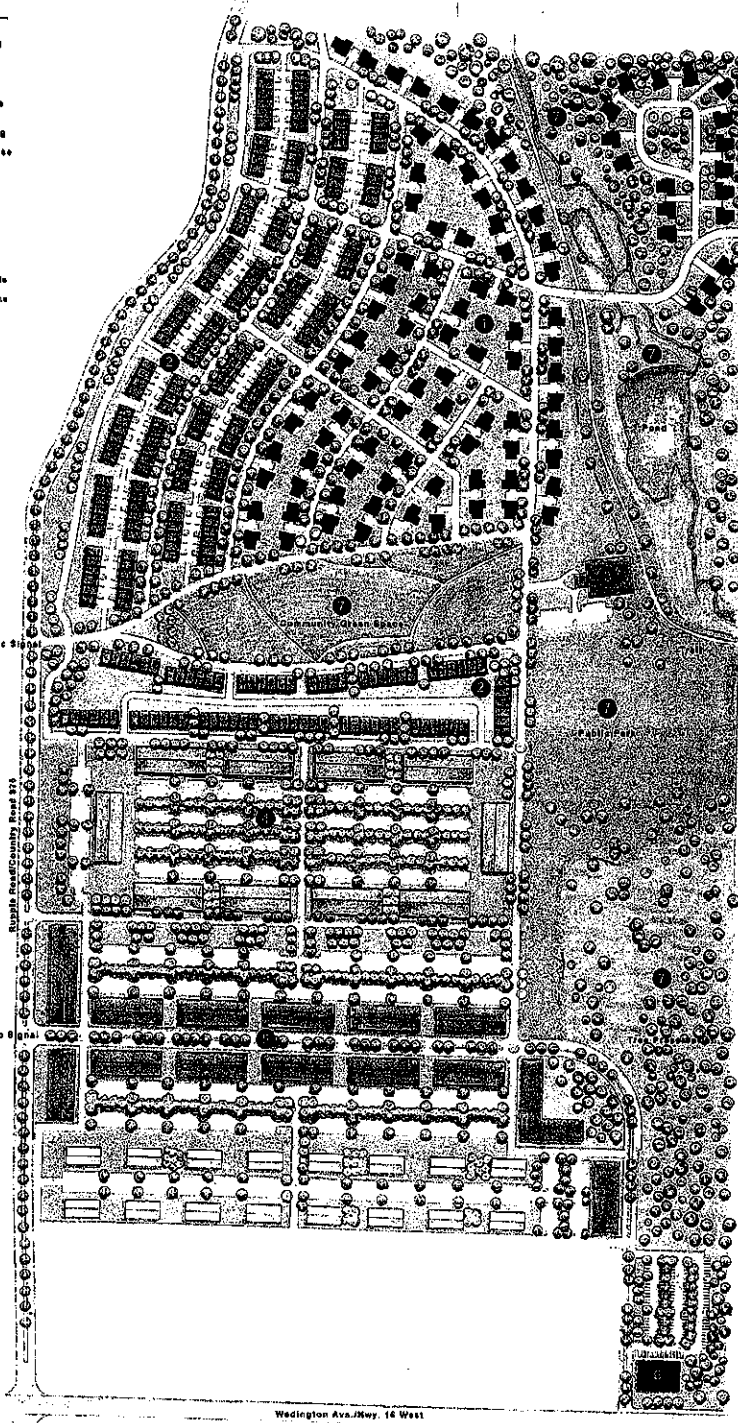
Master Plan

Amenities

A variety of housing styles gives potential residents a wide range of housing choices. Wellspring can accommodate residents with many different lifestyle, economic, or logistical needs.

Large areas of greenspace and tree preservation, as well as trails and ponds offer a plethora of outdoor activity possibilities to Wellspring residents and the public. Additionally, the development's close proximity to the Fayetteville Boys and Girls Club means the whole family will have access to a wide variety of physical activities.

Wellspring's integration of living spaces and outdoor recreation spaces combined with retail and office areas creates a community which encourages residents to leave their cars at home and bike or walk to work. This means Wellspring encourages health for both its residents and the environment.



Development Plan

- 1 Planning Area 1 - Garden Homes
-Part of Phase 1
- 2 Planning Area 2 - Parkway Town Homes
-Part of Phase 1
- 3 Planning Area 3 - Clubhouse
-Part of Phase 1
- 4 Planning Area 4 - Condominiums
-Part of Phase 3
- 5 Planning Area 5 - Mixed Use Development
-Part of Phase 2
- 6 Planning Area 6 - Market District
-Part of Phase 1
- 7 Planning Area 7 - Parks Area, Community Green Space and Tree Preservation Area
-Part of Phase 1

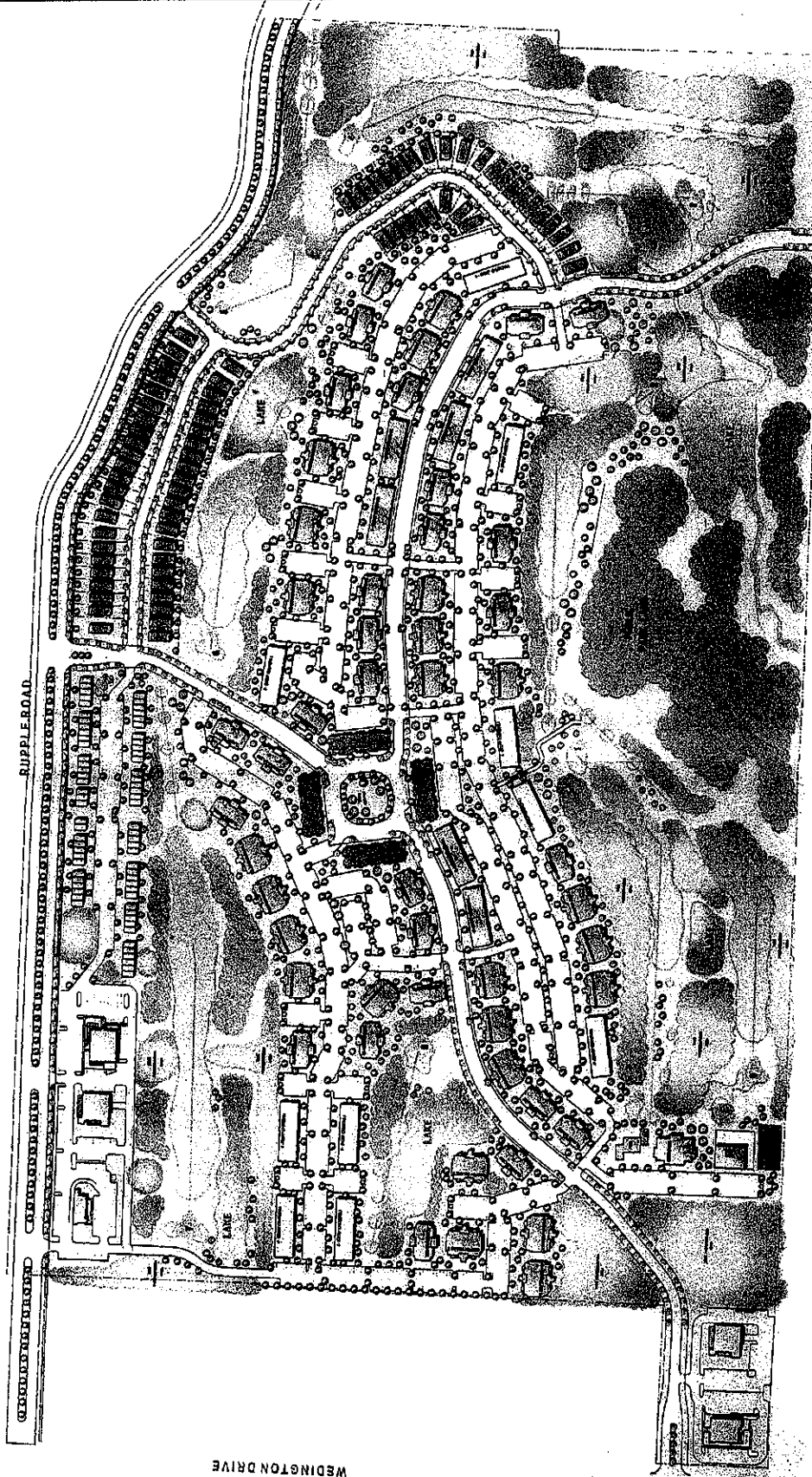


Wellspring Community

BYRONIA AVENUE

COOPER ARCHITECTS

Critical Path Design



THE LINKS @ FAYETTEVILLE FAYETTEVILLE, ARKANSAS

UNFINISHED BUSINESS:

R-PZD 07-2452: Planned Zoning District (THE LINKS AT FAYETTEVILLE, 400.401.361.362): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NORTHEAST CORNER OF WEDINGTON AND RUPPLE ROAD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 05-1636 (WELLSPRING) and contains approximately 152.23 acres. The request is for zoning and land use approval only for a new R-PZD. The proposed R-PZD would allow 1,258 residential dwelling units, 120,888 square feet of non-residential/commercial space, and 16,388 square feet of recreational buildings. The non-residential and recreational portions of the development would contain a golf course, a commercial 'market' area, green space, park, and associated parking.

Andrew Garner, Senior Planner, gave the staff report. Staff recommended denial of the project, based on findings within the staff report, primarily with inconsistency with the goals of the City's Future Land Use Plan, CityPlan 2025, the PZD ordinance, lack of "town form" as the standard for the development and a lack of public street infrastructure for the project.

Hugh Jarratt (applicant) discussed that if this project meets one of the goals of the City Plan 2025 the Planning Commission has the authority to approve the plan. He also discussed the Planning Commission's general authority for approval of a planned zoning district (PZD).

Kim Fuggitt (applicant) discussed that one of the major problems with the project according to staff is that this project doesn't meet the goal to provide a Traditional Neighborhood Town form. He also discussed how the plan evolved over time and has a streetscape along the street, and provides variety and flexibility in building types.

Jim Lindsey (applicant) discussed that the applicant has revised the plan substantially over the various submittals. He also discussed the benefits of this plan in compliance with all City requirements. He discussed the amenities provided in this development such as golf course, pool, clubhouse, and tennis court. He compared this plan to the existing approved Wellspring PZD on the property.

Jeremy Pate, at the Planning Commission's request, discussed the difference between the Unified Development Code (UDC) and City Plan 2025.

Kit Williams, City Attorney, discussed the requirements for approving or denying a PZD or re-zoning. He stated that a project must meet the requirements of the PZD ordinance. The City Plan 2025 is not a requirement, but a guiding policy.

Commissioner Anthes discussed that the UDC refers to the City Plan 2025, and other policy and ordinance requirements, and that the City Plan 2025 is a shift from the existing ordinance requirements.

Kit Williams determined that any ambiguity in the UDC should be interpreted in favor of the applicant. He also discussed other compliance requirements and the discretion of the Planning Commission.

Jeremy Pate discussed that the overall findings lead to a recommendation of denial although the project has many positive aspects as noted in the staff report.

Commissioner Anthes questioned staff as to whether or not the project met the six primary goals of City Plan 2025.

Jeremy Pate responded that many of those goals are subjective and that this project may meet several of these goals to a certain degree. The staff report provides the discussion and analysis and leaves the conclusion to the reader.

Commissioner Anthes discussed the large volume and scale of the site combined with lack of street connections and lack of unit types is a concern of commissioners. She questioned whether or not the UDC requires a certain amount of variety based on the size of a property.

Jeremy Pate confirmed that the UDC does not specify that a certain size of property has to meet a certain degree of variety, or number of unit types.

Commissioner Ostner questioned how the existing land use and zoning should be compared to the proposed project.

Jeremy Pate explained that the General Plan 2020 under the Wellspring PZD approval and the City Plan 2025 under which the current project is being evaluated are very different, and that comparing the two is difficult, as the City Council has adopted a new policy through the City Plan 2025 that differs greatly from before.

Commissioner Ostner discussed that the approved Wellspring PZD may get a negative recommendation under the current City Plan 2025. There is a different set of rules under which the Wellspring PZD was approved. The City Council decided to change the goals and policies from General Plan 2020 to City Plan 2025.

Commissioner Lack asked the applicant about their reference to hiring an urban planner.

Jim Lindsey responded that he is willing to look at changes to the project and has contacted an urban planner recommended by the Mayor. He stated that the timing of the project needs to move forward and that he has made no real progress with the urban planner he has been talking to.

Commissioner Lack stated that this project does not meet all of the goals of the City Plan 2025, but meets the UDC.

Motion:

Commissioner Lack made a motion to forward the project with a recommendation for approval with staff recommended conditions.

Commissioner Trumbo seconded the motion.

Commissioner Myres stated she will vote against the project for reasons stated in previous meetings.

Commissioner Trumbo stated that development of this project in compliance with the City Plan 2025 has not been proven to be financially viable. The homes for Ruppel Row are now being leased and are too expensive to be sold. He stated that he would like to see an example of a project under City Plan 2025 that would work economically.

Commissioner Anthes discussed how this project has improved throughout the three Planning Commission meetings. However there are too few public streets and connections that result in too much circulation through parking lots, the south access is a private drive and not a public street. She is also concerned with the lack of variety of unit types, however the golf course does provide some buffer to surrounding properties from the large volume of apartments.

Upon roll call the motion failed by a vote of 3-3-2 with Commissioners Anthes, Myres, and Ostner voting 'No', Commissioners Lack, Trumbo, and Bryant voting 'Yes', Commissioners Harris and Clark recusing, and Commissioner Graves was absent.

Added at Agenda Session 4/10/07
ALDERMAN AGENDA REQUEST FORM

C. 11
VAC 07-2484 (Rhoads)
Page 1 of 26

FOR: COUNCIL MEETING OF April 17, 2007

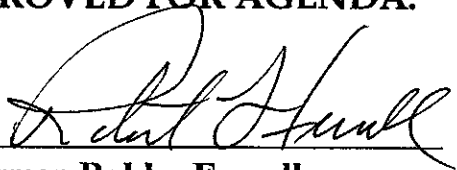
FROM: Bobby Ferrell

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

VAC 07-2484 (Rhoads) - Utility Easement Vacation

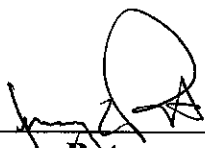
AN ORDINANCE APPROVING VAC 07-2484 TO VACATE A PORTION
OF 25-FOOT UTILITY EASEMENT AT 2791 NORTH SHADYBROOKE
COVE.

APPROVED FOR AGENDA:


Alderman Bobby Ferrell

Date

4-10-07


Jeremy Pate
Director of Current Planning

Date

04.10.07

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: April 10, 2007

Subject: Utility Easement Vacation for Rhoads (VAC 07-2484)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance vacating a portion of a 25' utility easement located on Lot 46 of Brookbury Woods Addition.

BACKGROUND

The subject property is 2791 North Shadybrook Cove, Lot 46 of Brookbury Woods Addition. It is located south of Old Wire Road / Skillern Road and zoned RSF-4. The property was platted in July 1995. A designated floodplain abuts the lot's west property line. Easements platted on the property include a 25' utility easement along the west/rear property line, a 10' utility easement along the side/south property line, and a 25' utility easement along the right-of-way.

The applicant requests vacation of 12.5' (1,277 square feet) of the existing 25' utility easement along the west property line to create sufficient area for improvements to the rear yard. These improvements include the installation of a pool as well as a patio and a fire place with brick ledge. The pool itself will not encroach within the easement, but the fire place and brick ledge will. If the vacation is approved, a 12.5' utility easement will remain, which is greater in width than the 10' utility easement adjacent to the west property line of Lot 45 to the north and one-half the size of the 25' utility easement to the south.

Staff recommends vacation of one-half of the 25' utility easement as request. Two adjoining property owners have indicated no objections to the request.

DISCUSSION

The Planning Commission voted 8-0-0 on its consent agenda to forward this item to the City Council with a recommendation for approval. Notification was provided to all appropriate utility representatives. Conditions of approval are recommended in order to satisfy the comments made by city division and utility company representatives.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2484 SUBMITTED BY JORGENSEN AND ASSOCIATES FOR PROPERTY LOCATED AT 2791 NORTH SHADYBROOK COVE TO VACATE 12.5' OF A 25' UTILITY EASEMENT, A TOTAL OF 1,277 SQUARE FEET.

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

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

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

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

See Exhibit "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. The applicant shall provide access to an existing manhole under the existing fence, via methods approved by the Water and Sewer Division.

Page 2
Ord.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

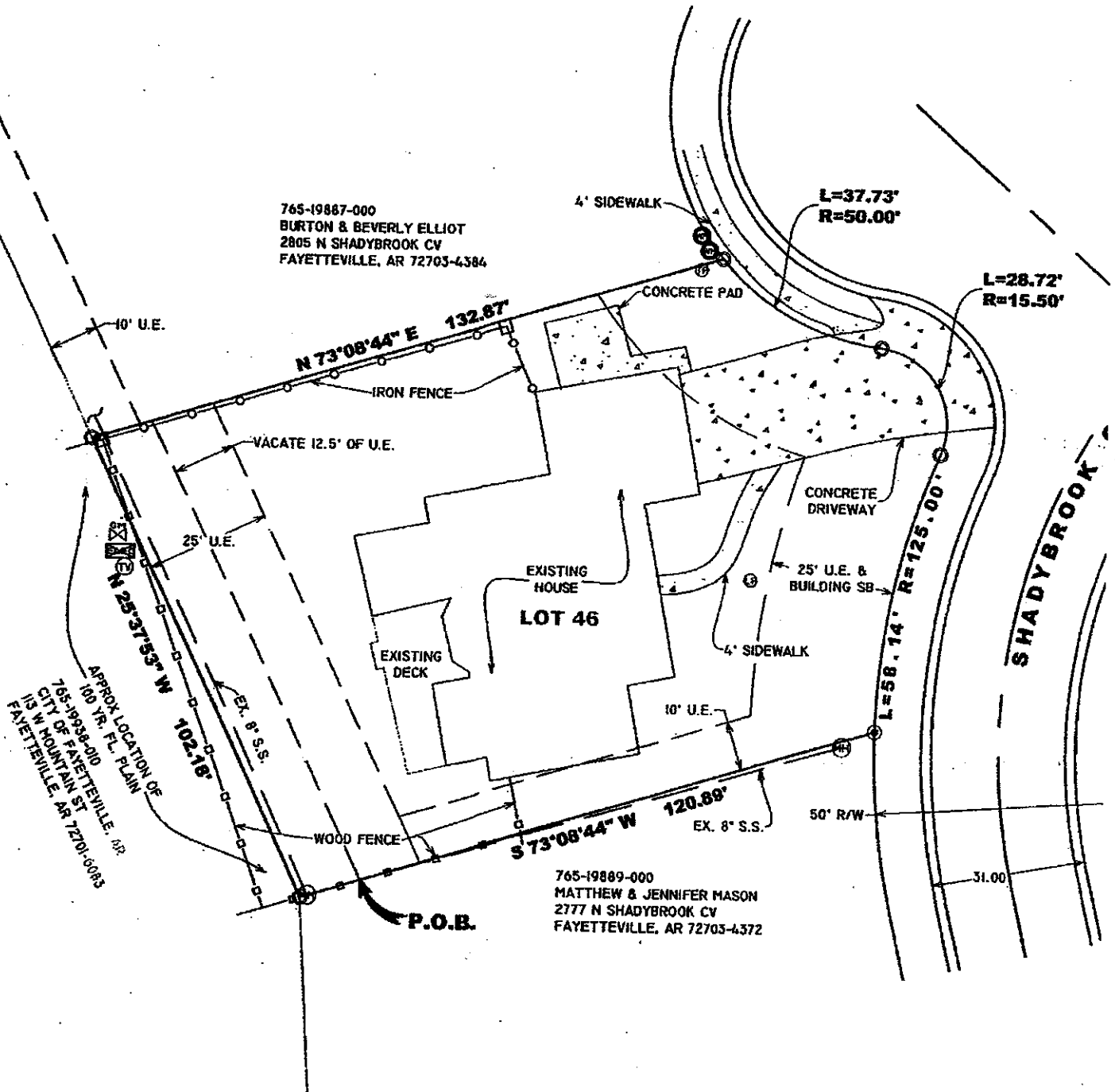


EXHIBIT "B"
VAC 07-2484

COMMENCING AT THE SW CORNER OF SAID LOT 46 THENCE N73°08'44"E 12.65 FEET TO THE P.O.B., THENCE N25°37'53"W 102.18 FEET, THENCE N73°08'44"E 12.65 FEET, THENCE S25°37'53"E 102.18 FEET, THENCE S73°08'44"W 12.65 FEET TO THE P.O.B.; CONTAINING 1,277 SF.



PC Meeting of April 09, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Suzanne Morgan, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: March 12, 2007

PC Fwd to CC

Updated 4-16-07 (SM)

VAC 07-2484: (RHOADS, 294): Submitted by JORGENSEN AND ASSOCIATES for property located at 2791 N. SHADY BROOK COVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.33 acres. The request is to vacate 12.5' of a 25' utility easement.

Planner: Suzanne Morgan

Findings:

Property Description: The subject property is Lot 46 of Brookbury Woods Addition. It is located south of Old Wire Road / Skillern Road and zoned RSF-4. The property was platted in July 1995. A designated floodplain abuts the lot's west property line. Easements platted on the property include a 25' utility easement along the west/rear property line, a 10' utility easement along the side/south property line, and a 25' utility easement along the right-of-way.

Request: The applicant requests vacation of 12.5' (1,277 square feet) of the existing 25' west/rear utility easement to make improvements to the rear yard. These improvements include the installation of a pool as well as a patio and a fire place with brick ledge. The pool itself will not encroach within the easement, but the fire place and brick ledge will. If the vacation is approved, a 12.5' utility easement will remain, which is greater in width than the 10' utility easement adjacent to the west property line of Lot 45 to the north and one-half the size of the 25' utility easement to the south.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

Ozarks Electric

Cox Communications

RESPONSE

Not Applicable

Any relocation or damage to existing plant will be at the owner/developer's expense.

Southwestern Electric Power Company No Objections

Arkansas Western Gas No Objections

Southwestern Bell Telephone No Objections

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections provided that 12.5' of the existing utility easement remain and the applicant provides access to a manhole located under the fence in a manner approved by the Water and Sewer Division.

Transportation

No Objections

Solid Waste

No Objections.

Engineering

No Objections

Public Comment: Owners of Lots 45 and 47 have indicated no objections with the proposed utility easement vacation.

Recommendation: Staff recommends forwarding (VAC 07-2484) 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. The applicant shall provide access to an existing manhole under the existing fence, via methods approved by the Water and Sewer Division.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

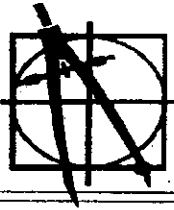
Date: April 09, 2007

Motion: *Trumbo*

Second: *Ostrea*

Vote: *8-0-0 (on Consent)*

Comments: _____



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.

CHRISTOPHER B. BRACKETT, P.E.

1/15/07

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept
Re: Robert Rhoades Easement Vacation

Enclosed herewith please find an application for an easement vacation. I have sent this to the various utilities for review at the next plat review.

This partial vacation is for construction of a pool.

Please call concerning any questions you may have.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

PETITION TO VACATE A portion of an easement LOCATED AT Lot 46 Brookbury Woods Subdivision, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Planning Commission and
The Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the /easement) hereinafter sought to be abandoned and vacated, lying in (lot 46 Brookbury Woods), City of Fayetteville, Arkansas, a municipal corporation, petition to vacate the east half (12.5') of the 25' easement on the west side of said Lot 46 and being described as follows:

Commencing at the SW Corner of said Lot 46 thence N73°08'44"E 12.65 Feet to the P.O.B. thence N25°37'53"W 102.18 Feet, thence N73°08'44"E 12.65 Feet, thence S25°37'53"E 102.18 Feet, thence S73°08'44"W 12.65 Feet to the P.O.B.; Containing 1,277 SF.

That the abutting real estate affected by said abandonment of said easement in Lot 46 of Brookbury Woods Subdivision City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described (easement).

The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that the above described real estate be used for their respective benefit and purpose as now approved by law.

The petitioners further pray that the above described real estate be vested in the abutting property owners as provided by law.

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that title to said real estate sought to be abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from easements of the public for the use of said alley.

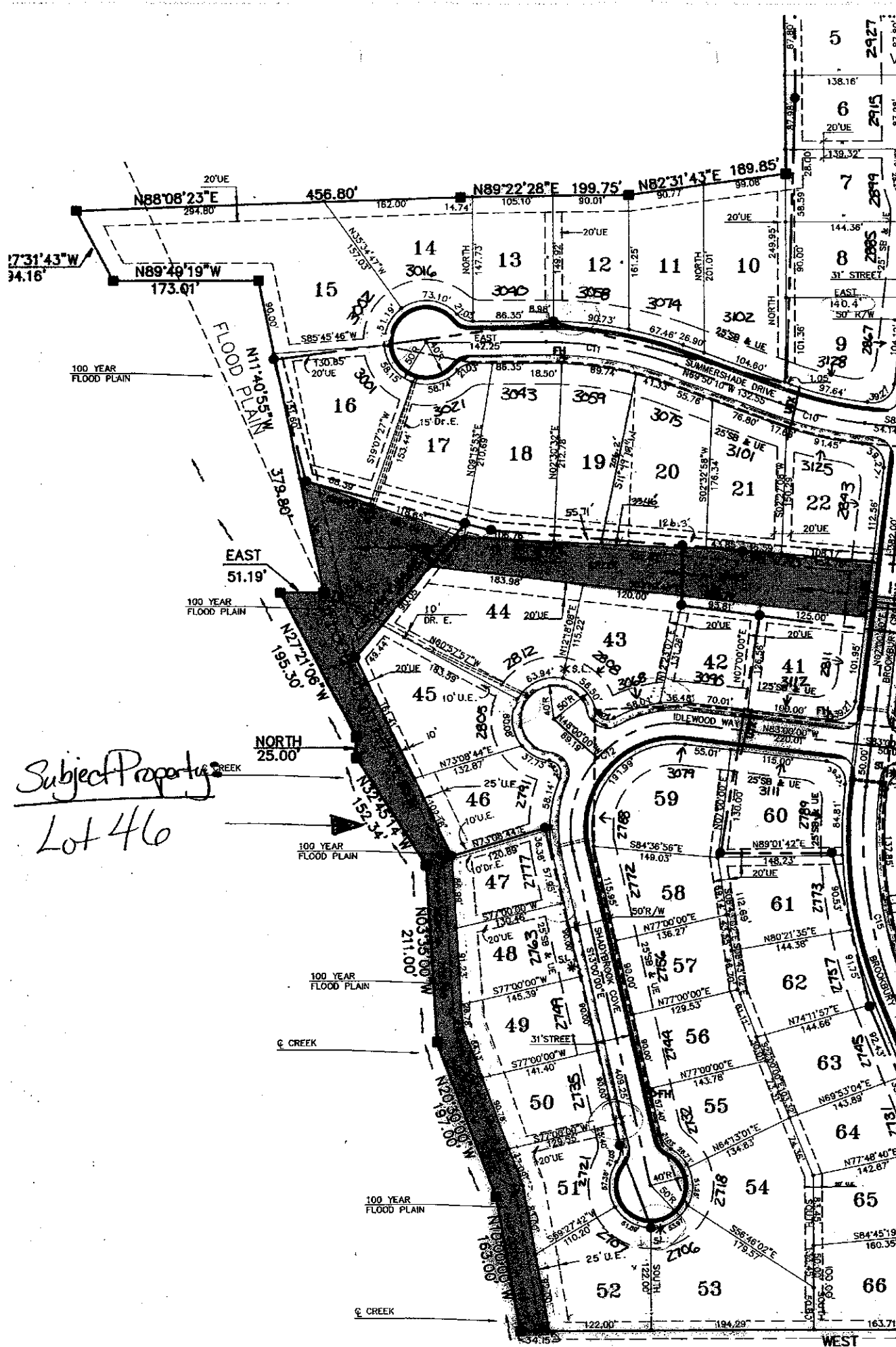
Dated this 11 day of March, 2007.

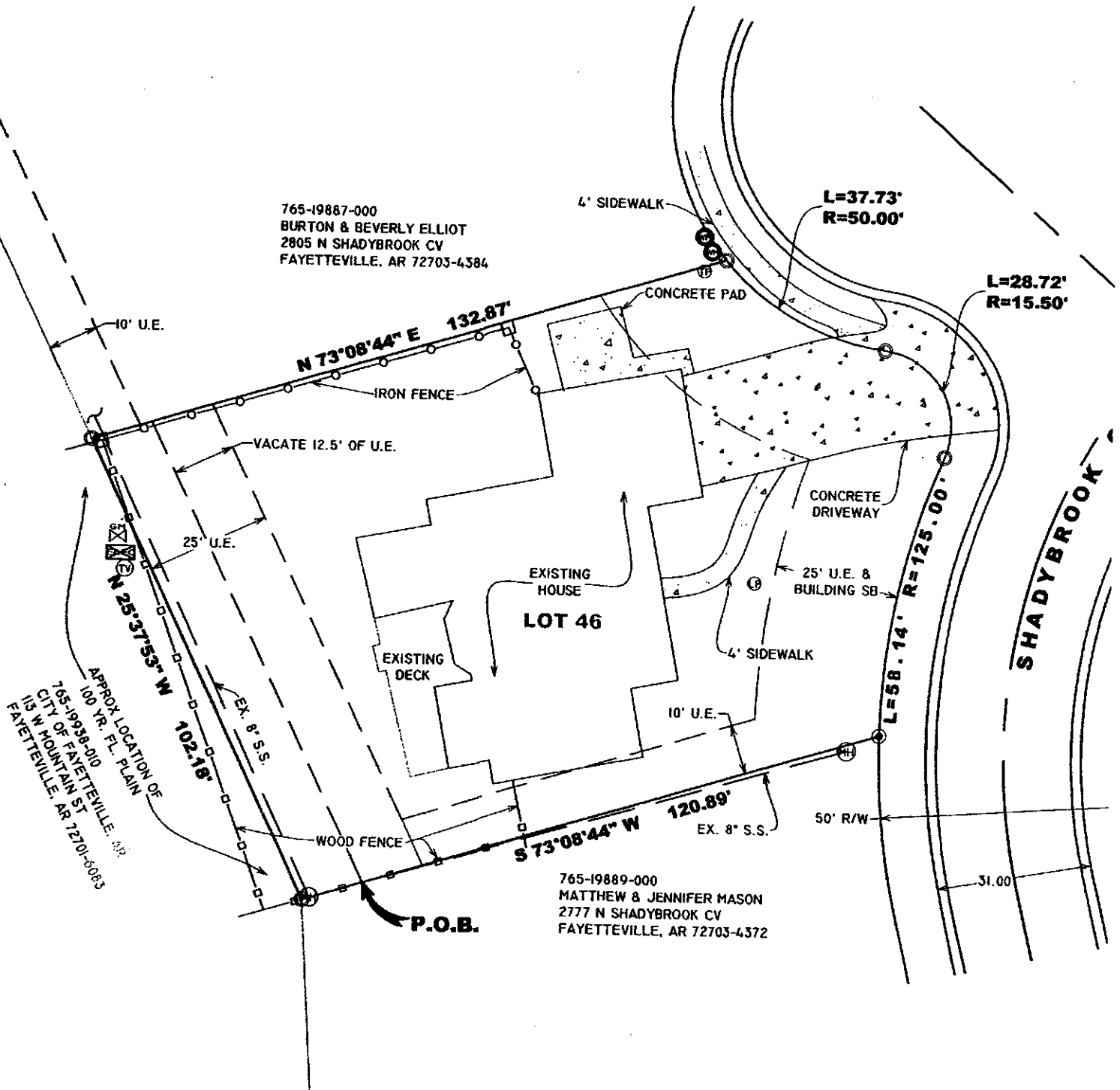
Robert K. Rhoads + Barbara R. Manthe
Printed name

[Signature]
Signature

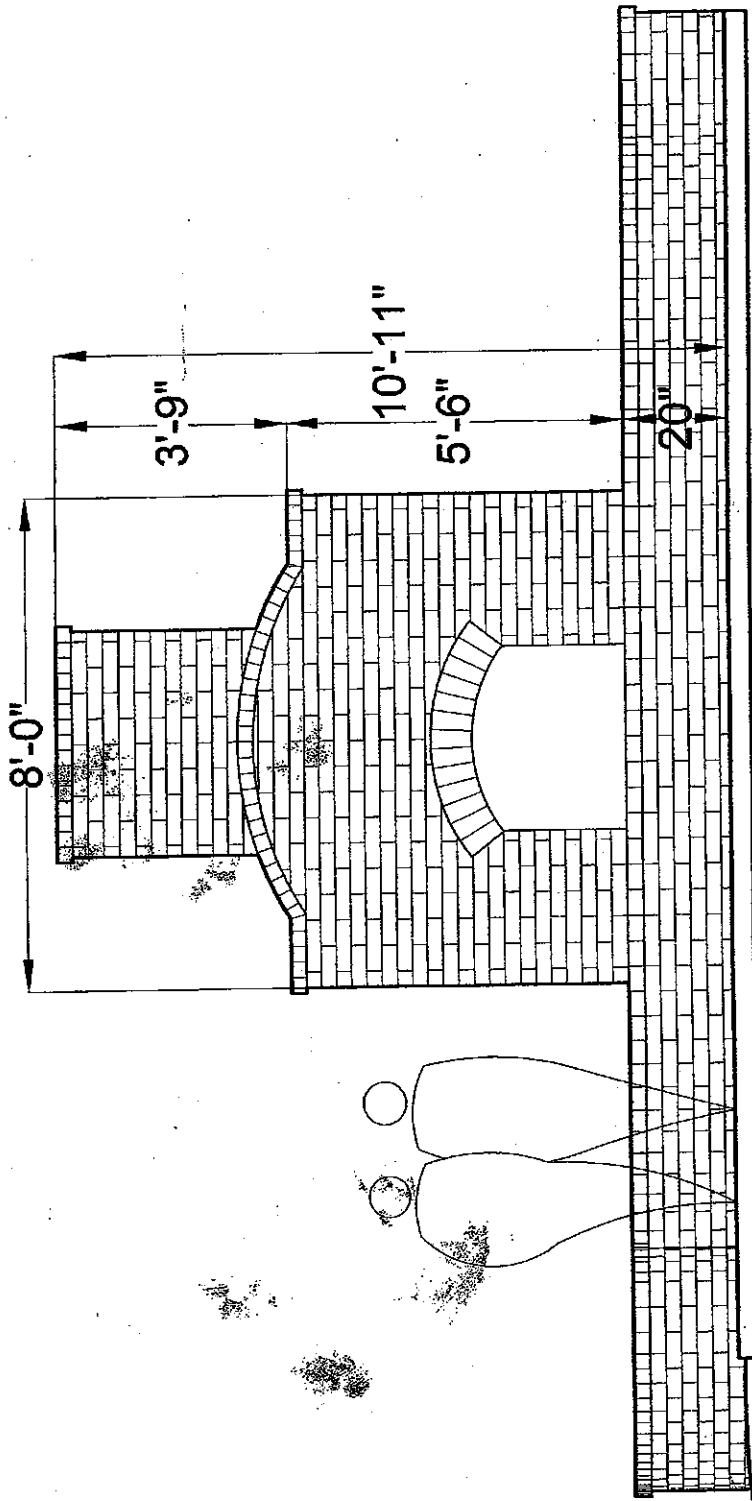
Printed name

Signature





FIRE



FIREPLACE ELEVATION

$$(2 \times 3 \times 3)$$
$$(36 \times 12) \times 2 = 144 \times 2$$
 $10^1 \times 2^3$

PROPERTY LINE
EXISTING IRON FENCE

SECRET

BRICK COPING

$$\begin{array}{r} 15 \\ 17 \\ \hline 48 \times 4 \\ 5 \times 12 \\ 17 \times 34 \\ 14 \times 25 \end{array}$$

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND
EASEMENT VACATION REQUESTSDate: 1/16/07Address / location of vacation: 2791 N. SHADY BROOK COVE (AUBREY LARRINGTON)Adjacent property address: BURTON ELLIOT 2805 N SHADY BROOK CV Fayetteville, ARLot: 45 Block: / Subdivision: BROOKBURY SUBD.
72702-4381

REQUESTED VACATION:

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

EAST 1/2 OF 25' D.E. IN BACKYARD OF LOT 46 (12.5')

(Include 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:

BURTON ELLIOTT
Name of Property Owner (printed)
BURTON ELLIOTT
Signature of Property Owner

FAXED - 479-582-4807
9-28-07

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND
EASEMENT VACATION REQUESTSDate: 1/16/07Address / location of vacation: 2791 N. SHADY BROOK COVE (AUBREY CARRINGTON)Adjacent property address: E. Matthew Mason 2777 N Shadybrook CVLot: 45 Block: 47 Subdivision: BROOKBURY SUBD. Fayetteville, AR 72703-4372

REQUESTED VACATION:

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

EAST 1/2 OF 25' D.E. IN BACKYARD OF LOT 46 (12.5')

(Include 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:

Matthew Mason
Name of Property Owner (printed)Matthew Mason
Signature of Property Owner

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 1/16/07UTILITY COMPANY: FAYETTEVILLE WATER & SEWERREQUESTED 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: 2791 N. SHADY BROOK LAKE (AUDREY CARRINGTON)
(LOT 46 BROOKBURY WOODS SUBD.)

(Include legal description and graphic representation of what is being vacated)

EAST 1/2 OF 25' U.E. IN BACKYARD OF LOT 46 (12.5')

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.)

City to retain 12.5 Feet of existing 25 foot easement
Please provide access to Manhole under fence. Make
hinge type access on fence, call for details.


Signature of Utility Company RepresentativeOps Manager Water & Sewer
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 1/16/07UTILITY COMPANY: DEAKS ELECTRIC

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address: 2791 N. SHADY BROOK LAKE (AUREY CARRINGTON)
(LOT 46 BROOKBURY WOODS SUBD)

(Include legal description and graphic representation of what is being vacated)

EAST 1/2 OF 25' U.E. IN BACKYARD OF LOT 46 (12.5')

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.)

Mike Phipps
Signature of Utility Company RepresentativeSystem Staking Tech
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 1/16/07

UTILITY COMPANY: COX COMMUNICATIONS

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: 2791 N. SHADY BROOK CREEK (ALBERT CARLINGTON)
(LOT 46 BROOKBURY WOODS SUBD)

(Include legal description and graphic representation of what is being vacated)

EAST 1/2 OF 25' U.E. IN BACKYARD OF LOT 46 (12.5')

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.)

Any Relocation or Damage to existing plant will
be @ owner/developers expense.

[Signature]
Signature of Utility Company Representative
Project Coordinator
Title

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 1/16/07UTILITY COMPANY: SWEPCO(THIS IS REVIEWED BY DEPT. E.A.)
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or street 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: 2791 N. SHAW BROOK CANY (AUBURN CARRIAGEWAY)
(LOT 46 BROOKBURY LINDS SUBD)

(Attache legal description and graphic representation of what is being vacated)

EAST 1/2 OF 25' U.E. IN BACKYARD OF LOT 46 (12.5')

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, direction, and purpose below.)

Signature of Utility Company Representative

Jimmy Sullivan
SWEPCO R-O-W vacated

Title



**UTILITY APPROVAL FORM FOR RIGHT-OF-WAY,
ALLEY, AND UTILITY EASEMENT VACATIONS**

DATE: Tuesday, January 30, 2007

UTILITY COMPANY: Arkansas Western Gas Company

REQUESTED VACATION:

- ☐ Street
- ☒ Utility Easement
- ☐ Street and all the utility easements located within the vacated street
- ☐ Right-of-way for alley or street
- ☐ Right-of-way for alleys or streets and all utility easements located within the vacated right-of-way
- ☐ Alley
- ☐ Alley and all utility easements located within the vacated alley

I have been notified of the petition to vacate the following Utility Easement
(Please see list above)

Description described as follows:

Easement vacate for Robert Rhoades (Present owner Aubrey Carrington) at 2791 North Shadybrook Cove (Lot 46 in Brookbury Woods Subdivision). Request to vacate 1/2 of 25 foot utility easement in back yard of mentioned Lot 46 leaving approximately 12.5 feet. The request is described as follows; Commencing at the SW Corner of said Lot 46 thence N73°08'44"E 12.65 feet to the P.O.B. thence N25°37'53"W 102.18 feet, thence N73°08'44"E 12.65 feet, thence S25°37'53"E 102.18 feet, thence S73°08'44"W 12.65 feet to the P.O.B.; Containing 1,277 SF.

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacates described above.
- ☐ No objections to the vacates described above, provided following described easements are retained. Please state the location, dimensions, and purpose below.

Steve R. Sandy

Signature of Utility Company Representative

Fayetteville Assistant Operating Manager
Title



CONCURRENCE TO VACATE A DEDICATED UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the vacation of a portion of a dedicated utility easement, to-wit:

The easternmost twelve and one-half feet (12.5') of a twenty-five foot (25') dedicated utility easement that runs north and south along the western property line of Lot 46 of the Brookbury Subdivision to the City of Fayetteville, Washington County, Arkansas.

Signed and executed this 31st day of January, 2007.

By: 

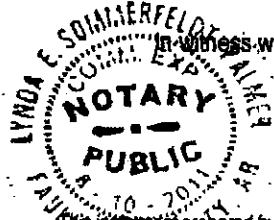
F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

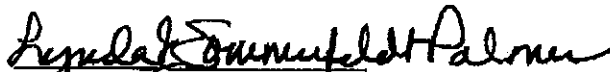
STATE OF ARKANSAS
COUNTY OF PULASKI

On this the 31st day of December, 2006, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

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



This instrument prepared by AT&T
1117 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)


Lynda E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co.
My commission expires 8/11/2011

521-8500

4

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 1/16/07UTILITY COMPANY: FAYETTEVILLE STREET DEPTREQUESTED 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: 2791 N. SHADY BROOK CREE (AUREY CARRINGTON)
(LOT 46 BROOKBURY WOODS SUBD)(Include legal description and graphic representation of what is being vacated)
EAST 1/2 OF 25' U.E. IN BACKYARD OF LOT 46 (12.5')

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Signature of Utility Company Representative

1/30/07

Title

Transportation Supt

Operations Dept

Transportation Div

City of Fayetteville

575 8227

UTILITY APPROVAL FORM
FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 4/16/07

UTILITY COMPANY: FAYETTEVILLE SOLID WASTE DEPT

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: 2791 N. SHADY BROOK LANE (AUOREY CARRINGTON)
(LOT 46 BROOKBURY WOODS SUBD)

(Include legal description and graphic representation of what is being vacated)
EAST 1/2 OF 25' U.E. IN BACKYARD OF LOT 46 (12.5')

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

VAC07-2484

Close Up View

RHOADS

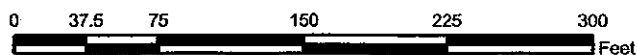
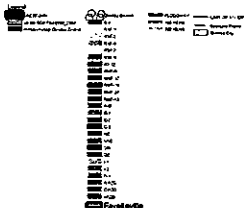


SUBJECT PROPERTY

IDLEWOOD WAY

SHADYBROOK COVE

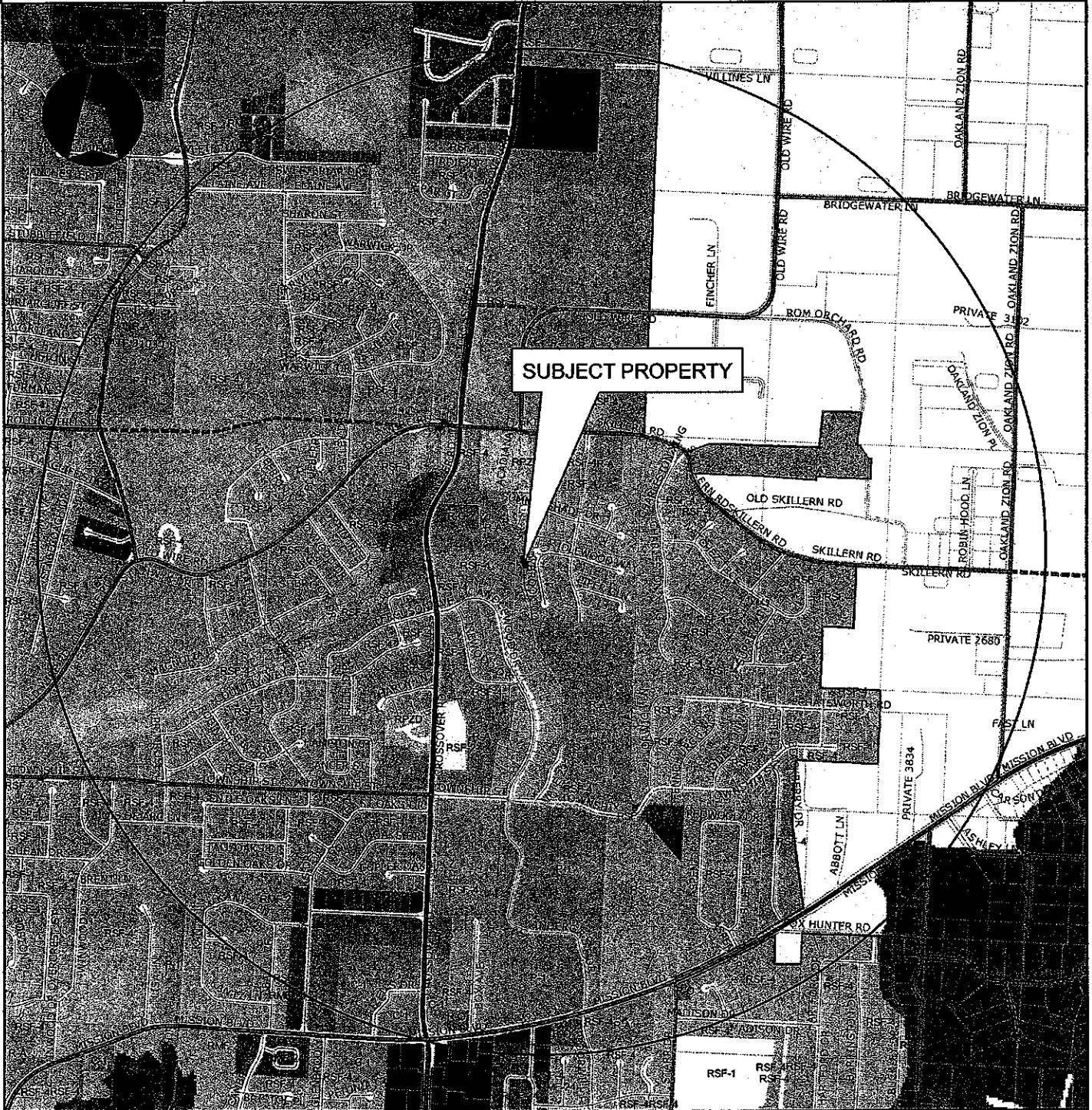
Overview



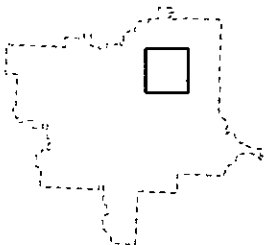
VAC07-2484

One Mile View

RHOADS



Overview



Legend

Subject Property

VAC07-2484

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
Special City Council Meeting Minutes
March 27, 2007**

A special meeting of the Fayetteville City Council was held on March 27, 2007 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance

NEW BUSINESS:

Planning Commission Nomination Discussion: Discussion of the nominees for the Planning Commission.

Mayor Coody: We are here to discuss one item tonight. I had several people on the Council ask that we go into Executive Session so we can discuss this since it is sort of a personnel issue. Is there any objection to that? Then we can come back out and discuss whatever we want in a public forum. As a matter of fact we will have to discuss whatever we want and take any votes in a public forum.

City Attorney Kit Williams: Mayor, if you are going to go into Executive Session, I would like for it to be done by motion and also whoever makes the motion clearly state the purpose of the Executive Session.

Mayor Coody: Okay. I would entertain a motion to go into Executive Session. Is there such a motion?

Alderman Gray moved to go into Executive Session to discuss a personnel issue, the appointment of Planning Commissioner members. Alderman Ferrell seconded the motion.

Alderman Rhoads: I guess I don't really look at it as a personnel matter. I would have personally no problem discussing this in open session. Everything I have to say is not necessarily of a personnel nature. That is my point of view.

Mayor Coody: Even if we do go into Executive Session when we come out we will still have the public forum and all the discussion that we could stand and probably more actually. It is up to you whatever you want to do. There is a motion and a second to go into Executive Session. Shall the motion pass?

Upon roll call the motion failed 3-5. Alderman Ferrell, Gray and Thiel voting yes. Alderman Lucas, Jordan, Cook, Allen and Rhoads voting no.

The Motion Failed

Alderman Cook: Obviously the Nominating Committee was split two to two on their recommendations. Two of the members reapplied for their position. Two of us supported reappointing them to those positions the other two were new applicants. All of our applicants were good applicants and we appreciate people's interest in all of our city's committees and boards. As a Nominating Committee we discussed our past practices, we talked about what we typically look at in the applications, we interviewed everyone, ten minute interviews for each applicant. Based on that discussion we ended up being split by the end of the meeting. From my perspective I didn't see any reason to not reappointment the previous applicants that previously served because I felt that they served well. They put all the time in that was required, they attended the meetings, and they participated in the meetings. To me their past performance and past being on that committee gave them a leg up on any of the new applicants, because they had three years worth of experience. I voted to reappoint the three commissioners that had previously served.

Alderman Gray: We had three open positions and three reappointments is that right Kyle.

Alderman Cook: Yes.

Alderman Gray: At one time you said two.

Alderman Cook: I said two because one of them was not unanimously reappointed and two of them were split down the middle. That is the reason why I said two.

Mayor Coody: Any other questions or comments from anyone?

Alderman Thiel: I would like to hear from the Nominating Committee. That is why I wanted to go into Executive Session because I wasn't at the Nominating Committee meeting. I am trying to ascertain why the decisions were made the way they were.

Mayor Coody: Shirley are you on the Nominating Committee?

Alderman Lucas: Yes. I explained at the last meeting what my feelings were. To begin with I support the reappointment of Ms. Clark and Ms. Myres. What I look for in any recommendation for a committee or commission, since I have been on the Nominating Committee, is to find the person that is the most qualified. I don't care what committee we try to get the most qualified. As Kyle said we had some excellent applicants, twelve that applied for the Planning Commission. I feel it was a matter of qualifications. I called and talked to the Assistant City Attorney before the meeting because I was concerned about the members that were reapplying, were we bound to reappoint them and he gave me the advice that if we had someone that was better qualified we could recommend them to be appointed. We didn't have to reappoint the members that were on the committee. We had a discussion at the meeting and the two that the other two aldermen wanted were good possible members. Had we not had people reapplying they would have been good Planning Commission members. It was tough and after we had further discussion and consideration in my opinion with Ms. Myres and Ms. Clark's experience on the Planning Commission, service on subcommittees, they learned a lot about the ordinances and everything. Personalities aside and how they voted on issues; and I did not always agree with them but I didn't think that should be the consideration, it should be qualifications. They are definitely the more qualified candidates in my opinion.

Mayor Coody: Adella you are on the Nominating Committee aren't you?

Alderman Gray: Yes. I feel that we had excellent candidates and we had a wide variety of experience and professions apply. I think that our boards and commissions need to be a wide spectrum of the City of Fayetteville. I do not agree that the current commissioners were the most qualified of our twelve in all cases. I just have great concern about opening up our boards and commissions for new applicants if we are not even going to consider those new applicants. That causes me great concern. I am very surprised to have been a part of a process like that. I thought we were listening to those applicants with open minds, trying to decide which one would serve best. That's what I was doing when I voted the way I voted. Yes, personalities aside I am looking at qualifications, background, experience and professionalism. I am looking for individuals who will treat our city staff with respect. I am looking for individuals who will treat our city staff with the kind of attitude that I think our city staff treats others. That is the reason I felt strongly the way I voted. To have those twelve people prepare as they did for the nomination process and then to say we are not even going to consider them, we are just going to reappoint, that causes me great concern. I think it reflects on the credibility of the Council.

Alderman Rhoads: As far as I can tell there were not only people being interviewed, I guess we interviewed 12 people, Nancy Allen was also there, she sat in and I believe there was a developer there, too. Then when we had discussion, I don't think we necessarily called an Executive Session, I don't think we disinvited anybody, maybe we disinvited the developer, come to think of it, yes I guess we did. I don't think we necessarily tried to make it too secretive of a process therefore I feel pretty comfortable talking about what I recall that went on. First of all our chairman did a good job laying things out. He led the discussion and the four of us, with Nancy there and not participating, because I asked her not to participate. My reason for asking her not to participate is I didn't think one ward, based on Bobby's prior comments on that issue, I

didn't think one ward should get two bites of the apple. She was gracious enough to say okay that's fine. I thought we had a good discussion, a spirited discussion, we voted on it and then the votes changed and so be it. It was four people taking into consideration some weighty issues about the applicants themselves but also about some personnel matters, I guess. I am going to try to be as open as possible. We disagree and I think now we are at a point where this full Council needs to make a decision. I think eventually when I quit spewing forth here I will have an idea or recommendation or a way maybe to move forward.

I don't think we would be truthful if we didn't say that there were issues brought up about comments that staff had made, the Planning staff, by Planning staff I am using that term very broadly, had made in regard to comments that had been made to them by particular members of the Planning Commission. I think that played into everyone's thought process and decision making. Also what played into everyone's thought process, certainly mine was who was qualified as I have heard people say before. I think I probably uttered the notion. I realize having been on the Nominating Committee now for five years that in the past we have tried to give difference to applicants that have been on a commission or have been on a board before. I also knew that it wasn't a rule that was etched in stone. I first made the comment and I think Adella mentioned it as well, people will not be too desirous of applying if they think why should I if you are just going to reappoint the same people. That went into my thought process. I guess when I put forth the people that I felt we should go with, my belief was that those people were the best qualified. It was not a matter of let's punish somebody. I think if someone is doing something on a commission that is inappropriate there are ways to deal with that and I don't necessarily think that at a Nominating Committee that is the place to do it. I did not feel like we were doing that. I felt that what we were doing was we were trying our best to get the best people out there. At that time I think the proposal was to have Sean Trumbo reappointed and Matthew Cabe and Shelly West.

I am not sure how this would work, and I certainly will defer to Kyle since he is our chairman if there is a better way to do this, I would propose that we come forth with a slate of Sean Trumbo being reappointed, Christine Myres being reappointed and Matthew Cabe. Again I think they are all qualified. That would be my proposal.

Mayor Coody: Are you making that a motion?

Alderman Rhoads: I don't know if it is appropriate now but if it is then I am.

Mayor Coody: Kit since we have not done this before is that an appropriate motion to make?

City Attorney Kit Williams: I think he can make a motion at this point. There is no other motion on the table I don't think.

Alderman Ferrell: Robert is this coming as a motion of the Council or from the Nominating Committee?

Alderman Rhoads: I think the Nominating Committee was split so it is my motion to this full Council. If Kyle has a better way to skin this cat then I will defer to him.

Alderman Cook: I think the Nominating Committee made a split motion basically at that point. Whatever this Council decides is what moves forward. I think Robert has every right to make his motion.

Alderman Rhoads moved to appoint Matthew Cabe, Christine Myres and Sean Trumbo. Alderman Ferrell seconded the motion.

Alderman Cook: I would like to defend the Nominating Committee a little bit because I have been on that committee since I started on the City Council. While in the past we have generally reappointed people but it has always been the rule that we choose people that are qualified. Don't let anyone think otherwise because that is the way we always do it. We have term limits on these city boards so once someone gets on a board they do not stay on forever. If they serve their two terms then they are released from their duty and we move on to somebody else. We have people that apply and in some ways we judge people's voracity to want to serve whether they apply or not. Some people apply once, they don't get chosen and they don't reapply, most of the time we probably would not want those people on the board because they are not going to serve in a capacity we want them to serve. One applicant has applied four different times and we put him on a board this time that he actually served on previously but he keeps applying. I appreciate that that speaks well for someone because they want to serve in that capacity. I think the Nominating Committee does an excellent job and we have had times in the past where we struggled to get applicants. I am very happy to see the number of applicants that we received this time because it has been difficult to get people on. Even on the Planning Commission we had times when we didn't have enough applicants or just very few. I hate to see it come to this but we are split and that is the way it is. I will say that the Nominating Committee does the best job that we can to make sure the boards are well represented from all citizens in the City of Fayetteville that want to serve and do the city's business.

Alderman Gray: I just want to say a word about the balance of the committee. I noticed Matthew Cabe is an architect and I believe we already have two architects on the committee. We have an attorney, two realtors, an interior design, two people who are non building professionals and then a landscape architect. Matthew Cabe is an excellent candidate but I felt that Shelly West as an engineer and a person who had worked with many developments in Northwest Arkansas and had worked with our city staff and was very complimentary of our city staff I was looking forward to our having an enginner on the Planning Commission. I will be very happy with Matthew Cabe. I just wanted the Council to be aware that we have an engineer applying. I think that is very important in Fayetteville where we have a lot of engineer kind of problems.

Alderman Thiel: I think that is one point however I feel like we have a staff of engineers. I think the Planning Commission does need to be balanced. The point you made is there are realtors, there are architects, there are no engineers, there is an attorney, and there are two designers, one landscape and one interior designer. There are only two people that are citizens at large. I really kind of like to keep that balance. I don't feel like the Planning Commission should necessarily be all professionals in the construction or building business. I guess I am going to jump out here and start being a little more candid about all this. This discussion is about Candy Clark and has been primarily because of staff concerns and statements that she at times

has been rude to the staff. I have tried my best to really find examples of this, it's difficult. I have tried to ascertain whether or not she was ever reprimanded and have not really ascertained that for sure because I got different stories. I support reappointing Candy, Christine and Sean because they all three have attended the meetings. This is going to take a minute because I want to make a full fledged statement here.

Mayor Coody: We are not rushing you.

Alderman Thiel: Their attendance has been excellent they have worked hard; Candy in particular is very well prepared. I have actually heard from two developers today that thinks she is great. I guess it is just a mixed bag out there, because there has never been anything officially stated to any of the commissioners as far as I know. The Planning Commission bylaws state the following: *All members of the Planning Commission shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the Planning Commission and shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.* That is in the Planning Commission bylaws. Several years ago when Don Marr was still on the Council we actually did not reappoint a Planning Commissioner because of poor attendance. The Nominating Committee that was their recommendation. That Planning Commissioner came to the full Council and asked that he be reappointed and we did so, in the process though we did make some modifications to the code. I guess that is when it changed. I have done a lot of research that is why I am going to spend the time going over this. The old City Code under Section 33.111 included three reasons for causes for removal of a commissioner. *A pattern of inadequate meeting attendance including Planning tours. Chronic, discourteous behavior to other commissioners, staff, or members of the public. On going lack of familiarity with staff prepared material.* When we revisited this ordinance and made the amendments, I am not sure when it changed but the code all of a sudden, I guess when we readopted it these changes were left out, these recommendations. I am not sure we ever visited why. All that is included now is a very lengthy discussion, there are about three paragraphs stating that commissioners have to attend the meetings. The entire section evolves around requiring that they attend meetings which is important. I feel like these three things need to be brought back into the code in the section regarding causes for removal of commissioners. It is something we can look at in the future if there is ever a problem. I think in this case I am going to support reappointing Candy, Christine and Sean. I feel like they have done a good job. I have gotten so many mixed reports about all of this. That's my position. I will bring back an amendment to the ordinance that adds these things into Section 33.111.

Mayor Coody: Sometimes when we change the ordinance books things get left out inadvertently and they fall through the cracks.

Alderman Thiel: I am not sure when it happened.

Alderman Ferrell: If you do that Alderman Thiel I would be very interested in the fact that when we are talking about the selection, credentials or qualifications of the candidate, you said removable and I don't like that choice of words.

Alderman Thiel: That's in the code now.

Alderman Ferrell: If you have what is perceived by some other Councilmen as better qualified candidates, we will have disagreement I am sure, but I think there are some better qualified candidates. A three year tenure certainly helps a person be prepared, be a part of the system and learn what is going on. I think it sends a bad message to people coming on the boards and commissions if we say we can't consider the credentials and the qualifications of a person to bring them on in the stead of others.

Alderman Allen: I feel I have an interesting leg up on this situation because I am the only one on the Council that spent six years on the Planning Commission. The last two of those years were with those three people who have reapplied, Sean, Christine and Candy. I would say that Candy Clark was the hardest working Planning Commissioner that I ever worked with in those six years. She was always prepared, read her materials, was present and abided by the rules as she knew them to be. If she broke a rule no one to my knowledge ever spoke with her about that. I also had a little advantage because I am making the rounds to meetings so I can learn a little bit about being an Alderman. I was there for that meeting. I saw that there was some very good applicants but it is a long learning curve and those three were the best qualified. I think they are a wonderful balance of us. We could probably sit here and each pick one that we think is reflective of us and come out pretty even. I would hate to see us have all development, all tree huggers, all anything. I want to see a lot of diversity. I think that is what we have on the existing Planning Commission. I don't think it causes people to not apply because I think they are the most appropriate candidates at this time. In the future we might want to think about, if this is problematic, we might consider having five year terms for Planning Commissioners and that's all. That is a possibility because it is such a long learning curve. You start out just being glad you didn't use LSD and then you find out what LSD is and you go from there. I think they would be excellent reappointments. I am proud to see them serving and I know of no reason that they shouldn't be reappointed. They have done their work hard, they have been hard workers. I didn't see why Sean was better than the other two. I didn't see why Christine was better than Candy or why Candy was better than Christine. I just think they have been very hard working Planning Commissioners.

Mayor Coody: I am sure when future Councils meet and they talk about the Nancy Allen LSD doctrine they will be talking about large scale development right?

Alderman Allen: Yes.

Alderman Thiel: Thank you for clearing that up.

Alderman Jordan: I wasn't at the meeting. I looked at the qualifications, like Brenda was talking about how the code reads on the Planning Commission. I work at the University and if I have problems with an individual then I will bring that individual in and I will handle it. I really feel in this situation if there was problems on the Planning Commission whoever is the chair of that committee probably if they thought that someone was out of line would probably need to handle it. In this case I have had a lot of emails and phone calls. Most of them have been favorable including some developers have been favorable for the reappointment of the sitting

Planning Commissioners. I think if a situation needs to be handled then either the individual that is in charge of the Planning Commission needs to handle that situation or it needs to come back to the Council and we need to handle it like we have handled some of these situations before. I don't have a problem with doing something like that. If someone is out of line then someone needs to get them in line. Either whoever is in charge of the Planning Commission needs to get them in line or the Council needs to get them in line. In looking over their record they are individuals that come to the meetings, they are well prepared and knowledgeable about what they do. If something is wrong that individual needs to be told that there is something wrong and that they need to straighten up or whatever they need to do. You just don't come in and lop them off. I am in favor of reappointment of them.

Alderman Allen: When we talk about getting good applicants and will people apply I think that this kind of thing is what is going to make people not apply. I know had I been one of those applicants I would have felt somewhat as if I was on trial for the last few weeks. It certainly wouldn't make people out there interested in applying for committees. I hope that the next time we have a problem that we try to solve it, if at all possible, on the spot and not decide that we will wait two weeks. I understand that people have vacations and trips but if it is a high priority then you just have to rearrange because I think it is just not fair to people to leave them hanging out there. This has been a hard time for these people. I don't think it is conducive to the city to get good applicants when they feel like this might happen to them.

I think if we are going to do reprimands we need to really kind of think about what is rude because rude has a wide definition and I want us to be careful, I don't want it to get too arbitrary. I have had some situations, as we all have, where I thought someone has been extremely rude to me or to someone else and maybe the other person didn't see it the same way. I think we need to think about how we will handle this process in the future. There are some very clearly defined things that we all know are rude and have been defined by society but there are other things that are less clear or a little more vague. I hope we will try to work through deciding how we will define that.

Alderman Thiel: In response to Nancy's concern about how we handle it, it takes a two thirds vote of the City Council to remove a Planning Commissioner for cause. I definitely agree that it needs to be a very justifiable cause. I don't think that is that difficult to ascertain. That is the absenteeism and everything else that is listed.

Alderman Jordan: That's right.

Alderman Thiel: I think it is important at this time. At this time we have been given an opportunity to address the Planning Commission, because I am sure they are all watching this. I think it needs to be emphasized that they are appointed to interpret and to implement planning policies adopted by this City Council body which has been elected by the public. I am directing that at all of them. I have seen some things that are disconcerting to me about several of the commissioners and I have heard things. We need to resolve it when they are reappointed or we can deal with it in other ways. I think they all need to be reminded of what their role is. I think that needs to be emphasized. Hopefully this Council will support an amendment to our Section 33.111 which adds back the three causes of removable which were removed for some unknown

reason. I think that will also be another time to discuss with the Planning Commission what their role is. They are a very important body to this city. They have a very important role. I think it is important to the public that they are all on the same page as to how they perform, how they act and what they are doing and what their purpose is.

Alderman Ferrell: I just want to make sure I understand correctly, you said it takes a two thirds vote to remove them, were you meaning it takes a two thirds vote not to reappoint?

Mayor Coody: No that's to remove. A simple majority to not reappoint.

Alderman Ferrell: I just wanted to make sure.

Mayor Coody: There is a difference between removal and reappointing.

Alderman Ferrell: I have never heard removal mentioned it was reappointment.

Mayor Coody: That is to remove someone in the middle of their term rather than reappointing someone if their term is up.

Alderman Ferrell: I agree with Alderman Thiel about the policy is set here and the implementation of the policy per the UDC (Unified Development Code) is what they are charged to do.

Mayor Coody: I am going to take a little bit of liberty here because we have talked about the developers, the public, we have talked about fellow Planning Commission members and we have talked about all of us but there is an important element that I think we all need to consider. To leave them out of the loop would be a travesty and it would be our fault to do so. I want to ask Mr. Dumas to come up and represent the staff because this is an issue and this is something when we say personalities aside we can't put personalities aside sometimes.

Alderman Cook: Mayor I protest that. I don't think staff should be involved with this conversation at all.

Mayor Coody: I know you don't but I have asked Gary to come address the City Council so if you will bear with me here I would appreciate it. I will let Gary read a letter because this is important to this City Council and it is important to me and to the city that we know the full extent that we need to deal with here. Go ahead Gary.

Gary Dumas: I agree with Kyle that the staff should not be involved in these discussions however: Mr. Dumas read the following letter:

The Divisions of Planning, Engineering, Community Resources, Building Safety, Water and Waste Water, Parking, Human Resources, Building Services, Fleet, Solid Waste, Parks, and Transportation report to the Director of Operations.

It therefore is my duty to be responsive to issues affecting their ability to perform effectively and efficiently their essential job functions and to serve you, the Council, and the Public, to whom we should all be responsive.

For several months I have been aware of conflict issues and public statements made by individual members of the Planning Commission to City Staff. There are certain levels of respect that all public officials are expected to convey.

It is unfortunate that we have the need to address these issues in public since it does involve what essentially amounts to a personnel issue. Personnel issues are typically handled in private, in an effort to avoid public embarrassment of individuals. However, there has been an unwillingness to address these issues in a more quiet and compassionate manner. Therefore in order to attempt to resolve this personnel issue, I and we are unfortunately having this public discussion.

Given where we are today, on the verge of appointing and reappointing Planning Commissioners, I must express publicly my concerns for the benefit of those who report to me, and more importantly, in an effort to maintain what I consider to be a highly motivated and competent Staff performing effectively and efficiently for the public.

For the past several months the Staff has been concerned about the lack of respect that certain members of the Planning Commission have been displaying toward Staff and the public. No member of the Staff expects the volunteer or elected body to concur unquestioningly with the Staff recommendation. Staff recommendations consider the Code of Ordinances, the State Law, Case Law, adopted plans, and their expert opinion. The volunteer or elected body or individual members may not agree with that recommendation, but I think that all will agree that it is well reasoned and well thought out and is a studied opinion that establishes where debate can begin.

Disagreement and discussion are a part of the political process. However disrespect, personal attacks, and dismissal of adopted policies and professional opinions should not be a part of that process and if allowed to continue will marginalize the discussion and move it to the negative extremes. Additionally, this type of behavior, which is unacceptable from your employees, will impact the Staffs' ability to address other Council priorities beyond staffing the Planning Commission, such as housing affordability and the street bond program.

Over the past several days, elected officials have questioned some Staff members asking, "If Commissioner X is reappointed will you resign?" Regardless of the answer, just having to ask the question should indicate that most of you already know that there is a problem. If an elected official has to ask that question of the Staff, what do you imagine is the public's perception of our Planning Commission?

I believe that most will agree that there are problems within the Planning Commission. I believe that a change in Commission composition at this time can help recreate a Planning Commission which serves its important function while maintaining a level of respect and dignity for Staff and others.

As I have stated above, you may not concur with this or other staff reports, but this issue is now certainly ready for a public debate. The results of which I am certain will be felt within the City Staff who must deal with the Planning Commission and others as they consider whether to participate in the Planning Commission review and approval process.

If this issue is not resolved, this lack of respect by some of our Planning Commission members toward Staff and others will create an environment that worsens morale and continues to increase stress in our professional Staff that assists the Planning Commission. This will lead to a variety of problems including higher employee turnover, which must be dealt with, but the end result will be a much less effective and efficient Planning and Engineering function as well as other Staff, serving you, the City Council, and the Public.

I request that in your deliberations concerning Planning Commission appointments that you consider the impact upon Staff morale and the impact this will have upon the Staff's ability to deliver to you and the public the high-quality professionalism we have come to expect.

Mayor Coody: Thank you. Do we have any questions for Mr. Dumas on this? We have one of the best staffs in the state, probably the best staff in the state and one of the best in the country. While we certainly appreciate the efforts of our volunteers on commissions we have to show at least that much respect if not more for the highly qualified employees that we have. Having a working environment to where we have to say that we will let it get so bad that you will quit before we address the problem doesn't seem acceptable. We have an opportunity to resolve an issue here that I think if we let the issue continue we will be saying to the staff that your environment isn't that important to us and I think that is the wrong message to send.

We have a motion and a second in front of us to.

Alderman Jordan: Just a minute.

Mayor Coody: We have a motion and a second. I am calling for the vote right now.

Alderman Jordan: Okay.

Alderman Allen: He can't respond?

Mayor Coody: I tell you what, go ahead Lioneld.

Alderman Jordan: What I would like to know is why that was not brought to my attention before now.

Mayor Coody: I think it was Lioneld. I think it was a couple of months ago. I think it was by some staffers.

Alderman Jordan: Yeah it sure was and they said that....

Mayor Coody: Please be polite, take a deep breath.

Alderman Jordan: You need a hug.

Mayor Coody: We could all use a hug.

Alderman Jordan: You could use a hug. Go ahead.

Mayor Coody: Is that it?

Alderman Jordan: That's it.

Mayor Coody: We have a motion and a second. The motion is to appoint Christine Myres, Matthew Cabe and Sean Trumbo to the Planning Commission. Shall the motion pass?

Upon roll call the motion to appoint Matthew Cabe, Christine Myres and Sean Trumbo failed 3-5. Alderman Ferrell, Gray and Rhoads voting yes. Alderman Lucas, Jordan, Thiel, Cook and Allen voting no.

Motion Failed

Mayor Coody: The motion fails 3-5. Since we don't have a motion to appoint those folks what would be the next step?

City Attorney Kit Williams: Somebody else needs to make another motion.

Alderman Cook moved to appoint Candy Clark, Christine Myres and Sean Trumbo. Alderman Allen seconded the motion.

Mayor Coody: We have a motion to reappoint the three incumbents. Shall the motion pass?

Upon roll call the motion passed 5-3. Alderman Lucas, Jordan, Thiel, Cook and Allen voting yes. Alderman Ferrell, Gray and Rhoads voting no.

Motion Passed Candy Clark, Christine Myres and Sean Trumbo appointed to the Planning Commission.

Mayor Coody: I do not know about the rest of the Council as a matter of fact I can not ask you to be responsible for the staff. My obligation is to the citizens of this town to provide a healthy working environment for our staff, a good natural environment for our citizens and a vibrant economy. It is very, very important that I do what I think is right and it pains me dramatically to have to say these things. This should have been a private personnel issue and I hate to embarrass anyone but we have an issue that I can not just sit back and let our staff continue on in this way without my doing everything I can to make their world acceptable to where we show them the appreciation they deserve.

The Mayor read the following statement:

As Mayor, it is my responsibility to recommend policies that protect the well-being of our residents and increase their quality of life through the preservation of our natural environment and the maintenance of Fayetteville's economic vitality. It is equally important as the senior administrator of this organization that I do everything I can to provide a healthy and productive working environment for our staff. Fayetteville is incredibly fortunate to have the most professional, hard working and dedicated staff in Arkansas and one of the best in the country. As elected officials, we must insist that city government operate in a manner that fosters respect and civility toward our residents and our staff.

I appreciate the time and effort that our volunteers put into their work as they represent our community. We have many citizens serving on various boards and commissions, and we are all grateful for their commitment to the City and their contributions to this community. However, when personality and professional conflicts escalate creating an environment of frustration and intimidation for the public and our staff, changes must be made.

It is clear to me after reviewing Planning Commission activities and consulting with my staff that such an environment exists, which is clearly contrary to the public interest and the best interest of this organization. Therefore I am required to use my authority to veto the appointment of Commissioner Clark to the Fayetteville Planning Commission.

I ask the City Council to reconsider our deep pool of excellent applicants and nominate another person for this position.

Mayor Coody Vetoed the appointment of Candy Clark.

Mayor Coody: You have the opportunity to override this veto with a six vote approval. Is there a motion to override the veto?

Alderman Allen: There is.

City Attorney Kit Williams: I think that the veto overriding would have to be at the next meeting. I think you have to file the reasons for the veto with the City Clerk.

Mayor Coody: Are you sure we can't do this tonight? I hate to drag this out another two weeks.

Alderman Thiel: We did this with the hillside ordinance in one night didn't we?

Mayor Coody: We waited for a while.

City Attorney Kit Williams: No, I don't think so. I think there was a veto message and then it was at the next meeting.

Mayor Coody: This is only the third veto that I have done in over six years. I don't do this lightly and I do not do this with any pleasure whatsoever. It would pain me even more to ignore

the wishes and the good will of our staff and their efforts. I would prefer if we could go ahead and entertain a motion and a second if it is not required that we wait until the next meeting. I don't know why we would. Let's go ahead. I would just as soon wrap this up this evening.

City Attorney Kit Williams: I haven't totally researched this. I was not aware that everything was going to happen tonight. I know in the past it has not happened this way. Maybe you can do it tonight. It might be even if you take a vote tonight that after I can research this I will tell you that you have to actually do it in writing, file it with the City Clerk and have it at the next meeting anyway. You can go forward tonight if you want to but it might be for naught. It might be that it will not be effective legally.

Mayor Coody: Okay. We have a motion was there a second to override the veto? We have a motion and a second to override my veto. Kit if you will look into this and if we do need to do it at the next meeting, I would appreciate it. Which would be next Tuesday right?

City Attorney Kit Williams: Yes.

Alderman Ferrell: What happens if the veto is not overridden, then where do we go from there?

Mayor Coody: I am asking the City Council to reconsider someone in that pool of applicants and choose someone else for that one position.

Alderman Allen: Would that be done tonight?

Mayor Coody: That is totally up to you guys.

Alderman Jordan: Can we have discussion.

Mayor Coody: Oh sure you are welcome to.

Alderman Jordan: Since my integrity as an Alderman has been questioned here tonight.

Mayor Coody: I don't believe that is true.

Alderman Jordan: I would like to make a statement. There was a staff person that told me that Ms. Clark was difficult to work with. I will not mention that staff persons name because I did not want to drag them into this tonight. I also talked to that staff person later on and they basically said they had no intention of leaving this city and that although Ms. Clark might be difficult to deal with; they would remain at their post. That's the conversation.

Mayor Coody: Thank you. Anything else? We have a motion and a second to override the veto. Shall the motion pass?

Alderman Ferrell: If we vote no then we are not going to override right?

City Attorney Kit Williams: The veto would be sustained.

Mayor Coody: The question is to override the veto or not. Yes, tries to override it and a no does not.

Alderman Allen moved to override the Mayor's veto. **Alderman Rhoads** seconded the motion. Upon roll call the motion failed 5-3. **Alderman Lucas, Jordan, Thiel, Cook and Allen** voting yes. **Alderman Ferrell, Gray and Rhoads** voting no.

It takes six affirmative votes to override a veto therefore the motion to override the veto failed.

Motion Failed.

Mayor Coody: The veto is sustained. I would ask the City Council to please reconsider the pool of candidates for that one position. I apologize to all the Planning Commission members that may be upset about this. I take my obligation seriously. If people are upset with me about this I am very sorry and I wish that things could have worked out differently. My obligation is to the citizens of the community and the staff of the city as well. So, I have had to do what I have had to do. I hope people can forgive me in the long run on this but my job is very important to me.

Alderman Ferrell: Kyle as chairman of the Nominating Committee.

Alderman Cook: I throw my hands up now quite honestly. The bad thing is the rest of the Council did not sit in on those interviews. Whoever is recommended tonight if we do that is basically going on what the comments were of the selection of people that we forwarded as a split. At this point there is really no sense in going back to the Nominating Committee. The City Council might as well make the decision at this point. I am a little frustrated about the fact that the rest of the Council was not involved with that interview process. I will say that the applicants, while they were all good, we did have a disagreement on who we thought was qualified and who was not. One commissioner a potential candidate to one person may be qualified and to another person may not be. Everybody interviews and sees people in a different way. That's where our difference of opinion came from.

Alderman Thiel: Let me understand. We always take the Nominating Committees recommendation. The members that are not on the Nominating Committee generally take the recommendation from the Nominating Committee. I guess my question would be, so you are saying you all did not agree on Shelly West and Matthew Cabe.

Mayor Coody: I think Robert can answer that.

Alderman Rhoads: I have my notes from that night of the Nominating Committee. There were two people when we took the first vote that was a 3-1 vote for the first set which was Cabe, West and Trumbo. There were two of those people that received everyone's support. All four of us supported. That is Sean Trumbo and Matthew Cabe and that is why when I made by prior motion, that is why I put Matthew Cabe ahead, because he had those four votes.

Alderman Thiel: Shelly didn't?

Alderman Rhoads: Shelly did not. So that was my rational.

Mayor Coody: Now in light of all of these latest developments which I am sure not many people were expecting is the Council interested in hearing a motion for Matthew Cabe or not? After hearing what Robert had to say?

Alderman Thiel: I think that I would probably prefer really reviewing the applications. Since the entire Council now is going to have to vote on this. It is no longer a recommendation. I think I will take it upon myself to call both these people, because it is narrowed down to two obviously, and do my own interviewing. Unless we want to have a full Council interview of these two people. That is a possibility but more time consuming than us each doing it individually.

Mayor Coody: Does that mean that all eight of you would call these two.

Alderman Thiel: That is up to everyone else. The four that have already interviewed them have already made up their minds but the ones of us that did not have the opportunity to interview them. I have the names and the list and I will go through them.

Mayor Coody: So what is your recommendation then? Are you making one right now?

Alderman Thiel: Actually we do need to vote pretty quickly. Could we vote at the next Council meeting at the beginning of the meeting?

Alderman Cook: The Planning Commission needs another commissioner.

Alderman Thiel: But we can wait until next Tuesday?

Alderman Allen: It is kind of hard to keep people in limbo.

Alderman Thiel: Are you ready to vote?

Alderman Rhoads: Nancy was there. We did not ask Nancy's opinion at the Nominating Committee and that would make five of the eight Council members that were there and heard the interviews and it would move the process along.

Alderman Thiel: Let's vote.

Alderman Rhoads: Nancy made the comment earlier, I think she said there are tree huggers, developers and whatever and I think the Nominating Committee in the past under Don Marr's chairmanship and also under Kyle's chairmanship, tepid us to keep the balance. What I saw and what I continue to see in Mr. Cabe is a moderate. That is another reason why I put him forward early in the meeting.

Mayor Coody: Any other input on this motion?

Alderman Rhoads moved to appoint Matthew Cabe to the Planning Commission. Alderman Ferrell seconded the motion.

Mayor Coody: We have a motion and a second for Matthew Cabe. Is there any other discussion?

Alderman Lucas: And not the other two?

Mayor Coody: The motion is just to appoint Matthew Cabe in that one position. I think the other two are there. Christine and Sean have been re-appointed if I understand correctly.

City Attorney Kit Williams: The Mayor in cities of the First Class like Fayetteville have line item veto so he doesn't have veto the entire motion, it can be a portion of it, as happened in the tree ordinance.

Alderman Lucas: I see.

Mayor Coody: So we can just vote on this one individual.

Alderman Lucas: I am very disappointed in what has happened tonight. I can't see dragging this out any further. It is not going to be resolved in another meeting any differently. I am just sorry that had to happen. I think I am going to make the recommendation next time, and I have already talked to Kyle, that Planning Commission members need to be interviewed separately. Apparently that is one thing that gets people to the Nominating Committee is the Planning Commission members. Maybe if we had it on a separate night we would be able to interview the people and discuss it more freely without having people sitting outside and waiting while we are trying to discuss it in a hurry. But I don't think we should drag it on any further.

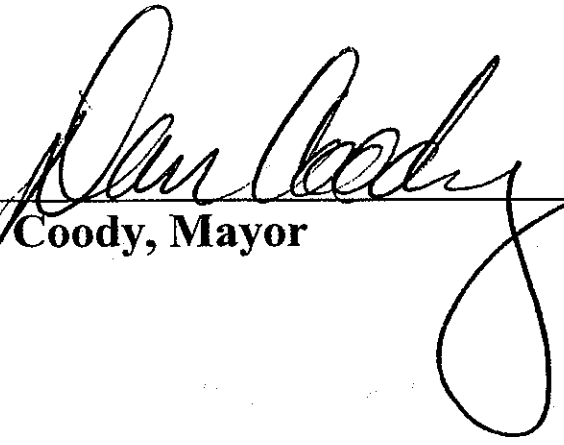
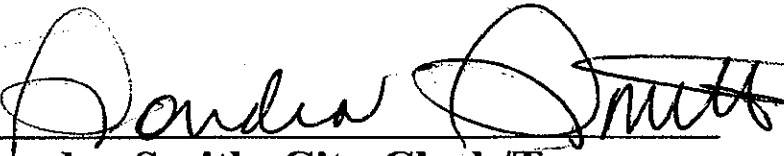
Mayor Coody: Two points, one is you are exactly right. I am very sorry that it has gone like this as well. Your suggestion to do the Planning Commission independently is a very good one because they are very important. Out of all our commissions they are very important probably the most important. I think it is a very good suggestion Shirley, thank you.

We have a motion and a second to appoint Matthew Cabe is there any other discussion on this item? Shall the motion pass?

Upon roll call the motion passed 6-1. Alderman Ferrell, Lucas, Gray, Thiel, Cook and Rhoads voting yes. Alderman Jordan voting no. Alderman Allen abstained.

Matthew Cabe Appointed to the Planning Commission.

Meeting adjourned at 6:30 PM


Dan Coody, Mayor
Sondra Smith, City Clerk/Treasurer

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

Added at the
City Council
Meeting 4-17-07

4/17/2007

City Council Meeting Date

Missy Leflar

Submitted By

Human Resources

Division

Operations

Department

Action Required:

Staff recommends approval of a resolution providing for temporary continuation of medical insurance for permanently disabled employees who otherwise would lose access to medical care while awaiting approval of Long Term Disability insurance or Social Security Disability benefits. The intent is to ensure the disabled employees access to medical care and medicine until Social Security related Medicaid or other coverage becomes possible.

\$1,639.74 - \$4,579.64 per occurrence

Cost of this request

Please refer to Memo

Category / Project Budget

Program Category / Project Name

\$

-

Account Number

Funds Used to Date

Program / Project Category Name

\$

-

Project Number

Remaining Balance

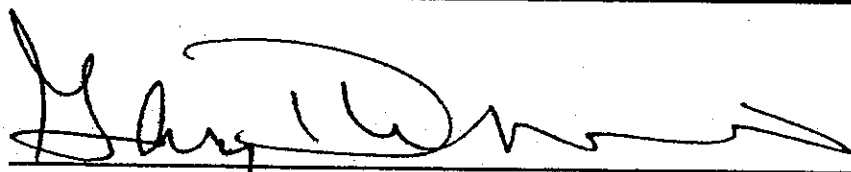
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐



Department Director

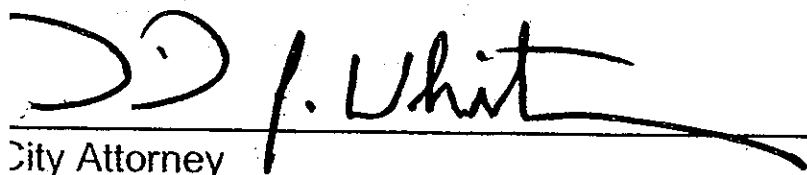
4-12-07

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

4/13/07

Date

Received in City Clerk's Office

ENTERED
4/13/07
aw

Paul A. Becker

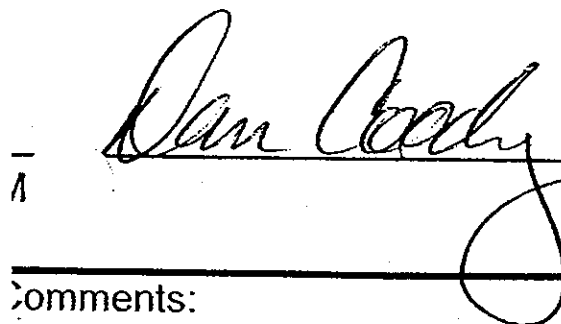
4-12-07

Date

Finance and Internal Service Director

Received in Mayor's Office

ENTERED
4/13/07
TH



4/16/07

Date

Comments:



TO: Mayor Dan Coody and the City Council
THRU: Gary Dumas, Operations Director
FROM: Missy Leflar, Human Resources Division Manager
DATE: April 12, 2007
SUBJECT: Continuation of medical insurance for permanently disabled employees

Recommendation

Staff recommends approval of a resolution providing for temporary continuation of medical insurance for permanently disabled employees who otherwise would lose access to medical care while awaiting approval of Long Term Disability insurance or Social Security Disability benefits. This is historically a rare situation but can be dire to the employee to whom it happens.

Background

Employees who become permanently disabled have historically had enough sick time/vacation time, etc. accrued in their payroll accounts to cover their portion of their medical insurance premiums while they await approval of long term disability benefits offered through the City's insurer. On rare occasions (twice to our institutional memory), a disabled employee does not have such an accrual available.

Discussion

Health insurance can mean the difference between someone having access to medical care or filling a needed prescription. A permanently disabled employee awaiting approval of disability income may have no access to the money needed to maintain his or her health insurance until the disability income materializes.

Eligibility for the continuation of medical insurance (at City expense) would be contingent upon: a) the employee having worked for the City for at least 12 continuous months prior to the onset of disability; b) the employee being unable to work for the City or in any other gainful employment; c) the employee having applied for either Long Term Disability insurance benefits or Social Security Disability benefits; d) the employee having no accruals available to pay for their medical insurance; e) the employee providing an affidavit of means that there are no household resources available to pay for the insurance; and f) a certification from the employee's primary treating physician that his/her disability is expected to prevent the employee from working for at least the following 12 consecutive months. A committee of three people (one from HR and two from Payroll) must approve the employee as having met the necessary criteria. The employee would also be responsible for maintaining contact with the designated person at the City and providing requested documentation in a timely manner, or risk forfeiting the medical insurance continuation benefit. The provision has a cap on it for the unlikely event the employee is turned down for both LTD insurance and Social Security Disability benefits, in which case the City would stop carrying the insurance once the employee had exhausted his or her administrative appeals for both. The City would at that time offer COBRA rights to the employee. This would prevent the City from inadvertently promising "free lifetime insurance" since this resolution is intended as a temporary measure to ensure the employee's access to medical care and medicine until Social Security related Medicaid or other coverage becomes possible.

Budget Impact

The cost in these rare situations would be paid by the Division to whom the employee reported. The estimated range of expense, based on 2007 traditional health plan premium amounts, would be \$1,693.74 - \$4,579.64¹ assuming a 12 month period and depending on whether the coverage was single (the former) or family (the latter).

¹ The City would normally pay its portion of the health insurance premiums for the first six months anyway. The additional expense for the first six months of single coverage would thus be for the employee's portion, which is $\$31.88 \times 6 \text{ months} = \191.28 . The additional expense for the first six months of family coverage would be $\$137.72 \times 6 \text{ months} = \826.32 . The second six months' expense would be \$1,502.46 for single ($\31.88 per month for the employee's part + $\$218.53$ per month for the employer's part) and would be \$3,753.90 for family ($\137.72 per month for the employee's part + $\$487.93$ per month for the employer's part).

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE TEMPORARY CONTINUATION OF MEDICAL INSURANCE FOR PERMANENTLY DISABLED EMPLOYEES WHO WOULD OTHERWISE LOSE ACCESS TO MEDICAL CARE WHILE AWAITING APPROVAL OF LONG TERM DISABILITY INSURANCE OR SOCIAL SECURITY DISABILITY BENEFITS.

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 temporary continuation of medical insurance for permanently disabled employees who would otherwise lose access to medical care while awaiting approval of Long-Term Disability Insurance or Social Security Disability benefits.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA E. SMITH, City Clerk/Treasurer

B.2

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

Handed out at the
City Council Meeting
4-17-07
(Animal Ordinance)



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council
Jill Hatfield, Animal Services Superintendent

FROM: **Kit Williams, City Attorney**

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

DATE: **April 17, 2007**

RE: **Animal Ordinance Definition of "Kennel" and "Hobbyist"**

The existing definition of "Kennel and/or pet shop" in §92.01 of the Fayetteville Code is basically carried forward to the newly proposed revisions of **Chapter 92: Animals**. This definition states:

"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."

Because of its first three words: "As used herein", this original definition was expressly for this chapter and not necessarily applicable to the Unified Development Code and its zoning limitations. **That was changed by the new last sentence specifically applying this definition to the zoning code.**

This change is important because a "kennel" is extremely limited in the zoning code. It is found in use unit 7 "Animal Husbandry" which is allowed only in R-A Residential Agricultural and I-2 General Industrial zones. Kennels are not allowed even as conditional uses in residential, office, commercial or even heavy commercial/light industrial zones.

B.2

Zoos (but not "kennels") are allowed by right in C-2, Thoroughfare Commercial and by conditional use in I-1. **Animal hospitals** which must often board animals are allowed by right in C-2, C-3, Downtown Core, Mainstreet Center, Heavy Commercial/Light Industrial and by conditional use in Downtown General.

Veterinary small animal outpatient clinics are allowed by right in R-O Residential Office, C-1 Neighborhood Commercial, C-2 Thoroughfare Commercial, C-3, Downtown Core, Mainstreet Center and Downtown General.

If a "Kennel" was defined as to mean a large, commercial dog breeding facility, maybe its limitation to agricultural or general industrial land would be appropriate. **Unfortunately, the existing definition of "Kennel" is so broad that a person raising a fish in an aquarium which he intends to sell through a pet store would be operating a "Kennel" and thus be restricted to industrial or agricultural zones.**

A major problem with the current definition is it combines the terms "kennel" and "pet shop" in the definition although they are very different operations and zoned very differently. "Pet shops" are appropriately allowed as of right in C-1, C-2, C-3, Downtown Core, Mainstreet Center, Downtown General and by conditional use in R-O. "Kennels" are only allowed in R-A and I-2.

If the definitions of "Kennel" and "pet shop" will now be applied to the Unified Development Code, they should be separated and clarified. An easy alternative option would be to simply strike the last sentence (which was added to the old definition and changes it to apply to the UDC). **Regardless, we need to strike the reference to "any individual" which most assuredly cannot be either a "Kennel" nor a "pet shop".** I also doubt if an "establishment" can have "the intent and purpose ..."

Let me propose the following definitions:

" *Kennel* means a structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility used for commercially boarding more than three dogs or cats or combination thereof at any time shall be considered a 'Kennel'."

B.2.

" *'Pet shop'* means a commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and/or fish to the general public."

" *'Hobbyist'* means a person whose unsterilized dogs or cats are registered with the American Kennel Club, United Kennel Club, Cat Fanciers' Association, The International Cat Association or similar group and who competes or shows their animals at least annually. A 'hobbyist' is also a person who holds a current Arkansas hunting license and uses his or her dogs to hunt at least annually. A 'hobbyist' may not allow his or her animals to produce more than one total litter annually regardless of the number of unsterilized animals owned. A second litter within a hobbyist's property within a twelve month period shall invalidate the hobbyist's permit for twelve months."

I believe these definitions make it much clearer that a "kennel" is only those truly **commercial** enterprises which should not be in residential zones, while a "hobbyist" who does not have more than one litter of puppies or kittens annually is really not "in the business" nor acting inappropriately for residential zones.

Animal Ordinance

*Handed out at the
City Council Meeting 4-17-07*

Page 1 of 1



* Note → No door on dog house

B.2.

B.2.

THE DANGERS OF CHAINING DOGS

Animal Ordinance

Passed out at City Council Meeting 4-17-07

Two dogs chained together by winding & shortening their chains



This dog has little room to move in & has worn a path in the ground, creating a hard, muddy surface



This dog had a chain imbedded in his neck, causing this large open wound, requiring stitches



This dog died as a result of being chained; he tried to jump his owner's fence & hung himself on his chain



B. 2
(Animal
Ordinance)

Healed Out at the City
Council Meeting 4-17-07

**HUMANE SOCIETY OF THE OZARKS (HSO)
LOW-COST SPAY/NEUTER ASSISTANCE PROGRAM**

- Designed to help people with "moderate incomes;" not income-based
- Pet owner obtains a voucher from the HSO Office
- Costs to pet owners: Dogs – Neuter \$45, Spay \$60; Cats – Neuter \$25, Spay \$40
- Above prices reflect savings to owners ranging from \$40 to \$70 per procedure
- Owner may choose from among a list of 8 Fayetteville vet clinics who have agreed to discount their spay/neuter fees for this program
- Fee presumes that the pet is current on its rabies vaccination
- If pet is pregnant or in heat there will be an additional charge

C.4,

Jayville E911 House No. 100

Handed out at the City Council Meeting 4-17-07

63

Petition Opposed to the Renaming and Renumbering of our Addresses

The following are opposed to the proposal as announced by the city:

April 7, 2007 Calvin & Davis Bay 13361 Forest Hills Dr.
Brett and Glenn Karch 13759 Forest Hills Dr
Shelby & Lori Gardner 14889 Timber Ridge Rd.
BRADY & Amy MEADORS 14884 Timber Ridge Rd.
Jimmy Kewen & Mark 13498 Forest Hills Dr.
Chad & Leslie Hitt 14954 Timber Ridge Rd.
Trent & Julia Mills 14953 Timber Ridge Rd.
Evel & Donna Kistling 14929 Timber Ridge Rd.
Jerry & Diane Owens 13791 Forest Hills Dr.
Dan & Andrew Charles 13229 Forest Hills Dr.
Dave & Debbie Klotzbuecher 14725 Cedar Ridge Ln
Don & Kim Horton 14892 Cedar Ridge Lane
Leslie & Kristi Hassell 14724 Walnut Ridge Lane, Fayetteville
Rene & Meg Rogers 13751 Forest Hills Dr.
Mark & Kathy Barker 14726 Cedar Ridge Ln
Larry & Helen Balding 13316 Forest Hills Dr.
Kevin & Susan Bracy 13271 Forest Hills Drive
Mike & Valerie Hamby 13272 Forest Hills Drive
Gene & Sue Ann Fulcher 13230 Forest Hills Drive
Eugene & Edith Carter 13194 Reed Rd
Chris & Andrea Hawkins 14848 Fox Meadows
Montie & Nancy Bailey 14856 Cedar Ridge Lane
Shelly & Ricky 14891 Cedar Ridge Lane, Fayetteville AR 72704
Brett Mucken 14692 Cedar Ridge Lane, Fayetteville, AR 72704
J.P. 14327 Outlook Fayetteville AR 72704
GADWIN L. CASS 13722 Forest Hills Dr Fayetteville AR 72704
ERIC ROBINSON 13545 FOREST HILLS DR. FAYETTEVILLE AR 72704
ANNE MCKRNEY 13545 FOREST HILLS DR. FAYETTEVILLE, AR 72704
Joe Miller 13721 Forest Hills Dr Fayetteville, AR 72704
Shirley Franklin 13721 Forest Hills Dr. Fayetteville, AR 72704
Mary B. Henderson 13683 Forest Hills Dr Fayetteville AR 72704
Richard T. Henderson 13683 Forest Hills Dr Fayetteville AR 72704

C. 4,

Petition Opposed to the Renaming and Renumbering of our Addresses

The following are opposed to the proposal as announced by the city:

Robert Higgs 14920 Fox Meadows Ln. Fay.
Marcy Critch 14908 Fox Meadows Ln Fayetteville AR 72704
Theresa P. Reddick 14908 Fox Meadows Ln Fayetteville
TRINA HOLMAN 14806 FOX MEADOWS LN FAYETTEVILLE AR
Michael Corey 14836 Fox Meadows LN Fay. AR 72704
Ashley Corey 14836 Fox Meadows Ln Fayetteville, AR 72704
Jill Sae Feagin 13183 Vista Terrace Dr Fayetteville AR 72704
Jackie L. Ketrume 13132 Westridge Fayetteville AR. 72704
William Se Hle 13132 Westridge Fayetteville, AR. 72704
Craig Doud 13144 Westridge Fayetteville, AR 72704
Ruth Hooper 13155 Westridge Fayetteville AR 72704
Ann: Elb Patten 13192 Westridge Dr Fayetteville AR 72704
MARIA ALTMANN 13722 FOREST HILLS DR - FAYETTEVILLE AR 72704

C.4. Fayetteville E 911 House Numbering.
Handed out at the City Council
Meeting 4-17-07

Letter Faxed from Citizen, April, 17, 2007

ATTENTION SUSAN ... Fax 479-718-7698

Re: Proposed Address Changes -

Dear Susan,

Please take this letter to the City Council Meeting this evening. I cannot get there - but I want the Council to know how I feel about these proposed changes.

I want to know why the City of Fayetteville cannot adjust their 911 system to accommodate the addresses as they are. 911 Service is working so I don't understand the issue .. IF you have problems .. fix the system .. you have programmers, IT support etc. You should have addressed those issues prior to annexing .. if the costs were too great .. then you should have left us alone .. now you expect us to pay - pay and pay more.

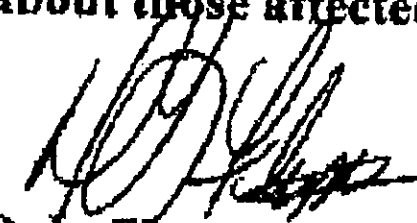
Who is going to reimburse us for stationary? Business cards? Yellow Page Advertising that is already contracted for until late 2008, and the fees that must be paid to regulatory entities (ARC Corp) for us to change an address.

Will be guaranteed to receive mail sent to the current address at the new address for a least two years .. Who is going to guarantee that?

Annexation seems to benefiting the City of Fayetteville and NO ONE ELSE.

Since the annexation, you have rezoned us .. mandated utilities that we previously had a choice of providers for ... and now .. you want to change our addresses. When is it going to stop??

You are causing undue hardship and I am sure that you have no intention of reimbursing us for our losses .. the same as you probably don't give a darn about those affected.

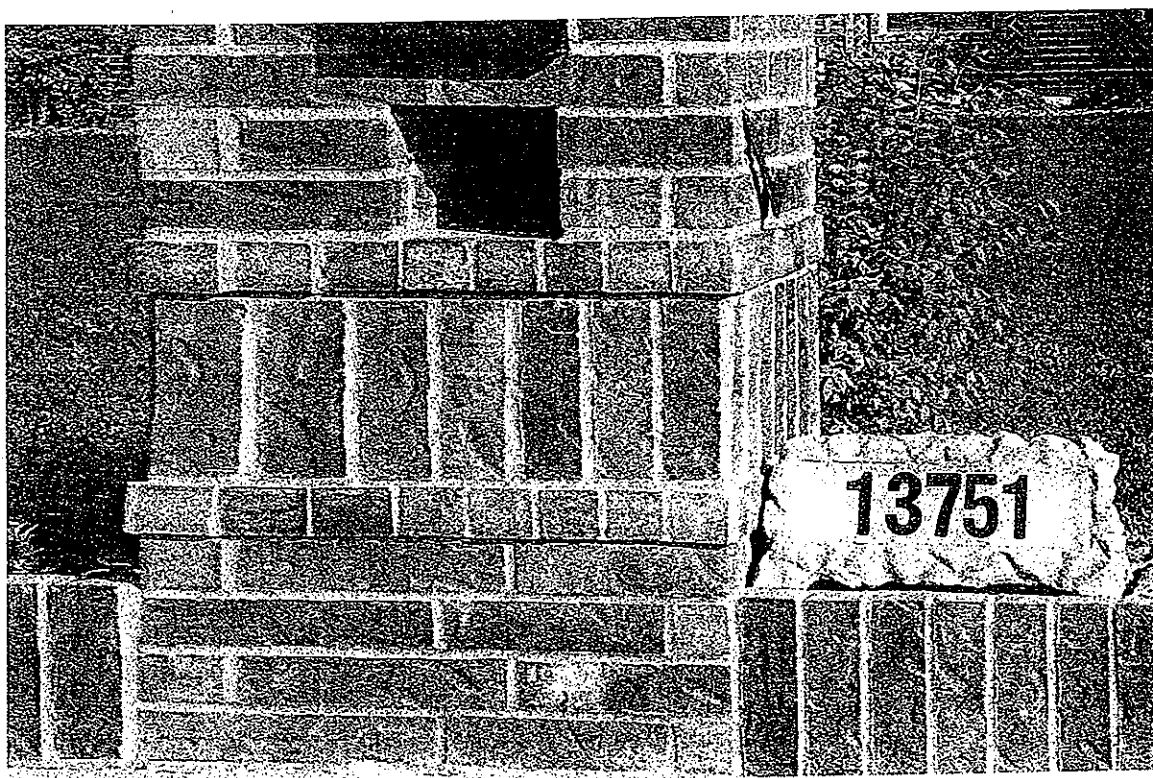
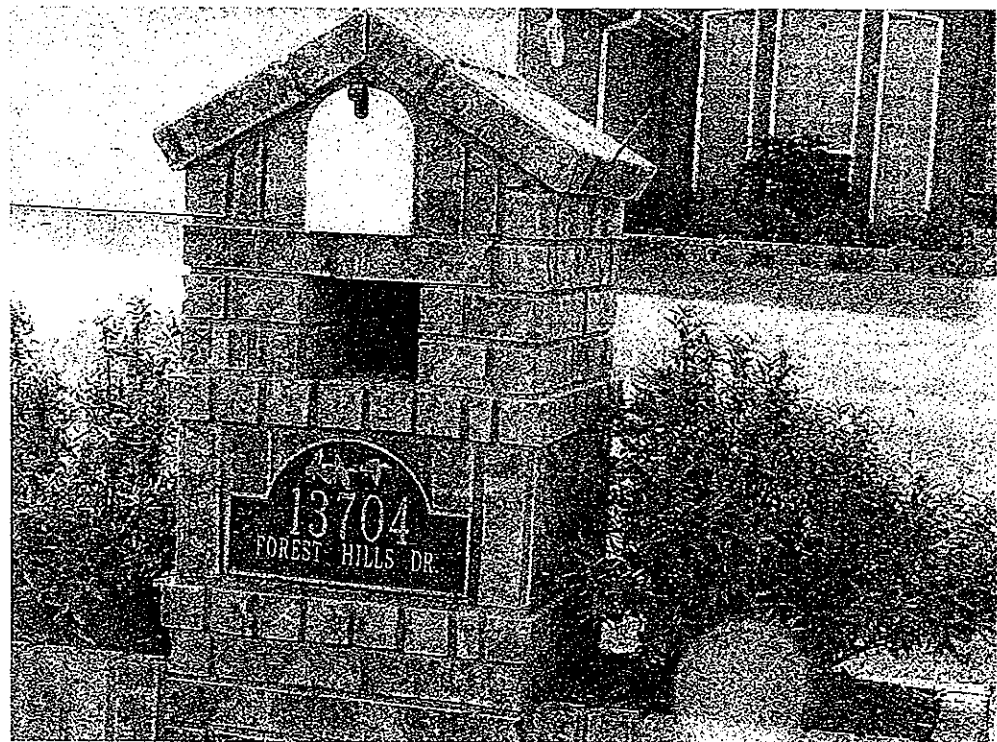
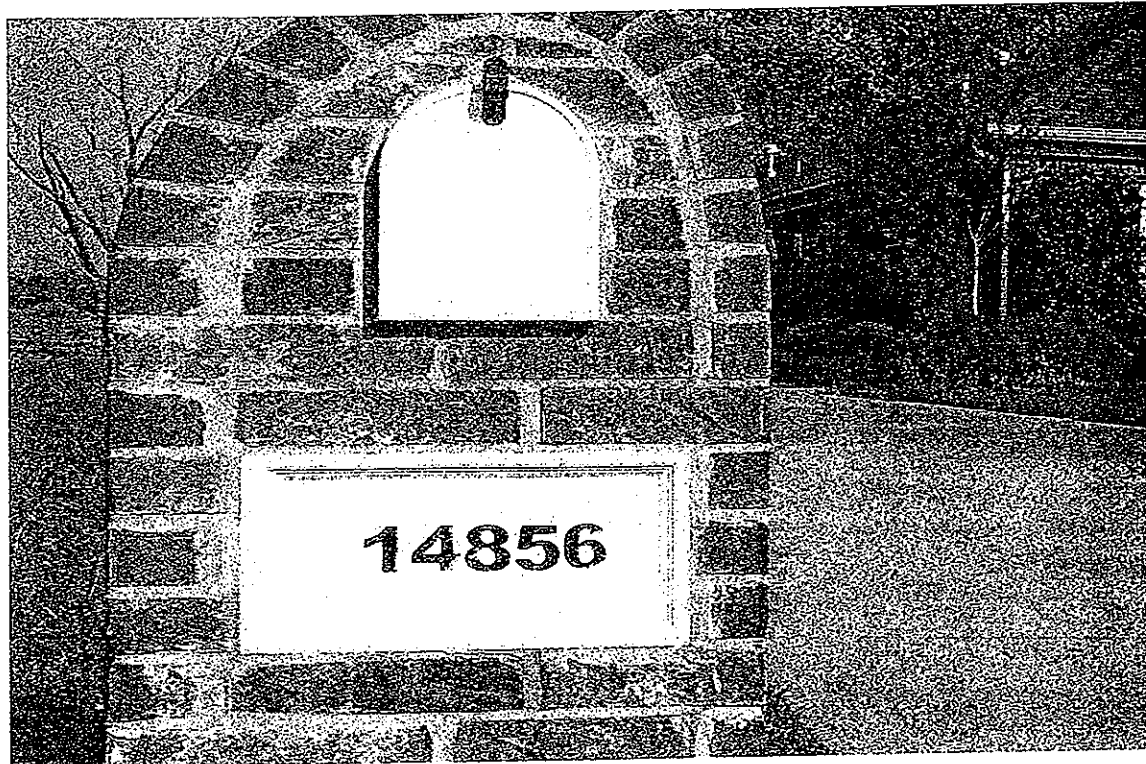

D. L. Flynn
12924 Highway 16 West
Fayetteville, AR 72704

C. 42

Fayetteville E 911

House Numbering

Handed out at the City Council Meeting 4-17-07



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
April 17, 2007**

A meeting of the Fayetteville City Council will be held on April 17, 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**

**Presentation on Ozark Regional Transit: Five to Ten Year Vision given by Phil Pumphrey
– Agenda Session Only**

A. CONSENT:

- 1. Approval of the March 20, 2007 City Council meeting minutes and the March 27, 2007 Special City Council meeting minutes.**
- 2. Ford Escape Hybrid Purchase:** A resolution approving the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.
- 3. Bid #07-26 Scott Construction Equipment:** A resolution awarding Bid #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division; and approving a budget adjustment in the amount of \$1,020.00.
- 4. Bid #07-27 Diamond International:** A resolution awarding Bid #07-27 to Diamond International for the purchase of one (1) asphalt distributor truck (chassis only) in the amount of \$59,988.54 for use by the Transportation Division.

5. **Bid #07-28 Clark Machinery Company:** A resolution awarding Bid #07-28 to Clark Machinery Company of Fort Smith for the purchase of one (1) chassis-mounted asphalt distributor in the amount of \$76,356.00 for use by the Transportation Division.
6. **Bid #07-31 Williams Tractor of Fayetteville and Hugg & Hall Equipment:** A resolution awarding a portion of Bid #07-31 to Williams Tractor of Fayetteville for the purchase of one (1) compact track loader in the amount of \$39,504.38 and to Hugg & Hall Equipment for the purchase of one (1) trailer to haul the track loader in the amount of \$6,924.61, both for use by the Water & Sewer Division; and approving a budget adjustment in the amount of \$46,429.00.
7. **Bid #07-32 United Rental of Fayetteville and Hertz Rental:** A resolution awarding a portion of Bid #07-32 to United Rental of Fayetteville for the purchase of one (1) trench roller in the amount of \$30,202.18 and to Hertz Equipment for the purchase of one (1) trailer to haul the trench roller in the amount of \$3,835.96 both for use by the Water and Sewer Division; and approving a budget adjustment in the amount of \$34,400.00.
8. **Bid #06-36 Downing Sales & Service:** A resolution awarding an additional purchase from Bid #06-36 to Downing Sales & Service for the purchase of three (3) additional recycling trucks in the amount of \$442,314.00 for use by the Solid Waste & Recycling Division.
9. **Boston Mountain Solid Waste District Recycling Grant:** A resolution authorizing the Solid Waste & Recycling Division to accept a recycling grant from the Boston Mountain Solid Waste District in the amount of \$81,605.00 to partially fund the purchase of a new baler for the recycling center.
10. **Sugar Creek Rolloff, LLC:** A resolution authorizing the mayor to execute a contract with Sugar Creek Rolloff, LLC to haul and dispose of solid waste within the city limits of Fayetteville.

B. UNFINISHED BUSINESS:

1. **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 resolution was Tabled at the March 20, 2007 City Council meeting to the April 3, 2007 City Council meeting. This resolution was Tabled at the April 3, 2007 City Council meeting to the April 17, 2007 City Council meeting.*
2. **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 ordinance was left on the First Reading at the March 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.*
3. **Amend Chapter 177, Landscape Regulations:** An ordinance amending Chapter 177, Landscape Regulations, of the Unified Development Code to require minimum eight-foot wide sidewalks when utilized in conjunction with Urban Tree Wells. *This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.*

C. NEW BUSINESS:

- 1. Fayetteville E911 House Numbering:** A resolution to change the names of several streets or roads within Fayetteville because of duplicate or confusing street names within annexed areas.
- 2. Solar Splash International Boating Competition:** An ordinance to waive various provisions of § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2007 and each June through 2011; and approving the agreement with Solar Splash International.
- 3. RZN 07-2504 (Sloan/Cobblestone):** An ordinance rezoning that property described in rezoning petition RZN 07-2504, for approximately 17.22 acres, located south of Salem Road and east of Crystal Springs Subdivision in the interior of the Cobblestone Subdivision from RSF-4, Residential Single-Family, 4 units per acre, to RSF-8, Residential Single-Family, 8 units per acre.
- 4. ANX 07-2507 (Spencer):** An ordinance annexing that property described in annexation petition ANX 07-2507, for property located at 835 South Lewis Woods Lane, west of Lake Sequoyah, containing approximately 13.22 acres.
- 5. Amend Chapter 155, Appeals:** An ordinance repealing and replacing Chapter 155, Appeals, of the Unified Development Code to amend and clarify the appeals process for decisions made under the authority of the Unified Development Code.
- 6. Roll Off Service, Inc:** A resolution denying renewal of the contract with Roll Off Service, Inc. to haul and dispose of solid waste within the city limits of Fayetteville.
- 7. The Links at Fayetteville Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2452, The Links at Fayetteville, located at the northeast corner of Wedington and Ruppel Road; containing approximately 152.23 acres; amending the official zoning map of the city of Fayetteville; and adopting the Associated Master Development Plan.

D. INFORMATIONAL:

City Council Tour: April 16, 2007

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

4/17/2007
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

That City Council approve the purchase of one Ford Escape Hybrid for use by the Police Division in the amount of \$26,066.

\$26,066.00 Cost of this request	\$ 224,000.00 Category/Project Budget	Police/Passenger Vehicles Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 146,024.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02081.1 Project Number	\$ 77,976.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature]
Department Director 3-30-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney 4/2/2007
Date

Received in City ENTERED Office
3/30/07
UH

[Signature]
FINANCE DIRECTOR 4-2-07
Date

Received in Mayor's Office ENTERED
4/2/07
[Signature]

[Signature]
Mayor 4/4/07
Date

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 27, 2007

Subject: Purchase of one Ford Escape Hybrid

RECOMMENDATION: That City Council approve the purchase of one Ford Escape Hybrid for use by Police Division for Park patrol.

BACKGROUND: At the Equipment Committee meeting held February 13, 2007, purchase of one Ford Explorer 4 X 4 as a replacement Police park patrol Explorer was approved.

Following that meeting, Chief Tabor asked that we assist his staff in evaluation of a more fuel efficient vehicle for that application. We have reached consensus that a Ford Escape hybrid all wheel drive will serve the needs of the application with approximately half the fuel consumed over the life of the vehicle. Total life cost is approximately 25% less than the Explorer.

The Ford Escape hybrid all wheel drive is available through the State vehicle purchase contract from Landers Ford of Little Rock at a cost of \$26,066.00.

I recommend purchase of one Ford Escape hybrid from Landers Ford in the amount of \$26,066.00.

Funds are budgeted and available in the 2007 CIP budget, Project 02081, Police/Passenger Vehicles.

Purchase of the Ford Escape hybrid was approved by the Equipment Committee at the meeting of March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ONE (1) FORD ESCAPE HYBRID FROM LANDERS FORD THROUGH THE STATE VEHICLE PURCHASE CONTRACT IN THE AMOUNT OF \$26,066.00 FOR USE BY THE POLICE DIVISION, PARKS PATROL.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA E. SMITH, City Clerk/Treasurer



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

A. 2
Ford Escape Hybrid Purchase
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 21, 2007

SUBJECT: Purchase of Ford Escape Hybrid SUV

At the Equipment Committee meeting held February 13, 2007, purchase of one Ford Explorer 4 X 4 as a replacement Police park patrol Explorer was approved.

Following that meeting, Chief Tabor asked that we assist his staff in evaluation of a more fuel efficient vehicle for that application. We have reached consensus that a Ford Escape hybrid all wheel drive will serve the needs of the application with approximately half the fuel consumed over the life of the vehicle. Total life cost is approximately 25% less than the Explorer.

The Ford Escape hybrid all wheel drive is available through the State vehicle purchase contract from Landers Ford of Little Rock at a cost of \$26,066.00.

I recommend purchase of one Ford Escape hybrid from Landers Ford in the amount of \$26,066.00.

Funds are budgeted and available in the 2007 CIP budget, Project 02081, Police/Passenger Vehicles.

Cc:
Gary Dumas

APPROVED
CRB
3/27/2007

HYBRID VEHICLE LIFE COST COMPARISON

ASSUMPTIONS:

1600 Miles per month, Police use
 8 Years life

\$ 3.00 Fuel cost per gallon average: (\$2.274 on 3/21/2007)
 Equal maintenance cost

VEHICLE	CITY MPG	LIFE FUEL COST	ACQUISITION COST	RESALE RESIDUAL DEPRECIATION	LIFE COST	TOTAL LIFE COST	COST / MILE	RESIDUAL RESALE ESTIMATE
Escape Hybrid AWD	29	\$ 15,889.66	\$ 26,066.00	20%	\$ 20,852.80	\$ 36,742.46	\$ 0.239	16.2% \$ 3,395
Ford Explorer 4WD	15	\$ 30,720.00	\$ 21,000.00	18%	\$ 17,220.00	\$ 47,940.00	\$ 0.312	

City Of Fayetteville

(Not a Purchase Order)

Vendor #		7582		Vendor Name:		LANDERS FORD	
Address:				Fob Point:			
City:				State:			
Requester		MARGARET HATTABAUGH		Requester's Employee #		2256	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #
1	2007 FORD ESCAPE HYBRID	1	EA	\$26,066.00	\$26,066.00	9700.1920.5802.00	02081.1
2	PER STATE VEHICLE PURCHASE		EA		\$0.00		
3	CONTRACT		EA		\$0.00		
4	UNIT #1175, F.A. #701175		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:	26,066.00
		Tax:	EXEMPT
		Total:	26,066.00

Approvals:	Department Director:	Purchasing Manager:
Mayor:	Budget Manager:	IT Manager:
Finance & Internal Services Director:	Utilities Manager:	
Dispatch Manager:		

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 3
Bid #07-26 Scott Construction Equipment
Page 1 of 8

17-Apr-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-26 to Scott Construction Equipment of Springdale in the amount of \$206,019.70 for the purchase of one single axle truck mounted excavator for use by Transportation Division, and a budget adjustment to move \$1,020 from project 02081 to project 02077.

\$206,020.00 Cost of this request	\$ 224,109.00 Category/Project Budget	Construction Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 18,664.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02077.1 Project Number	\$ 205,445.00 Remaining Balance	Shop Fund Fund Name

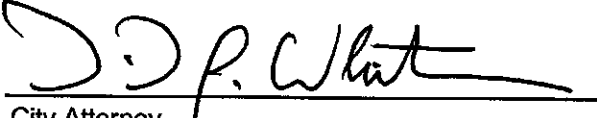
Budgeted Item ☒ Budget Adjustment Attached ☒


Department Director 3-30-07
Date

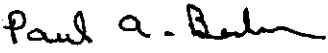
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

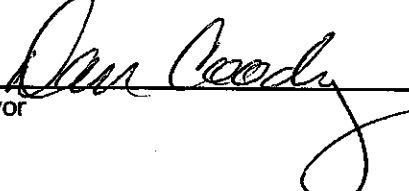
Original Contract Number: n/a


City Attorney 4/2/2007
Date

Received in City Clerk's Office
ENTERED 3/30/07


Paul A. Babin 4-2-2007
Date

Received in Mayor's Office
ENTERED 4/2/07


Mayor 4/4/07
Date

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *D.B. for D. Bragg*

Date: March 27, 2007

Subject: Purchase of one Truck mounted Excavator

RECOMMENDATION: That City Council approve the purchase of one truck mounted Excavator for Transportation Division in the amount of \$206,019.70.

BACKGROUND: Bid #07-26 was opened on March 13, 2007 for one single axle truck mounted excavator for assignment to the Transportation Division. Two bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Warrior of Arkansas (John Deere) does not meet specifications in many areas:

Specified machine is designed for road travel at speeds up to 50 mph. Top speed of John Deere is 13 mph.

Specified rotating telescopic boom designed for slope grading and ditch cleaning. John Deere boom is knuckle design without rotation designed for digging.

Numerous other basic design differences essential to specified job performance

The second lowest bid from Scott Construction Equipment of Springdale for a Gradall machine meets all specifications.

I recommend acceptance of the bid from Scott Construction Equipment in the amount of \$206,019.70.

This unit is a replacement for unit #623, a 1993 Gradall with 5,612 hours of use. This unit is several years past its scheduled replacement date and is no longer dependable for daily use.

\$205,000 is budgeted and available in the 2007 CIP budget, Project 02077, Construction Equipment. A budget adjustment is attached to transfer \$1,020.00 from Project 02081 to Project 02077.

This purchase was approved by the Equipment Committee at the meeting on March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-26 TO SCOTT CONSTRUCTION EQUIPMENT FOR THE PURCHASE OF ONE (1) SINGLE-AXLE TRUCK MOUNTED EXCAVATOR IN THE AMOUNT OF \$206,019.70 FOR USE BY THE TRANSPORTATION DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,020.00.

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 #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$1,020.00.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA E. SMITH, City Clerk/Treasurer

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

A. 3
Bid #07-26 Scott Construction Equipment
Page 4 of 8

Budget Year 2006	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 3/27/2007	Adjustment Number
--------------------------------	--	--	-------------------

Project or Item Added/Increased: Increase the Construction Equipment project #02077 by \$1,020 to provide the total amount needed to purchase a truck mounted Excavator as a replacement for unit #623.	Project or Item Deleted/Reduced: Decrease Project #02081 by \$1,020.
--	---

Justification of this Increase: This replacement was budgeted for replacement in 2007, but the estimated purchase price was underestimated at \$1,020 under actual bid price.	Justification of this Decrease: Purchase price for the replacement of unit #1047 was overestimated by \$1,934. There are sufficient funds available in project #02081 to meet City Policy and 2006 objectives.
--	---

Increase Expense Budget (Decrease Revenue Budget)							
Account Name		Account Number				Amount	Project Number
Vehicles and equipment		9700	1920	5802	00	1,020	02077 1

Decrease Expense Budget (Increase Revenue Budget)							
Account Name		Account Number				Amount	Project Number
Vehicles and equipment		9700	1920	5802	00	1,020	02081 1

Approval Signatures <i>Barbara Olsen</i> Requested By Budget Manager <i>Paul A. Baker</i> Department Director Finance & Internal Services Director Mayor 3-30-07 Date 3-30-07 Date 3-30-07 Date 3-30-07 Date Date	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Initial Date Posted to Project Accounting Initial Date Entered in Category Log Initial Date
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FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 3
Bid #07-26 Scott Construction Equipment
Page 5 of 8

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 22, 2007

SUBJECT: Award of Bid 07-26

Bid #07-26 was opened on March 13, 2007 for one single axle truck mounted excavator for assignment to the Transportation Division. Two bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Warrior of Arkansas (John Deere) does not meet specifications in many areas:

Specified machine is designed for road travel at speeds up to 50 mph. Top speed of John Deere is 13 mph.

Specified rotating telescopic boom designed for slope grading and ditch cleaning. John Deere boom is knuckle design without rotation designed for digging.

Numerous other basic design differences essential to specified job performance

The second lowest bid from Scott Construction Equipment of Springdale for a Gradall machine meets all specifications.

I recommend acceptance of the bid from Scott Construction Equipment in the amount of \$206,019.70.

This unit is a replacement for unit #623, a 1993 Gradall with 5,612 hours of use. This unit is several years past its scheduled replacement date and is no longer dependable for daily use.

\$205,000 is budgeted and available in the 2007 CIP budget, Project 02077, Construction Equipment. A budget adjustment will be requested to transfer \$1,020.00 from Project 02081 to Project 02077.

Cc:
Gary Dumas

APPROVED

[Signature]

3/27/2007

BIDDER	Manufacturer	Model	Total Base Bid
3 Scott Construction Equipment	Gradall	XL 3100	\$206,019.70
4 Warrior of Arkansas, Inc.	John Deere	180 C W Wheeled Excavator	\$166,041.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: *P. Vice* P. VICE PURCH MGR *Alvin [Signature]* WITNESS 3-13-07 DATE

City Of Fayetteville

(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date: 3/30/2007
Vendor # 3482										P.O Number	Expected Delivery Date:
Vendor Name: SCOTT CONSTRUCTION EQUIPMENT										Mail Yes: No: XX	
Address:										Taxable Yes: XX No:	
City:										Zip Code	Ship to code: 050
State:										Requester's Employee # 2256	Division Head Approval: 130
Requester MARGARET HATTABAUGH										Extension: 495	Quotes Attached Yes: No:
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	XL3100 SINGLE AXLE TRUCK	1	EA	\$206,019.70	\$206,019.70	9700.1920.5802.00	02077.1				
2	MOUNTED EXCAVATOR PER BID		EA		\$0.00						
3	#07-26. UNIT TO BE #813,		EA		\$0.00						
4	FIXED ASSET #700813		EA		\$0.00						
5			EA		\$0.00						
6			EA		\$0.00						
7			EA		\$0.00						
8			EA		\$0.00						
9			EA		\$0.00						
10			EA		\$0.00						
	Shipping/Handling		Lot		\$0.00						
Special Instructions:										Subtotal: 206,019.70	
Approvals:										Tax: EXEMPT	
Mayor:										Total: 206,019.70	
Finance & Internal Services Director:										Purchasing Manager:	
Dispatch Manager:										IT Manager:	
Department Director:											
Budget Manager:											
Utilities Manager:											

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

17-Apr-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-27 to Diamond International of Lowell in the amount of \$59,988.54 for the purchase of one asphalt distributor truck Chassis only for use by Transportation Division.

\$59,989.00 Cost of this request	\$ 813,432.00 Category/Project Budget	Other Vehicles and Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 215,628.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02080.1 Project Number	\$ 597,804.00 Remaining Balance	Shop Fund Fund Name

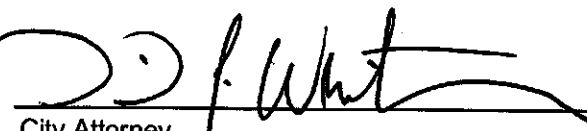
Budgeted Item ☒ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a


Department Director 3-30-07
Date

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney 4/2/2007
Date

Received in City Clerk's Office
ENTERED 3/30/07


FINANCE DIRECTOR 4-2-07

Mayor 4/4/07
Date

Received in Mayor's Office
ENTERED 4/2/07

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 27, 2007

Subject: Purchase of one Asphalt Distributor Truck Chassis

RECOMMENDATION: That City Council approve the purchase of one Asphalt Distributor truck chassis for Transportation Division in the amount of \$59,988.54.

BACKGROUND: Bid #07-27 was opened on March 13, 2007 for one asphalt distributor truck chassis for assignment to the Transportation Division. One bid response was received. A detailed tabulation sheet is attached. This cab and chassis will be direct shipped to asphalt distributor factory for mounting of asphalt distributor recommended for purchase from Bid #07-28. The vendor of that unit will deliver the completed unit to Fayetteville.

The lowest bid from Diamond International of Lowell meets all specifications.

I recommend acceptance of the bid from Diamond International in the amount of \$59,988.54.

This unit is a replacement for unit #87, a 1999 Roscoe distributor mounted on a Sterling chassis. The Roscoe distributor has required many repairs over the past two years and has not been dependable when needed. This asphalt distributor is required to spray tack oil before any asphalt is laid.

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles and Equipment.

This purchase was approved by the Equipment Committee at the meeting on March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-27 TO DIAMOND INTERNATIONAL FOR THE PURCHASE OF ONE (1) ASPHALT DISTRIBUTOR TRUCK (CHASSIS ONLY) IN THE AMOUNT OF \$59,988.54 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 #07-27 to Diamond International for the purchase of one (1) Asphalt Distributor Truck (chassis only) in the amount of \$59,988.54 for use by the Transportation Division.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA E. SMITH, City Clerk/Treasurer



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

A. 4
Bid #07-27 Diamond International
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 21, 2007

SUBJECT: Award of Bid 07-27

Bid #07-27 was opened on March 13, 2007 for one asphalt distributor truck for assignment to the Transportation Division. One bid response was received. A detailed tabulation sheet is attached. This cab and chassis will be direct shipped to asphalt distributor factory for mounting of asphalt distributor recommended for purchase from Bid #07-28. The vendor of that unit will deliver the completed unit to Fayetteville.

The lowest bid from Diamond International of Lowell meets all specifications.

I recommend acceptance of the bid from Diamond International in the amount of \$59,988.54.

This unit is a replacement for unit #87, a 1999 Roscoe distributor mounted on a Sterling chassis. The Roscoe distributor has required many repairs over the past two years and has not been dependable when needed. This asphalt distributor is required to spray tack oil before any asphalt is laid.

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles and Equipment.

Cc:
Gary Dumas

APPROVED

2RB

3/27/07

BID: 07-27
3/13/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-27, Asphalt Distributor Truck

BIDDER	Manufacturer	Model	Total Base Bid
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1	Diamond International Trucks Inc.	International 7400 SBA	\$59,988.54
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*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice P. VICE PURCH MGR W. Stiles WITNESS 3-13-07 DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor #		14039		Vendor Name: DIAMOND INTERNATIONAL		Requisition No.		Date: 3/30/2007	
Address:		Fob Point:		Mail Yes: No: XX		P.O Number		Expected Delivery Date:	
City:		State:		Zip Code		Ship to code: 050		Quotes Attached Yes: No:	
Requester MARGARET HATTABAUGH		Requester's Employee # 2256		Account Numbers		Extension: 495			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Inventory #	Fixed Asset #		
1	7400SBA INTERNATIONAL TRUCK	1	EA	\$59,988.54	\$59,988.54	02080.1			
2	CHASSIS FOR ASPHALT		EA		\$0.00				
3	DISTRIBUTOR PER BID #07-27		EA		\$0.00				
4	TO BE UNIT #9093, FIXED ASSET		EA		\$0.00				
5	#709093		EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
Shipping/Handling			Lot		\$0.00				

Special Instructions:

Subtotal: 59,988.54

Tax: EXEMPT

Total: 59,988.54

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

17-Apr-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-28 to Clark Machinery Company of Fort Smith in the amount of \$71,957.50 plus tax for the purchase of one chassis mounted asphalt distributor for use by Transportation Division.

\$76,356.00 Cost of this request	\$ 813,432.00 Category/Project Budget	Other Vehicles and Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 215,628.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02080.1 Project Number	\$ 597,804.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

Mary D. 3-30-07
Department Director Date

Original Contract Date: n/a

Original Contract Number: n/a

D. P. Whit 4/2/2007
City Attorney Date

Received in City Clerk's Office
ENTERED 3/30/07

Paul A. Beck 4-2-07
Finance Director Date

Received in Mayor's Office
ENTERED 4/2/07

Don Cordy 4/4/07
Mayor Date

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 27, 2007

Subject: Purchase of one Asphalt Distributor

RECOMMENDATION: That City Council approve the purchase of one Asphalt Distributor for Transportation Division in the amount of \$71,957.50.

BACKGROUND: Bid #07-28 was opened on March 13, 2007 for one chassis mounted asphalt distributor for assignment to the Transportation Division. One bid response was received. A detailed tabulation sheet is attached. This distributor will be factory mounted on a new chassis recommended for purchase from Bid #07-27.

The lowest bid from Clark Machinery Company of Fort Smith meets all specifications.

I recommend acceptance of the bid from Clark Machinery in the amount of \$71,957.50.

This unit is a replacement for unit #87, a 1999 Roscoe distributor mounted on a Sterling chassis. The Roscoe distributor has required many repairs over the past two years and has not been dependable when needed. This asphalt distributor is required to spray tack oil before any asphalt is laid.

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles.

This purchase was approved by the Equipment Committee at the meeting on March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-28 TO CLARK MACHINERY COMPANY OF FORT SMITH FOR THE PURCHASE OF ONE (1) CHASSIS-MOUNTED ASPHALT DISTRIBUTOR IN THE AMOUNT OF \$76,356.00 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 #07-28 to Clark Machinery Company of Fort Smith for the purchase of one (1) chassis-mounted asphalt distributor in the amount of \$76,356.00 for use by the Transportation Division.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA E. SMITH, City Clerk/Treasurer



FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 5
Bid #07-28 Clark Machinery Company
Page 4 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 22, 2007

SUBJECT: Award of Bid 07-28

Bid #07-28 was opened on March 13, 2007 for one chassis mounted asphalt distributor for assignment to the Transportation Division. One bid response was received. A detailed tabulation sheet is attached. This distributor will be factory mounted on a new chassis recommended for purchase from Bid #07-27.

The lowest bid from Clark Machinery Company of Fort Smith meets all specifications.

I recommend acceptance of the bid from Clark Machinery in the amount of \$71,957.50.

This unit is a replacement for unit #87, a 1999 Roscoe distributor mounted on a Sterling chassis. The Roscoe distributor has required many repairs over the past two years and has not been dependable when needed. This asphalt distributor is required to spray tack oil before any asphalt is laid.

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles

Cc:
Gary Dumas

APPROVED

2007

3/27/2007

BID 07-28, CLASSIS MOUNTED ASPHALT DISTRIBUTOR

BIDDER	Manufacturer	Model	Total Base Bid
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1	Clark Machinery Company	Etnyre	S2000 Centennial	\$71,957.50
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*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice P. VICE PURCH MGR
Allison WITNESS
3-13-07 DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor #		Vendor Name: CLARK MACHINERY COMPANY		Requisition No.		Date: 3/30/2007	
Address:		Fob Point:		P.O Number		Expected Delivery Date:	
City:		State:		Mail Yes: No: XX_			
Requester MARGARET HATTABAUGH		Ship to code: 050		Taxable Yes: XX No:		Quotes Attached Yes: No:	
Description		Requester's Employee # 2256		Division Head Approval 50		Extension: 495	
Item	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory # Fixed Asset #
1	1	EA	\$71,957.50	\$71,957.50	9700.1920.5802.00	02080.1	
2		EA		\$0.00			
3		EA		\$0.00			
4		EA		\$0.00			
5		EA		\$0.00			
6		EA		\$0.00			
7		EA		\$0.00			
8		EA		\$0.00			
9		EA		\$0.00			
10		EA		\$0.00			
Shipping/Handling				\$0.00			
Special Instructions:				Subtotal: 71,957.50			
This distributor will be mounted on chassis from Diamond Int., both will make up unit #9093				Tax: 4,398.73			
Approvals:				Total: 76,356.23			
Mayor: _____				Purchasing Manager: _____			
Finance & Internal Services Director: _____				IT Manager: _____			
Dispatch Manager: _____				Utilities Manager: _____			

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

A. 6
Bid #07-31 Williams Tractor of Fayetteville
and Hugg & Hall Equipment
Page 1 of 8

17-Apr-07
City Council Meeting Date

<u>David Bragg</u> Submitted By	<u>Fleet Operations</u> Division	<u>Operations</u> Department
------------------------------------	-------------------------------------	---------------------------------

Action Required:

A resolution awarding bid #07-31 to Williams Tractor of Fayetteville in the amount of \$39,504.38 for the purchase of one compact track loader and to Hugg & Hall Equipment in the amount of \$6,456 (plus tax) for the purchase of a trailer to haul the track loader, and a budget adjustment to move funds to Fleet expense account. Both items are for use by Water & Sewer Division.

\$46,429.00 Cost of this request	\$ 57,000.00 Category/Project Budget	Backhoe/Loaders Replcmnt/Expn Program Category / Project Name
9700.1920.5802.00 Account Number	\$ - Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02076.1 Project Number	\$ 57,000.00 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

[Signature]
Department Director 3-30-07
Date

[Signature]
City Attorney 4/2/2007
Date

[Signature]
Finance Director 4-2-07
Date

[Signature]
Mayor 4/4/07
Date

Received in City Clerk's Office
ENTERED
3/30/07

Received in Mayor's Office
ENTERED
4/2/07

Comments:



Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent
Date: March 27, 2007
Subject: Purchase of one Compact Track Loader and Trailer

RECOMMENDATION: That City Council approve the purchase of one compact track loader and trailer for use by Water & Sewer Division

BACKGROUND: Bid #07-31 was opened on March 16, 2007 for one compact track loader and trailer for assignment to the Water and Sewer Division. Four bid responses were received. A detailed tabulation sheet is attached.

ITEM 1 – TRACK LOADER:

The lowest bid from Scott Construction Equipment does not meet specifications in several areas:

Specified 60 HP	Bid 56 HP
Specified track width 15.5"	Bid 12.6"
Specified tipping load 5,400#	Bid 5,000#
Specified travel speed 0-7 mph	Bid 6.3 mph
Specified dump height 91"	Bid 89.4"

The second lowest bid from Warrior of Arkansas does not meet specifications as follows:

Specified track width 15.5"	Bid 12.6"
Specified fuel tank 25 gal.	Bid 18 gal.

The third lowest bid from Williams Tractor of Fayetteville meets all specifications.

I recommend acceptance of the loader bid from Williams Tractor in the amount of \$39,504.38.

ITEM 2 – TRAILER:

The lowest bid from Warrior of Arkansas does not meet specifications in the following areas:

Specified max loading angle 12 degrees	Bid 12-15
Specified bolt on drop leg jack	Bid welded on (repairability issue)
Specified I-beam main frame	Bid angle iron

The second lowest bid from Hugg & Hall Equipment of Springdale meets all specifications.

I recommend acceptance of the trailer bid from Hugg & Hall Equipment in the amount of \$6,456.00 plus tax.

These units are expansion equipment approved in the 2007 budget. Funds are budgeted and available in Water and Sewer accounts 5400.5610 and 5400.4000.5210.00. A budget adjustment will be requested to transfer the necessary funds to Fleet 2007 CIP budget, Project 02077, Backhoes/Loaders.

This purchase was approved by the Equipment Committee at the meeting on March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING A PORTION OF BID #07-31 TO WILLIAMS TRACTOR OF FAYETTEVILLE FOR THE PURCHASE OF ONE (1) COMPACT TRACK LOADER IN THE AMOUNT OF \$39,504.38 AND TO HUGG & HALL EQUIPMENT FOR THE PURCHASE OF ONE (1) TRAILER TO HAUL THE TRACK LOADER IN THE AMOUNT OF \$6,924.61, BOTH FOR USE BY THE WATER & SEWER DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$46,429.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a portion of Bid #07-31 to Williams Tractor of Fayetteville for the purchase of one (1) Compact Track Loader in the amount of \$39,504.38 for use by the Water & Sewer Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby awards a portion of Bid #07-31 to Hugg & Hall Equipment for the purchase of one (1) trailer to haul the Track Loader in the amount of \$6,924.61 for use by the Water & Sewer Division.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$46,429.00.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

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

A. 6
Bid #07-31 Williams Tractor of Fayetteville
and Hugg & Hall Equipment
Page 4 of 8

Budget Year 2006	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 3/27/2007	Adjustment Number
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Project or Item Added/Increased:
Increase the Backhoe/Loader Equipment project #02076 by \$46,429 to provide the total amount needed to purchase a compact track loader with trailer as an expansion for Water & Sewer Division. Fleet is recognizing revenue due to a transfer from Water & Sewer.

Project or Item Deleted/Reduced:
Funds are budgeted and available in Water & Sewer accounts 5400.5610.5801.00 and 5400.4000.5210.00.

Justification of this Increase:
This expansion was approved in the budget process. Funds were not put into Fleet's expense account, but were put into Water & Sewer Fixed Asset account.

Justification of this Decrease:
There are sufficient funds available in Minor Equipment for this purchase and to purchase other minor equipment as needed throughout the year and to meet City policy and objectives.

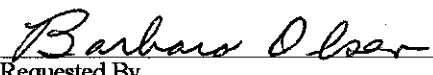
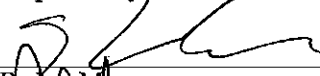
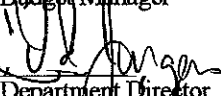
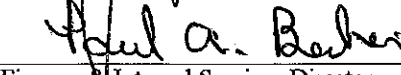
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	46,429	02076	1
Transfer to Shop	5400	5610	7602	70	8,429	07011	1
Transfer to Shop	5400	5610	7602	70	38,000	07011	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	5400	5610	5801	00	38,000	07011	1
Minor equipment	5400	4000	5210	00	8,429		
Trans from Water & Sewer	9700	0970	6602	40	46,429	02076	1

Approval Signatures

	3-30-07	Requested By	Date
	3-30-07	Budget Manager	Date
	3-30-07	Department Director	Date
	3-30-07	Finance & Internal Services Director	Date
Mayor			Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger	Initial	Date
Posted to Project Accounting	Initial	Date
Entered in Category Log	Initial	Date



FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 6
Bid #07-31 Williams Tractor of Fayetteville
and Hugg & Hall Equipment
Page 5 of 8

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 21, 2007

SUBJECT: Award of Bid 07-31

Bid #07-31 was opened on March 16, 2007 for one compact track loader and trailer for assignment to the Water and Sewer Division. Four bid responses were received. A detailed tabulation sheet is attached.

ITEM 1 – TRACK LOADER:

The lowest bid from Scott Construction Equipment does not meet specifications in several areas:

Specified 60 HP	Bid 56 HP
Specified track width 15.5"	Bid 12.6"
Specified tipping load 5,400#	Bid 5,000#
Specified travel speed 0-7 mph	Bid 6.3 mph
Specified dump height 91"	Bid 89.4"

The second lowest bid from Warrior of Arkansas does not meet specifications in the following areas:

Specified track width 15.5"	Bid 12.6"
Specified fuel tank 25 gal.	Bid 18 gal.

The third lowest bid from Williams Tractor of Fayetteville meets all specifications.

I recommend acceptance of the loader bid from Williams Tractor in the amount of \$39,504.38.

ITEM 2 – TRAILER:

The lowest bid from Warrior of Arkansas does not meet specifications in the following areas:

Specified max loading angle 12 degrees	Bid 12-15
Specified bolt on drop leg jack	Bid welded on (repairability issue)
Specified I-beam main frame	Bid angle iron

The second lowest bid from Hugg & Hall Equipment of Springdale meets all specifications.

I recommend acceptance of the trailer bid from Hugg & Hall Equipment in the amount of \$6,456.00 plus tax.

These units are expansion equipment approved in the 2007 budget.

Funds are budgeted and available in Water and Sewer accounts 5610-5400 and 5400-4000-5210-00.

A budget adjustment will be requested to transfer the necessary funds to Fleet 2007 CIP budget, Project 02077, Construction Equipment.

Cc:
Gary Dumas

APPROVED
2007
3/27/2007

BID: 07-31

3/16/2007

2:00 PM

CITY OF FAYETTEVILLE



Bid 07-31, Compact Track Loader & Trailer

BIDDER	Manufacturer	Model	Total Base Bid
1 Hugg & Hall Equipment			
	Loader	no bid	no bid
	Trailer	T-12T	\$6,456.00
	Total		\$6,456.00
2 Scott Construction Equip			
	Loader	420CT	\$37,000.00
	Trailer	TB14-2SHP Tilt Bed	\$6,500.00
	Total		\$43,500.00
3 Warrior of Arkansas			
	Loader	CT 322	\$38,288.00
	Trailer	3400 EHWA	\$6,418.00
	Total		\$44,706.00
4 Williams Tractor Inc			
	Loader	T190	\$39,504.38
	Trailer	T-12T	\$6,769.00
	Total		\$46,273.38

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

P Vice

CERTIFIED:

P. VICE PURCH MGR

[Signature]

WITNESS

3/16/07

DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor #		11133		Vendor Name: WILLIAMS TRACTOR		Requisition No.		Date: 3/30/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:		State:		Ship to code: 050		Division Head Approval Yes: <u>XX</u> No: <u>XX</u>		Quotes Attached Yes: No:	
Requester MARGARET HATTABAUGH		Requester's Employee # 2256		Account Numbers		Extension: 495		Inventory #	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Project/Subproject #	Fixed Asset #		
1	2007 COMPACT TRACK LOADER	1	EA	\$39,504.38	\$39,504.38	9700.1920.5802.00	02076.1		
2	BOBCAT T-190 PER BID SPECS		EA		\$0.00				
3	#07-31, TO BE UNIT #684		EA		\$0.00				
4	FIXED ASSET #700684		EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:						Subtotal: 39,504.38			
						Tax: Exempt			
						Total: 39,504.38			
Approvals:									
Mayor: _____ Department Director: _____ Finance & Internal Services Director: _____ Budget Manager: _____ Dispatch Manager: _____ Utilities Manager: _____ Purchasing Manager: _____ IT Manager: _____									

City Of Fayetteville

(Not a Purchase Order)

Vendor #		4384		Vendor Name:		HUGG & HALL EQUIPMENT		Requisition No.		Date:	
Address:				Fob Point:				P.O Number		Expected Delivery Date:	
City:				State:				Mail Yes: No: XX			
Requester		MARGARET HATTABAUGH		Ship to code:		050		Division Head Approval		Quotes Attached	
Item Description		Quantity		Unit of Issue		Unit Cost		Extended Cost		Account Numbers	
1 2007 TOW MASTER TRAILER,		1		EA		\$6,456.00		\$6,456.00		9700.1920.5802.00	
2 MODEL T-12T, PER BID #07-31				EA				\$0.00			
3 UNIT TO BE #9094				EA				\$0.00			
4 FIXED ASSET #709094				EA				\$0.00			
5				EA				\$0.00			
6				EA				\$0.00			
7				EA				\$0.00			
8				EA				\$0.00			
9				EA				\$0.00			
10				EA				\$0.00			
Shipping/Handling				Lot				\$0.00			
Special Instructions:										Subtotal: 6,456.00	
										Tax: 468.61	
										Total: 6,924.61	
Approvals:											
Mayor: _____											
Finance & Internal Services Director: _____											
Dispatch Manager: _____											
Department Director: _____											
Budget Manager: _____											
Utilities Manager: _____											
Purchasing Manager: _____											
IT Manager: _____											

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 7
Bid #07-32 United Rental of
Fayetteville and Hertz Rental
Page 1 of 8

17-Apr-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-32 to United Rental of Fayetteville in the amount of \$30,202.18 for the purchase of one trench roller and to Hertz Equipment in the amount of \$3,835.96 (plus tax) for the purchase of a trailer to haul the trench roller, and a budget adjustment to move funds to Fleet expense account. Both items are for use by Water & Sewer Division.

\$34,400.00 Cost of this request	\$ 224,109.00 Category/Project Budget	Construction Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 18,664.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02077.1 Project Number	\$ 205,445.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☒

Previous Ordinance or Resolution # n/a


Department Director 3/30/07
Date

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney 4/2/2007
Date

Received in City Clerk's Office
ENTERED
3/30/07


Finance Director 4-2-07
Date


Mayor 4/4/07
Date

Received in Mayor's Office
ENTERED
4/2/07

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 27, 2007

Subject: Purchase of one Trench Roller and Trailer

RECOMMENDATION: That City Council approve the purchase of one trench roller and trailer for use by Water & Sewer Division

BACKGROUND: Bid #07-32 was opened on March 16, 2007 for one trench roller and trailer for assignment to the Water and Sewer Division. Five bid responses were received. A detailed tabulation sheet is attached.

ITEM 1 - ROLLER:

The lowest bid from United Rentals was withdrawn by the bidder because a specified extra set of drums was omitted from the pricing.

The lowest remaining bid from Scott Construction Equipment of Springdale meets all specifications.

I recommend acceptance of the roller bid from Scott Construction Equipment in the amount of \$30,202.18 plus tax.

ITEM 2 - TRAILER:

The lowest bid from Hertz Equipment of Springdale meets all specifications.

I recommend acceptance of the trailer bid from Hertz Equipment in the amount of \$3,835.96 plus tax.

These units are expansion equipment approved in the 2007 budget. Funds are budgeted and available in Water and Sewer accounts 5610-5400 and 5400-4000-5210-00. A budget adjustment will be requested to transfer the necessary funds to Fleet 2007 CIP budget, Project 02077, Construction Equipment.

This purchase was approved by the Equipment Committee at the meeting on March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING A PORTION OF BID #07-32 TO UNITED RENTAL OF FAYETTEVILLE FOR THE PURCHASE OF ONE (1) TRENCH ROLLER IN THE AMOUNT OF \$30,202.18 AND TO HERTZ EQUIPMENT FOR THE PURCHASE OF ONE (1) TRAILER TO HAUL THE TRENCH ROLLER IN THE AMOUNT OF \$3,835.96, BOTH FOR USE BY THE TRANSPORTATION DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$34,400.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards a portion of Bid #07-32 to United Rental of Fayetteville for the purchase of one (1) Trench Roller in the amount of \$30,202.18 for use by the Transportation Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby awards a portion of Bid #07-32 to Hertz Equipment for the purchase of one (1) trailer to haul the Trench Roller in the amount of \$3,835.96 for use by the Transportation Division.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$34,400.00.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

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

A. 7
Bid #07-32 United Rental of
Fayetteville and Hertz Rental
Page 4 of 8

Budget Year 2006	Department: Operations Division: Fleet Operations Program: Capital Expenditures	Date Requested 3/27/2007	Adjustment Number
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Project or Item Added/Increased: Increase the Construction Equipment project #02077 by \$34,400 to provide the total amount needed to purchase a trench roller with trailer as an expansion for Water & Sewer Division. Fleet is recognizing revenue due to a transfer from Water & Sewer.	Project or Item Deleted/Reduced: Funds are budgeted and available in Water & Sewer accounts 5400.5610.5801.00.
--	--

Justification of this Increase: This expansion was approved in the budget process. Funds were not put into Fleet's expense account, but were put into Water & Sewer Fixed Asset account.	Justification of this Decrease: There are sufficient funds available for this purchase and to meet City policy and objectives.
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Increase Expense Budget (Decrease Revenue Budget)							
Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	34,400	02077	1
Transfer to Shop	5400	5610	7602	70	34,400	07011	1

Decrease Expense Budget (Increase Revenue Budget)							
Account Name	Account Number				Amount	Project Number	
Fixed assets	5400	5610	5801	00	34,400	07011	1
Trans from Water & Sewer	9700	0970	6602	40	34,400	02077	1

Approval Signatures		Budget Office Use Only	
<i>Barbara Olsen</i> Requested By	3-30-07 Date	Type:	A B C <u>D</u> E
 Budget Manager	3-30-07 Date	Posted to General Ledger	Initial Date
 Department Director	3-30-07 Date	Posted to Project Accounting	Initial Date
 Finance & Internal Services Director	3-30-07 Date	Entered in Category Log	Initial Date
Mayor	Date		



FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 7
Bid #07-32 United Rental of
Fayetteville and Hertz Rental
Page 5 of 8

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 21, 2007

SUBJECT: Award of Bid 07-32

Bid #07-32 was opened on March 16, 2007 for one trench roller and trailer for assignment to the Water and Sewer Division. Five bid responses were received. A detailed tabulation sheet is attached.

ITEM 1 - ROLLER:

The lowest bid from United Rentals was withdrawn by the bidder because a specified extra set of drums was omitted from the pricing.

The lowest remaining bid from Scott Construction Equipment of Springdale meets all specifications.

I recommend acceptance of the roller bid from Scott Construction Equipment in the amount of \$30,202.18 plus tax.

ITEM 2 - TRAILER:

The lowest bid from Hertz Equipment of Springdale meets all specifications.

I recommend acceptance of the trailer bid from Hertz Equipment in the amount of \$3,835.96 plus tax.

These units are expansion equipment approved in the 2007 budget.

Funds are budgeted and available in Water and Sewer accounts 5610-5400 and 5400-4000-5210-00. A budget adjustment will be requested to transfer the necessary funds to Fleet 2007 CIP budget, Project 02077, Construction Equipment.

Cc:
Gary Dumas

APPROVED

[Signature]

3/27/2007

BID: 07-32
3/16/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-32, Trench Roller with Trailer

BIDDER	Manufacturer	Model	Total Base Bid
1 Hertz Equipment Rental Corp			
	Roller Trailer	Wacker Felling	
		RT 82-SC	\$33,297.53
		FT-3T	\$3,835.96
		Total	\$37,133.49
2 Hugg & Hall Equip			
	Roller Trailer	Wacker RT Felling	
		RT 82-SC	\$34,578.35
		FT-3T	\$3,912.00
		Total	\$38,490.35
3 Scott Construction Equip			
	Roller Trailer	Wacker Belshe	
		1-RT 82-SC	\$30,202.18
		WB-1SHP (Tilt)	\$4,300.00
		Total	\$34,502.18
4 United Rentals			
	Roller Trailer	Wacker Belshe	
		RT 82-SC	\$29,646.79
		WB-1	\$3,860.00
		Total	\$33,506.79
5 Williams Tractor Inc			
	Roller Trailer	Stone Towmaster	
		Bulldog T-3T	\$26,888.00
		Total	\$4,750.00
		Total	\$31,638.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice A. Fourn 3/16/07
P. VICE PURCH MGR WITNESS DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor #		8485		Vendor Name: UNITED RENTALS		Requisition No.		Date: 3/30/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:				State:		Mail Yes: No: XX_			
Requester MARGARET HATTABAUGH				Ship to code: 050		Taxable Yes: XX_ No:		Quoted Attached Yes: No:	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2007 WACKER RT82-SC TRENCH	1	EA	\$30,202.18	\$30,202.18	9700.1920.5802.00	02077.1		
2	ROLLER PER SPECS ON BID		EA		\$0.00				
3	#07-32, TO BE UNIT #814		EA		\$0.00				
4	FIXED ASSET #700814		EA		\$0.00				
5			EA		\$0.00				
6			EA		\$0.00				
7			EA		\$0.00				
8			EA		\$0.00				
9			EA		\$0.00				
10			EA		\$0.00				
Shipping/Handling			Lot		\$0.00				

Special Instructions:

Subtotal: 30,202.18

Tax: Exempt

Total: 30,202.18

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

City Of Fayetteville

(Not a Purchase Order)

Vendor #		88490		Vendor Name:		HERTZ EQUIPMENT RENTAL	
Address:				Fob Point:			
City:				State:			
Requester		MARGARET HATTABAUGH		Ship to code:		050	
Requester's Employee #		2256		Requester's Employee #		2256	
Project/Subproject #		495		Inventory #		Fixed Asset #	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #
1	2007 FELLING FT-3T TRAILER	1	EA	\$3,835.96	\$3,835.96	9700.1920.5802.00	02077.1
2	TO HAUL TRENCH ROLLER PER		EA		\$0.00		
3	BID #07-32, TO BE UNIT #9096		EA		\$0.00		
4			EA		\$0.00		
5			EA		\$0.00		
6			EA		\$0.00		
7			EA		\$0.00		
8			EA		\$0.00		
9			EA		\$0.00		
10			EA		\$0.00		
Shipping/Handling			Lot		\$0.00		
Special Instructions:				Subtotal:		3,835.96	
				Tax:		311.40	
				Total:		4,147.36	

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

17-Apr-07
City Council Meeting Date

David Bragg Fleet Operations Operations
Submitted By Division Department

Action Required:

A resolution awarding an additional purchase from bid #06-36 to Downing Sales & Service of Phillipsburg, Mo. in the amount of \$442,314.00 for the purchase of three additional recycle trucks for use by Solid Waste Division.

<u>\$442,314.00</u> Cost of this request	<u>\$ 913,314.00</u> Category/Project Budget	<u>Sanitation Vehicles/Equipment</u> Program Category / Project Name
<u>9700.1920.5802.00</u> Account Number	<u>\$ 442,338.00</u> Funds Used to Date	<u>Vehicles and Equipment</u> Program / Project Category Name
<u>02082.1</u> Project Number	<u>\$ 470,976.00</u> Remaining Balance	<u>Shop Fund</u> Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

[Signature] 3-30-07
Department Director Date

Original Contract Date: n/a

Original Contract Number: n/a

[Signature] 4/2/2007
City Attorney Date

Received in City Clerk's Office
ENTERED
3/20/07

[Signature] 4-2-07
Finance Director

[Signature] 4/14/07
Mayor Date

Received in Mayor's Office
ENTERED
4/2/07

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent

Date: March 27, 2007

Subject: Purchase of three Recycle trucks

RECOMMENDATION: That City Council approve the purchase of three Recycle trucks for use by Solid Waste Division.

BACKGROUND: Bid #06-36 was opened on April 18, 2006 for three recycle trucks for use by Solid Waste Division. The bid was awarded to the low bidder, Downing Sales and Service. The three units were received in March, 2007 and placed in service. These units are performing well and the new recycle body design has received praise from Workers Compensation safety consultant and the operators.

The remaining nine units in the fleet have the first generation recycle body that is causing operator injury because the design requires the operator to push plastics upward to overhead bins. The new trucks have plastic compactors that load below shoulder height. The City's Workers Compensation Insurance carrier has encouraged replacement with the new design as rapidly as possible. Three units are budgeted to be replaced in 2007.

Downing Sales has located three new 2007 stock truck chassis meeting the specifications of bid 06-36 and has agreed to provide three additional trucks with bodies at the same price as bid.

I recommend purchase of three additional units from bid 06-36 from Downing Sales and Service in the amount of \$442,314.00.

Funds are available for this purchase in Fleet Replacement Special Project 02082 – Sanitation Vehicles.

This purchase was approved by the Equipment Committee at the meeting on March 27, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING AN ADDITIONAL PURCHASE FROM BID #06-36 TO DOWNING SALES & SERVICE FOR THE PURCHASE OF THREE (3) ADDITIONAL RECYCLING TRUCKS IN THE AMOUNT OF \$442,314.00 FOR USE BY THE SOLID WASTE & RECYCLING 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 an additional purchase from Bid #06-36 to Downing Sales & Service for the purchase of three (3) additional recycling trucks in the amount of \$442,314.00 for use by the Solid Waste & Recycling Division.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA E. SMITH, City Clerk/Treasurer



FLEET OPERATIONS

1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 8
Bid #06-36 Downing Sales & Service
Page 4 of 8

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Kyle Cook Bobby Ferrell
Adella Gray Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: March 21, 2007

SUBJECT: Purchase of three replacement recycle trucks

Bid #06-36 was opened on April 18, 2006 for three recycle trucks for use by Solid Waste Division. The bid was awarded to the low bidder, Downing Sales and Service. The three units were received in March, 2007 and placed in service. These units are performing well and the new recycle body design has received praise from Workers Compensation safety consultant and the operators.

The remaining nine units in the fleet have the first generation recycle body that is causing operator injury because the design requires the operator to push plastics upward to overhead bins. The new trucks have plastic compactors that load below shoulder height. The City's Workers Compensation Insurance carrier has encouraged replacement with the new design as rapidly as possible. Three units are budgeted to be replaced in 2007.

Downing Sales has located three new 2007 stock truck chassis meeting the specifications of bid 06-36 and has agreed to provide three additional trucks with bodies at the same price as bid.

I recommend purchase of three additional units from bid 06-36 from Downing Sales and Service in the amount of \$442,314.00.

Funds are available for this purchase in Fleet Replacement Special Project 02082 – Sanitation Vehicles.

Cc:
Gary Dumas

APPROVED

2007

3/27/2007



BID: 06-36
DATE: 4/18/06
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 06-36, Recycle Truck

BIDDER		Manufacturer	Model	Unit Price	Total
1	Downing Sales & Service, Inc.				
	Item 1	Freightliner	M2	\$188,166.00	
	Item 2	Kann Mfg. Corp.	Versa-Haul w/ Fayetteville Cust. options	\$62,722.00	
Total Bid Price				\$84,716.00	\$254,148.00
					\$442,314.00
2	Downing Sales & Service, Inc.				
	Item 1	Sterling	Acterra	\$190,710.00	
	Item 2	Kann Mfg. Corp.	Versa-Haul w/ Fayetteville Cust. Items	\$63,570.00	
Total Bid Price				\$84,716.00	\$254,148.00
					\$444,858.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: P. Vice
P. VICE PURCH MGR

Andrew Foreman
WITNESS

4/19/06
DATE

Date: 03/14/07

Purpose of Visit: Follow-up Assessment of new Recycle Trucks for the City of Fayetteville

Evaluator: Jon Lee, PT, CWCE

On 3/14/07, a follow-up visit was made to the City of Fayetteville Solid Waste Department in order to evaluate the ergonomic aspects of the new recycle truck that were recently acquired. Previously, on October 27 of 2005, a visit had been made to identify ergonomic risk factors present regarding the recycle trucks. At that time, a significant risk factor involving excessive forces combined with high-repetitions and awkward postures was identified involving the shoulders. This action took place when the operator had to "push plastic" into a tube at 71-82 inches in height. The forces required to push this plastic was measured as high as 52 pounds while the frequency could reach as high as 30 repetitions per minute. Suggestions were made to diminish the exposure to the risk factors at that time.

The new recycle truck eliminates these risk factors by the implementation of hydraulic rams that compact the plastic eliminating the need to push the plastic into the overhead bins. While the position of the shoulders required to place the plastic into the bins for the hydraulic ram remains overhead, the combined risk factor of excessive force is eliminated. Thank you for the opportunity to follow-up with you on this case.

Respectfully,

Jon Lee, PT, CWCE
Arkansas Occupation Health Clinic

City Of Fayetteville

(Not a Purchase Order)

Vendor # 3842 Vendor Name: **DOWNING SALES AND SERVICE**

Address: Fob Point:

City: State:

Requester: **MARGARET HATTABAUGH**

Item Description Quantity Unit of Issue Unit Cost Extended Cost Account Numbers

1	2007 FREIGHTLINER M2 TRUCK	3	EA	\$147,438.00	\$442,314.00	9700.1920.5802.00
2	CHASSIS WITH KANN MFG VERSA-HAUL		EA		\$0.00	
3	RECYCLE BODIES, PER BID SPECS		EA		\$0.00	
4	#06-36, To be units #490, #491, #492		EA		\$0.00	
5	Fixed Asset numbers #700490,		EA		\$0.00	
6	#700491, and #700492		EA		\$0.00	
7			EA		\$0.00	
8			EA		\$0.00	
9			EA		\$0.00	
10			EA		\$0.00	
	Shipping/Handling		Lot		\$0.00	

Special Instructions:

Subtotal: 442,314.00
Tax: EXEMPT
Total: 442,314.00

Approvals:
Mayor: _____
Finance & Internal Services Director: _____
Dispatch Manager: _____
Department Director: _____
Budget Manager: _____
Utilities Manager: _____
Purchasing Manager: _____
IT Manager: _____

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

April 17, 2007
City Council Meeting Date

Brian Pugh
Submitted By

Solid Waste and Recycling
Division

Operations
Department

Action Required:

A resolution authorizing the Solid Waste & Recycling Division to accept a grant from the Boston Mountain Solid Waste District in the amount of \$81,605.00 to assist in the purchase of a new baler for the recycling center.

\$ (81,605.00)

Cost of this request

5500.0950.4302.00

Account Number

07017

Project Number

\$ 240,000.00

Category/Project Budget

\$ -

Funds Used to Date

\$ 240,000.00

Remaining Balance

Recycling Baler

Program Category / Project Name

Solid Waste Improvements

Program / Project Category Name

Solid Waste

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature] 3-29-07
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature] 4/2/2007
City Attorney Date

Paul A. Babin 4-2-2007
Finance and Internal Service Director Date

Received in City Clerk's Office

ENTERED
3/29/07

Received in Mayor's Office

ENTERED
4/2/07

[Signature] 4/4/07
Mayor Date

Comments:

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas 
Through: Brian Pugh
Date: March 29th, 2007
Subject: A resolution authorizing the Solid Waste and Recycling Division to accept a recycling grant in the amount of \$81,605 for purchasing a new recycling baler.

Recommendation: Staff recommends authorizing a resolution to accept the recycling grant for \$81,605 to help with the purchase of a new recycling baler.

Background: Staff applied for a recycling grant with the Boston Mountain Solid Waste District in the amount of \$32,599 and also had recycling grant funds left from previous awards in the amount of \$49,006 that are available to help purchase a new recycling baler for the recycling program.

Discussion: The current recycling baler is approximately 16 years old. During hot summer months the baler will shut down when overheated and delays baling operations at the recycling center. Due to the large volume of materials being recycled through the program, downtime is not acceptable. Newer balers also have features such as modems that allow the operator to contact the manufacturer over the phone to diagnose a problem with the baler instead of having a service call. Other features such as a bale separation door will improve the baling of plastics allowing for more dense bales which make it easier to load trailers to 40,000 lbs thereby decreasing the chances of being charged a freight charge for loads under 40,000 lbs.

Along with a letter from the Boston Mountain Solid Waste District, attached with this request is a grant application and signed change order forms for this request. A new baler will allow the Division to move forward in keeping up with expected increases in tonnage through the recycling program.

Budget Impact: This is not a matching grant; however, the remainder of the costs will be incurred by the City through CIP project number 07017 – Recycling Baler. There is \$240,000 approved for the purchase of the recycling baler of which \$81,605 is expected from the grant.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE SOLID WASTE & RECYCLING DIVISION TO ACCEPT A RECYCLING GRANT FROM THE BOSTON MOUNTAIN SOLID WASTE DISTRICT IN THE AMOUNT OF \$81,605.00 TO PARTIALLY FUND THE PURCHASE OF A NEW BALER FOR THE RECYCLING CENTER.

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 Solid Waste & Recycling Division to accept a Recycling Grant from the Boston Mountain Solid Waste District in the amount of \$81,605.00 to partially fund the purchase of a new baler for the Recycling Center.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By:

DAN GOODY, Mayor

By:

SONDRA E. SMITH, City Clerk/Treasurer



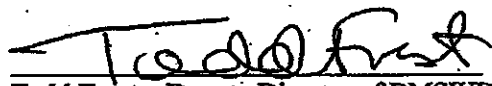
Brian Pugh,

The City of Fayetteville currently has a Recycling Baler grant (BMT-06-06) with a remaining balance of \$32,599.00. They have also been approved for change orders on the following grants in the following amounts:

<u>Grant name</u>	<u>Grant number</u>	<u>Remaining Amounts</u>
Drop Off Igloo Grant	FCO-03-00	\$50.50
Glass Pulveriser Grant	TCO-05-02	\$12,675.00
Drop Off Container Grant	TCO-20-03	\$3,251.00
Bagging Equipment Grant	TCO-16-04	\$29.00
Storage Container Grant	TCO-15-04	\$8,000.00
Composting Equip Grant	BMT-12-05	\$25000.00

These change orders have been signed and approved for the remaining funds to be used to assist in the purchase of a new baler for recycling purposes. With the additional funds the total amount available for purchase of baler is \$81,604.50

Should you have any questions, please don't hesitate to call me at (479) 846-3005.


Todd Frost - Deputy Director of BMSWD



ARKANSAS
DEPARTMENT OF ENVIRONMENTAL QUALITY

Marcus C. Devine, Director

Grant Number

Solid Waste Management Division, Programs Branch
SOLID WASTE AND RECYCLING GRANTS
2006 APPLICATION FORM
 (STATE FISCAL YEAR 2007)

- 1.0 City of Fayetteville
 Name of Applicant (This may be a city, county, municipality, etc.)
- 1.1 Brian Pugh
 Contact Person (This person must be available to answer questions regarding this grant.)
- 1.2 1560 Happy Hollow Rd Fayetteville Washington 72701
 Address City County Zip
- 1.3 479-718-7685 479-444-3478 bpugh@ci.fayetteville.ar.us
 Area Code Telephone Fax E-mail

- 2.0 Grant Category: Check One (Please select only one category per application.)

☐ Administrative	☐ Material Recovery Facility
☐ Composting Equipment Specify type	☒ Recycling Equipment Specify type Recycling Baler
☐ Education	☐ Solid Waste Planning
☐ Transfer Station with Recycling	

- 2.1 Project Total Cost Grant Amount Requested
 \$ 324,170.00 \$ 32,599.00

- 3.0 **Project Description** – All grant applications, including administrative, must include a detailed project description. At a minimum, answer the following:
- 3.1 The project's goals and how the project will be conducted (such as, how will materials be collected and marketed, and how public awareness of the project will be increased).
- 3.2 What items are/will be recycled.
- 3.3 Project location and population served by the proposed project (whom do you expect to participate in the program?).
- 3.4 The days and hours of operation. (If funding equipment, how many days/hours will it be used for the project?)

A GUIDANCE DOCUMENT TO ASSIST IN COMPLETING THE RECYCLING GRANTS APPLICATION IS AVAILABLE ON-LINE AT www.adeq.state.ar.us/solwaste/branch_recycling/grants.htm.

Grant Number

4.0 Administrative Requirements

4.1 Does the applicant hold current environmental permits required for this project?

Yes ☐ No ☐ No, but have applied ☐ Not Applicable ☐

4.2 If existing equipment serves the project area, provide justification why this project is not a duplication of services.

4.3 Does the applicant have sufficient resources to effectively operate the project for the purpose(s) specified in the application? *(Grant recipients must show that adequate revenues are being collected to support the long-term operation and maintenance of a grant-funded project. Items such as equipment maintenance and supplies, utilities, labor and transportation costs should be considered.)*

Yes ☐ No ☐

4.4 Projected beginning date _____

4.5 Projected completion date _____

4.6 Attach completed Budget, Appendix A

4.7 Attach signed Minimum Conditions of Grants, Appendix B

4.8 Attach proof of publication and public comments received regarding the grant request. *(A description of the grant proposal must be inserted in a newspaper of general circulation in the area affected by the project a minimum of 30 days prior to the submission of the grant application. This must include a solicitation of written comments from the public. For a sample public notice, see Appendix C)*

Ensure that Section 5.0 Signature and Certification is completed and accompanies each grant application.

Grant Number

5.0 Signature and certification

The authorized representative of the organization applying for the grant and the Regional Solid Waste Management Board Chairman both must sign the application. The authorized representative must have the authority to obligate the applicant's resources.

I certify that to the best of my knowledge, the information provided in this application and its attachments is correct and true. I understand and agree that if grant money is subsequently awarded as a result of this application, I will comply with all applicable statutory provisions and with applicable terms, conditions, and procedures of the ADEQ grant program. I certify that all proposed activities will be carried out and that all grant money received will be utilized solely for the purposes for which it is intended unless written authorization is provided by the Regional Solid Waste Management District and the Arkansas Department of Environmental Quality.

Signature of Applicant's Authorized Representative

Title

Telephone Number

Date

Signature of RSWMD Board Chairman

Print name

Date

THE ABOVE-REFERENCED GRANT IS HEREBY APPROVED.

Teresa Bechtel (*ADEQ Programs Branch*)

Date

Steve Martin (*ADEQ Solid Waste Management Division Chief*)

Date

CHANGE ORDER FORM

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT PROGRAM

GRANTEE CITY OF FAYETTEVILLE

GRANT NUMBER FCO-03-00

GRANT CATEGORY RECYCLING EQUIPMENT

CHANGE ORDER NO. BMT-50-06

ORIGINAL PROJECT DESCRIPTION PURCHASE ADDITIONAL RECYCLING IGLOOS FOR
COMMERCIAL WHITE LEDGER COLLECTION. THIS WILL EXPAND OUR SERVICE AND HELP MEET
THE DEMAND FOR THIS SERVICE.

Provide detailed information about the requested change(s) being submitted for approval by the RSWMD Board and the Department. If significant changes to the original grant are requested, a complete grant application may be required.

The City is in the process of trying to purchase a new baler for the recycling program. Initial estimates for a baler that would fit the needs of the program are in the estimated amount of \$235,000. Grant #BMT-06-06 has already been approved in the amount of \$32,599. Grant funding would help ease the burden of this cost to the recycling program and provide for continued success with the recycling of materials collected through city operations. There is currently \$50.50 left in this grant.

THESE CHANGES ARE HEREBY APPROVED AND BECOME A PART OF THE GRANT AGREEMENT.

Carol L. Hui
Grantee Signature

9/30/06
Date Signed

Environmental Affairs Adm.
Grantee Title

Will Fowler
RSWMD Board Chairman

SEP 11 2006
Date Approved

Thomas Hoke
Recycling Branch Manager
Terese Bechtel
Programs Branch

9-11-06
Date Approved
9/14/06

CHANGE ORDER FORM

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT PROGRAM

GRANTEE CITY OF FAYETTEVILLE

GRANT NUMBER TCO-05-02

GRANT CATEGORY RECYCLING EQUIPMENT

CHANGE ORDER NO. BMT-55-06

ORIGINAL PROJECT DESCRIPTION PURCHASE A GLASS PULVERIZER TO PROCESS
GLASS INTO AGGREGATE

Provide detailed information about the requested change(s) being submitted for approval by the RSWMD Board and the Department. If significant changes to the original grant are requested, a complete grant application may be required.

The City is in the process of trying to purchase a new baler for the recycling program. Initial estimates for a baler that would fit the needs of the program are in the estimated amount of \$235,000. Grant #BMT-0606 has already been approved in the amount of \$32,599. Grant funding would help ease the burden of this cost to the recycling program and provide for continued success with the recycling of materials collected through city operations. There is currently \$12,675 left in this grant.

THESE CHANGES ARE HEREBY APPROVED AND BECOME A PART OF THE GRANT AGREEMENT.

Parrot Hill
Grantee Signature

8/30/06
Date Signed

Environmental Affairs Adm.
Grantee Title

Will Fowler
RSWMD Board Chairman

SEP 11 2006
Date Approved

Thomas Hodges
Recycling Branch Manager

9-11-06
Date Approved

Teresa Bechtel
Programs Branch

9/14/06

CHANGE ORDER FORM

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT PROGRAM

GRANTEE CITY OF FAYETTEVILLE

GRANT NUMBER TCO-20-03

GRANT CATEGORY RECYCLING EQUIPMENT

CHANGE ORDER No. BMT-54-06

ORIGINAL PROJECT DESCRIPTION PURCHASE ADDITIONAL DROP BOXES FOR
RECYCLING AT THE COMMUNITY DROP-OFF LOCATION FOR RESIDENTS TO USE.

Provide detailed information about the requested change(s) being submitted for approval by the RSWMD Board and the Department. If significant changes to the original grant are requested, a complete grant application may be required.

The City is in the process of trying to purchase a new baler for the recycling program. Initial estimates for a baler that would fit the needs of the program are in the estimated amount of \$235,000. Grant # BMT-06-06 has already been approved in the amount of \$32,599. Grant funding would help ease the burden of this cost to the recycling program and provide for continued success with the recycling of materials collected through city operations. There is currently \$3,251 left in this grant.

THESE CHANGES ARE HEREBY APPROVED AND BECOME A PART OF THE GRANT AGREEMENT.

David A. Hise
Grantee Signature

9/30/06
Date Signed

Environmental Officer Adm.
Grantee Title

Wes Zander
RSWMD Board Chairman

SEP 11 2006
Date Approved

Thomas Hodges
Recycling Branch Manager

9-11-06
Date Approved

Teresa Bechtel
Programs Branch

9/14/06

CHANGE ORDER FORM

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT PROGRAM

GRANTEE CITY OF FAYETTEVILLE

GRANT NUMBER TCO-16-04

GRANT CATEGORY RECYCLING EQUIPMENT

CHANGE ORDER No. BMT 53-06

ORIGINAL PROJECT DESCRIPTION PURCHASE A BAGGER FOR BAGGING COMPOST
FOR CUSTOMER USE AND INCREASE SALES

Provide detailed information about the requested change(s) being submitted for approval by the RSWMD Board and the Department. If significant changes to the original grant are requested, a complete grant application may be required.

The City is in the process of trying to purchase a new baler for the recycling program. Initial estimates for a baler that would fit the needs of the program are in the estimated amount of \$235,000. Grant # BMT-06-06 has already been approved in the amount of \$32,599. Grant funding would help ease the burden of this cost to the recycling program and provide for continued success with the recycling of materials collected through city operations. There is currently \$29 left in this grant.

THESE CHANGES ARE HEREBY APPROVED AND BECOME A PART OF THE GRANT AGREEMENT.

Carroll L. Hui
Grantee Signature

8/30/06
Date Signed

Environmental Affairs Adm.
Grantee Title

Will Fowler
RSWMD Board Chairman

SEP 11 2006
Date Approved

Thomas Hodges
Recycling Branch Manager

9-11-06
Date Approved

Teresa Bechtel
Programs Branch

9/14/06

CHANGE ORDER FORM

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT PROGRAM

GRANTEE CITY OF FAYETTEVILLE GRANT NUMBER TCO-15-04
GRANT CATEGORY RECYCLING EQUIPMENT CHANGE ORDER NO. BMT-52-06
ORIGINAL PROJECT DESCRIPTION PURCHASE STORAGE CONTAINERS FOR PLASTIC
BALES

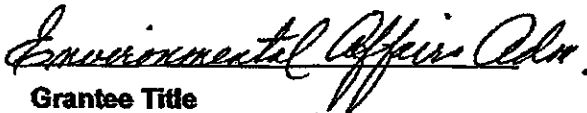
Provide detailed information about the requested change(s) being submitted for approval by the RSWMD Board and the Department. If significant changes to the original grant are requested, a complete grant application may be required.

The City is in the process of trying to purchase a new baler for the recycling program. Initial estimates for a baler that would fit the needs of the program are in the estimated amount of \$235,000. Grant #BMT-06-06 has already been approved in the amount of \$32,599. Grant funding would help ease the burden of this cost to the recycling program and provide for continued success with the recycling of materials collected through city operations. There is currently \$8,000 left in this grant.

THESE CHANGES ARE HEREBY APPROVED AND BECOME A PART OF THE GRANT AGREEMENT.

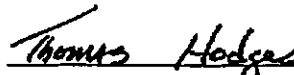

Grantee Signature

8/30/06
Date Signed


Grantee Title


RSWMD Board Chairman

SEP 11 2006
Date Approved


Recycling Branch Manager

Programs Branch

9-11-06
Date Approved
9/14/06

CHANGE ORDER FORM

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY RECYCLING GRANT PROGRAM

GRANTEE CITY OF FAYETTEVILLE

GRANT NUMBER BMT-12-05

GRANT CATEGORY RECYCLING EQUIPMENT

CHANGE ORDER NO. BMT 51-06

ORIGINAL PROJECT DESCRIPTION BUILD A COMPOST SHED FOR THE STORAGE OF
EQUIPMENT AND TO COVER FINISHED PILES OF COMPOST AND BAGS

Provide detailed information about the requested change(s) being submitted for approval by the RSWMD Board and the Department. If significant changes to the original grant are requested, a complete grant application may be required.

The City is in the process of trying to purchase a new baler for the recycling program. Initial estimates for a baler that would fit the needs of the program are in the estimated amount of \$235,000. Grant #BMT-06-06 has already been approved in the amount of \$32,599. Grant funding would help ease the burden of this cost to the recycling program and provide for continued success with the recycling of materials collected through city operations. There is currently \$25,000 left in this grant.

THESE CHANGES ARE HEREBY APPROVED AND BECOME A PART OF THE GRANT AGREEMENT.

Carol Spivey
Grantee Signature

8/30/06
Date Signed

Environmental Affairs Adm.
Grantee Title

Wes Funder
RSWMD Board Chairman

SEP 11 2006
Date Approved

Thomas Hodges
Recycling Branch Manager

9-11-06
Date Approved

Teresa Bechtel
Programs Branch

9/14/06

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

April 17, 2007

City Council Meeting Date

John Nelson

Submitted By

Solid Waste & Recycling

Division

Operations

Department

Action Required:

A resolution approving an agreement between the City of Fayetteville, Arkansas and Sugar Creek Rolloff, LLC to haul and dispose of solid waste in the City 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

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED

Received in Mayor's Office

ENTERED

Comments:



OPERATIONS DEPARTMENT

Interdepartmental Correspondence

To: Mayor and City Council

From: John Nelson, *John Nelson* Operations Mgmt. Accounting Coordinator

Date: March 21, 2007

Subject: Agreement with Sugar Creek Rolloff, LLC to haul and dispose of solid waste in the City of Fayetteville

Recommendation: A resolution approving an agreement between the City of Fayetteville, Arkansas and Sugar Creek Rolloff, LLC to haul and dispose of solid waste in the City of Fayetteville.

Background: Sugar Creek Rolloff, LLC has requested to renew their contract to haul and dispose of waste within the City of Fayetteville. The contract will permit Sugar Creek Rolloff, LLC to haul and dispose of waste in containers twenty (20) cubic yards and greater in size. The agreement requires Sugar Creek Rolloff, LLC to pay a monthly fee to the City of Fayetteville of ten (10%) percent of the gross revenue. This is the standard agreement authorized by City Council in implementing the contract fee.

Discussion: Sugar Creek Rolloff, LLC entered into this agreement in March 2004. The term of this agreement was three years. Sugar Creek Rolloff, LLC requests to be permitted to continue to operate within the City of Fayetteville.

During the duration of this agreement, no non-compliance issues were noted and fees were remitted accordingly. In January 2005, an audit of Sugar Creek Rolloff, LLC was conducted by City staff to ensure that adequate policies and procedures were in place and compliant to the terms of the Agreement to Haul and Dispose of Solid Waste in the City of Fayetteville. The results of the audit are attached and reveal that Sugar Creek Rolloff, LLC does have acceptable procedures in place for capturing revenue generated within the City of Fayetteville.

Staff proposes approval for Sugar Creek Rolloff, LLC to haul and dispose of waste within the City of Fayetteville, per the terms and conditions outlined in the attached agreement, and the hauler's continued remittance of the Required Supporting Information Form with the payment of their monthly franchise fees.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SUGAR CREEK ROLLOFF, LLC TO HAUL AND DISPOSE OF SOLID WASTE WITHIN THE CITY LIMITS OF FAYETTEVILLE.

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 execute a contract with Sugar Creek Rolloff, LLC to haul and dispose of solid waste within the city limits of Fayetteville. A copy of the contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA SMITH, City Clerk/Treasurer

Sugar Creek Rolloff, L.L.C.
195 Little Missouri Road
Pineville, MO 64856
417-226-0076 Fax: 417-226-3051

March 12, 2007

Gary Dumas
Director of Operations
113 West Mountain
Fayetteville, AR 72701

Dear Mr. Dumas:

Enclosed you will find the completed agreement along with the requested documentation for request in continuance of our service in the city of Fayetteville.

I apologize for the delay in returning correspondence, I have been absent from work for quite some time and I am the only person who handles the office duties. Please let me know if you have any further questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Kim Russell". The signature is written in a cursive, flowing style.

Kim Russell
Office Manager

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE
IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this 28 day of February, 2007, between the City of Fayetteville, Arkansas, a municipal corporation (the "City"), and Sugar Creek Rolloff (the "Hauler"), and shall be in full force and effect on the date first written above. City and Hauler agree as follows:

1. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than two (2) years and any subsequent extensions shall be for terms of no more than one (1) year.
2. The term of this Agreement shall be for three (3) years, unless otherwise terminated pursuant to the terms hereof.
3. Hauler agrees and understands that it may only collect and haul Solid Waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables collected in any type container shall be hauled from any customer within the corporate limits of the City of Fayetteville. The collection of scrap metal, cardboard and other source-separated recyclables are not controlled or affected by this contract.
4. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all Class 4 landfill fees to the landfill operator, as they may be established and amended, from time to time.
5. Hauler shall pay all fees due hereunder, along with the required supporting information, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 2% penalty per month. If Hauler failed to pay the fees within forty-five (45) days of the due date, the City may revoke this Agreement upon delivery of written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a blind list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (excluding those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the

- hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review certain trade secret information, including rates, frequency of service, customer lists, and other customer information provided that such trade secret information may not be copied or removed by the City. Nor shall such information be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler.
6. Hauler agrees and understands that it shall submit to the City on an annual basis a list of all commercial vehicles used to provide services in the City, proof of appropriate vehicle registration, and proof of the insurance required under Section 16.
 7. Hauler agrees and understands that it shall provide a list of vehicle operators collecting and hauling waste in the City of Fayetteville, along with proof of their valid and appropriate commercial drivers' licenses issued by the State of Arkansas. The Hauler shall also provide, maintain, and implement a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
 8. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
 9. In consideration of the right to provide the services described under this Agreement, Hauler agrees and understands that it shall be required to pay a monthly fee of ten (10%) percent (the "Fee") of the gross revenue received for all services provided under this Agreement. Upon execution of this Agreement, a deposit shall be paid in advance to the City. The deposit shall be equal to one-half of the total fees that were or would have been paid by the Hauler within to the City during the previous twelve (12) months. Such deposit shall be reviewed on an annual basis. Any reasonable disagreement in estimated gross revenue will be decided in the favor of the City. The deposit shall be refunded, less any unpaid fees, when the Hauler ceases operation within the City or this Agreement is terminated, whichever is earlier.
 10. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
 11. Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator and the Tontitown Landfill operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
 12. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable city ordinances. This is a contractual Agreement and is not intended to be part

of or related in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

13. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third party or affiliate.
14. For the purpose of this contract, the Point of Contact of the City of Fayetteville shall be Gary Dumas or his successor. The Point of Contact for the Hauler shall be Leon Russell. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.
15. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
16. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
 - (a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - (b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - (c) The types of coverage and limits of liability of all insurance required herein shall be as follows:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability except Automobile	\$1,000,000 each occurrence
Property Damage Liability Except Automobile	\$1,000,000 each aggregate

Automobile Bodily Injury	\$1,000,000 each person
Comprehensive General Liability	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

17. Termination:

- (a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirements or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement fifteen (15) days after the fifteen (15) days in which to cure; or (ii) cure the breach or default at the expense of the Hauler; and (iii) have recourse to any other right or remedy to which it may be entitled by law.
- (b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted against the offending and such proceeding is not dismissed within sixty (60) days.
- (c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

18. All notices required or permitted under this contract shall be submitted in writing to the other party to this contract, by certified mail, return receipt requested, which notice shall be effective three (3) days after deposit therein addressed to the following:

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

Attn: _____

19. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such documents, Hauler 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.

20. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
21. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
22. Each paragraph of this Agreement 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.
23. This contract constitutes the entire understanding of the parties and 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 of Fayetteville and the Hauler.
24. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.
25. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
26. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

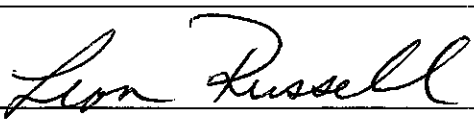
IN WITNESS WHEREOF, we have hereunto set our hands on the date first written above.

CITY OF FAYETTEVILLE

By: _____
DAN COODY, as Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

By: 

President



OPERATIONS DIRECTOR

February 23, 2005

Sugar Creek Roll Off, L.L.C.
Attn: Mr. Kim Russell
195 Little Missouri Road
Pineville, MO 64856

Dear Mr. Kim Russell,

On behalf of the City of Fayetteville I would like to thank you and your staff for your cooperation during our recent audit engagement. The audit revealed that Sugar Creek Roll Off, L.L.C. procedures for capturing revenue generated within the City of Fayetteville are adequate and that no other action is required at this time. Again, thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Dumas", with a long, sweeping horizontal stroke extending to the right.

Gary Dumas
City of Fayetteville
Director of Operations

CC: Michael Justice

A logo consisting of a small square icon with the letters "C" and "O" inside, followed by the word "COPY" in a bold, sans-serif font.

Sugar Creek Rolloff, L.L.C. Audit Report

AUDIT PURPOSE:

This report contains the results from the audit of Sugar Creek Rolloff, L.L.C. The audit is to determine if Sugar Creek Sanitation has made a reasonable effort through policies and procedures to adhere to the terms of the contract and determine the level of compliance to any such policies and procedures.

REVIEW OBJECTIVES:

This audit is to give assurance to the City of Fayetteville that it is receiving proper payment in accordance to the contract entered into by Sugar Creek Rolloff and City of Fayetteville for revenue generated by Sugar Creek Rolloff for waste disposal services generally referred to as open top trash bins.

BACKGROUND:

The audit began with a meeting between Kim Russell, Office Manager, and myself to discuss their process for creating the contract required "blind listing of payments" that is used as supporting documentation for the franchise fee payment. During this meeting she explained Ozark does regular 30 yard dropbox business in Fayetteville with two to three permanent customers and with an occasional temporary dropbox customer. Mrs. Russell files all invoices by vendor and allowed me full access to all vendor files. Sugar Creek uses QuickBooks software. I asked for the vendor's name that made up the payment received with June and September's payment. She quickly supplied me with the vendor list and files. It corresponded accurately to the "blind listing of payments". The report is created by using the drill down feature of QuickBooks and is drilled by tax jurisdiction. Using the deposit slip for June and September I took a sample of invoices for the month of August and May. All sample invoices were correctly listed, and I found no deviation from the "blind listing of payments"

FINDINGS, RECOMMENDATIONS AND ADDITIONAL COMMENTS:

The Sugar Creek Rolloff, L.L.C. staff is aware of the need to identify revenue generated within the City of Fayetteville and have adequate procedures in place. I suggested they work on getting their drivers to complete the pick up tickets to include the disposal site. This will make it easier to determine if trash or recyclables are being hauled. Mrs. Russell agreed and I expect it to be implemented in the future. I find no deviations that would warrant further examination at this time.

 **COPY**

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

20-Mar-07

City Council Meeting Date

Jeremy Pate *APC 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

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 3-2-07
City Attorney

Original Contract Number: n/a

Paula A. Buh 3-2-07
Finance and Internal Service Director Date

Received in City Clerk's Office

Received in Mayor's Office

[Signature] 3/7/07
Mayor Date

Comments:

Tabled to 4/17/07 City Council Mtg 4/3/07
Tabled to 4/3/07 City Council mtg 3/20/07

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 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.

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.

To: The City of Fayetteville -- Planning Staff

From: McClelland Consulting Engineers

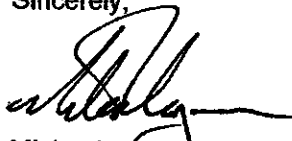
Date: February 1, 2007

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,



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, SWECO, 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

ALPOM

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.

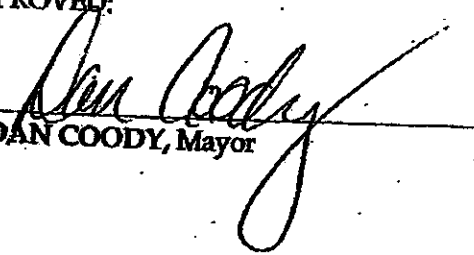
Section 2. That the City Council of the City of Fayetteville, Arkansas hereby designates the proceeds of this sale for Economic Development purposes.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment implementing said designation of proceeds.

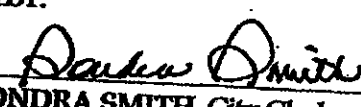
Section 4. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said contract with BioBased Technologies.

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

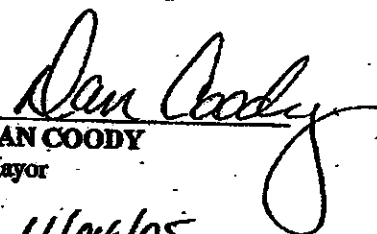
2. **Purchase Price:** Subject to the following conditions, BioBased Realty, LLC shall pay for the property at closing, the total cash payment of Nine Hundred Forty Thousand Dollars (\$940,000.00).
3. Conveyance will be made BioBased Realty by general Warranty Deed, except it shall be subject to recorded 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.

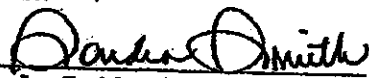
16. This agreement shall be governed by the laws of the State of Arkansas.
17. This agreement, when executed by both BioBased Realty and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all 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

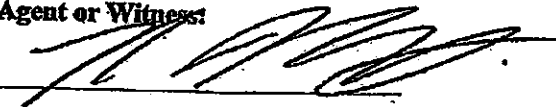
Date: 11/04/05

BIOBASED REALTY, LLC
BIOBASED TECHNOLOGIES, LLC
BIOBASED SYSTEMS, LLC

By: 
TOM MUCCIO
CEO

Date: 10-21-05

Agent or Witness:



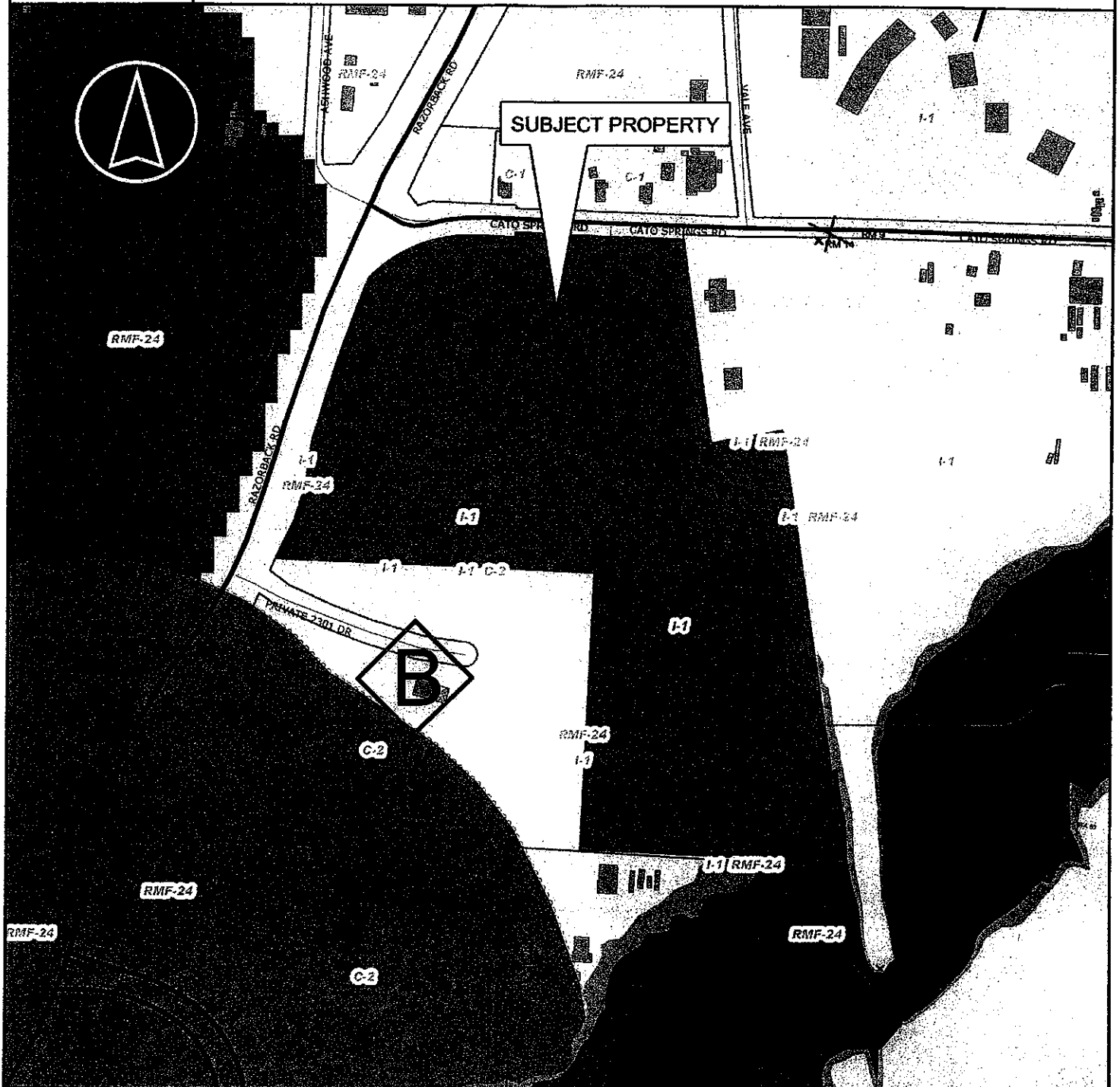
Date: 10-21-05

(Proposed Site Plan - ADM 07-2477)

LSD06-2105

Close Up View

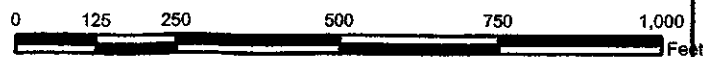
BIO-BASED



Overview

Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- LSD06-2105
- vector.GOB.Footprint_2004
- Hillside-Hilltop Overlay District



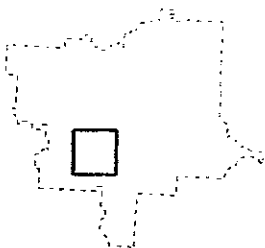
LSD06-2105

One Mile View

BIO-BASED



Overview



Legend

Subject Property



Boundary

 Planning Area
Overlay District☐ Outside City

Legend

Hillside-Hilltop Overlay District

0 0.125 0.25

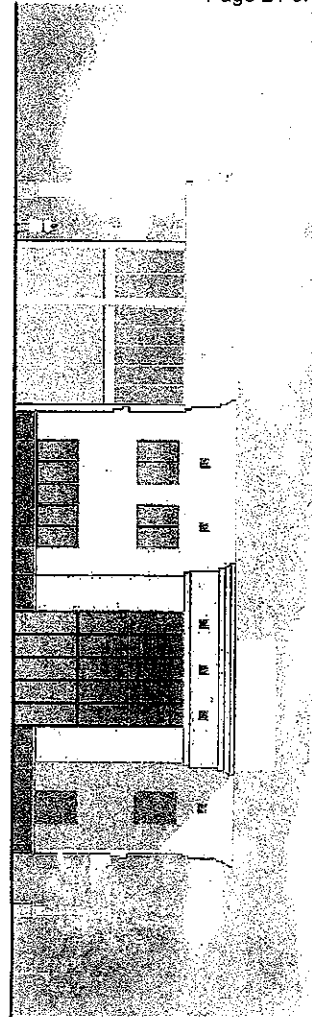
0.5

0.75

1

Miles

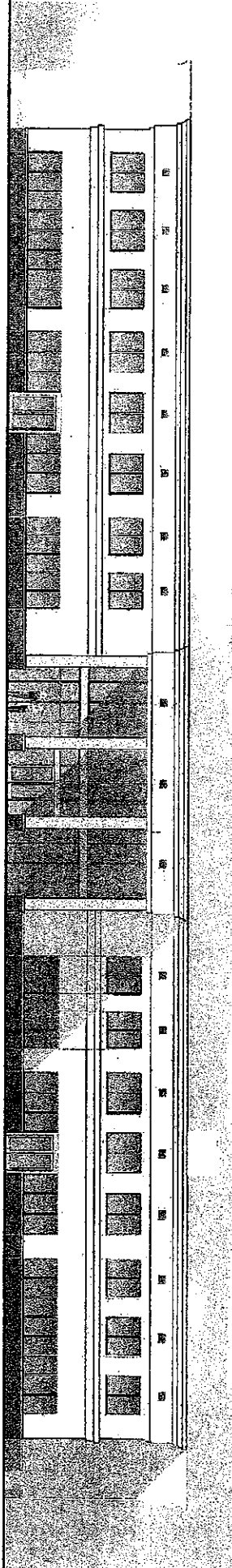




WEST ELEVATION

EXTERIOR FINISH MATERIALS

1. RED BRICK BASE AND INSERTS
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
1475 OATO SPRINGS ROAD
FARMINGTON, ARKANSAS 72703
FEBRUARY 1, 2007

3-1-07 (Proposed building elevations)

MOBLEY ARCHITECTS, INC.
3715 NO. BUSINESS DR., STE. 202
FARMINGTON, AR 72703
(479) 251-0500

ARTER

EXHIBIT 'B'

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

To: City of Fayetteville – City Clerk

From: McClelland Consulting Engineers

Date: March 2, 2007

Subject: **BioBased Campus – Phase I**
City Council Review of Building Elevations

RECEIVED

MAR 02 2007

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

To the City of Fayetteville City Council,

As per the approval of administrative item 07-2477 (ADM 07-2477), The proposed building elevations of the BioBased Campus – Phase I shall be reviewed by the City Council pursuant to the contract agreement between the City of Fayetteville and the applicant.

Enclosed are fifteen (15) sets of color architectural elevations for the proposed BioBased Campus – Phase. In addition, the City of Fayetteville planning department has both a large (24"X36") color elevation board and a material sample board for review.

Please consider this item for your next City Council agenda setting meeting and let me know if you have any questions/concerns, or need any additional information at this time.

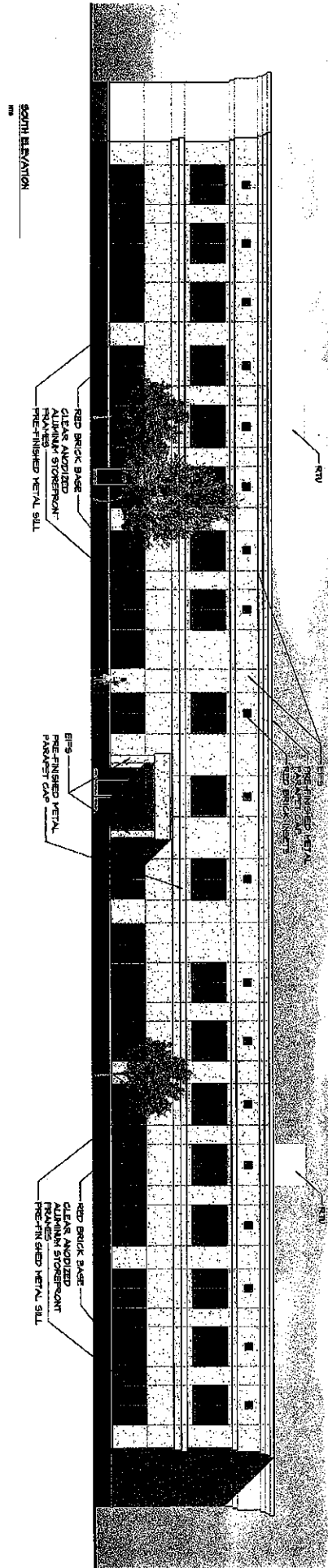
Thanks,

Mike



Michael G. Morgan
McClelland Consulting Engineers
479.443.2377
Mmorgan@McClelland-engrs.com

Enc.



BIOBASED

1475 CATO SPRINGS ROAD
FAYETTEVILLE, ARKANSAS 72703
FEBRUARY 21, 2007

MOBLEY ARCHITECTS, INC.

3716 NO. BUSINESS DR., STE. 202
FAYETTEVILLE, AR 72703
(479) 261-0909



BIOBASED CORPORATE HEADQUARTERS

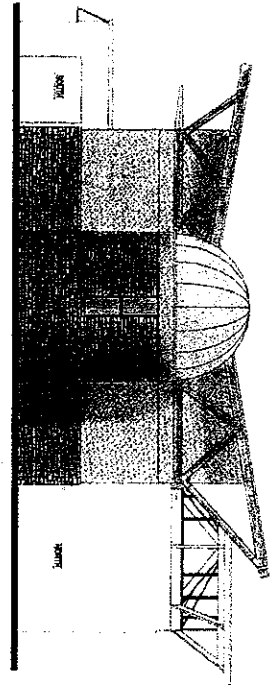
BIOBASED

1476 CATO SPRINGS ROAD
FAYETTEVILLE, ARKANSAS 72703
FEBRUARY 21, 2007

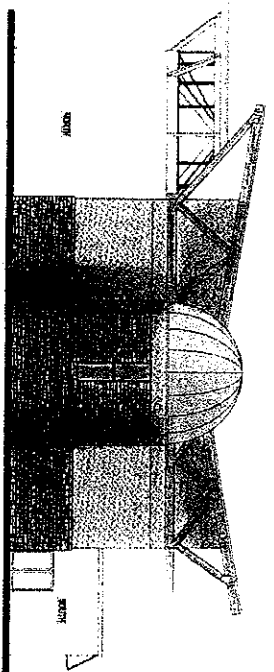
MOBLEY ARCHITECTS, INC.

3715 NO. BUSINESS DR., STE. 202
FAVETTEVILLE, AR 72703
(479) 251-0808

Agenda Session 3/13/07 Bio-Based



EAST BUILDING ELEVATION

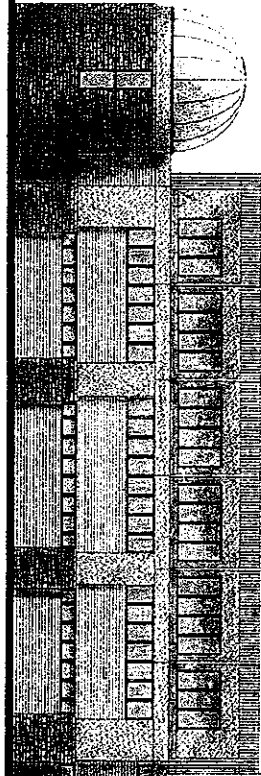


WEST BUILDING ELEVATION

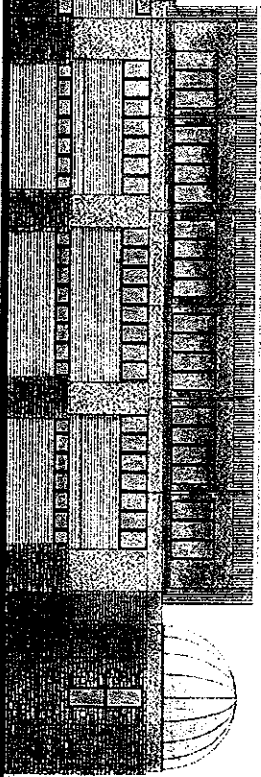
**PLANNING
COMMISSION
APPROVED**
6/15/06
(over)

FINISH SCHEDULE

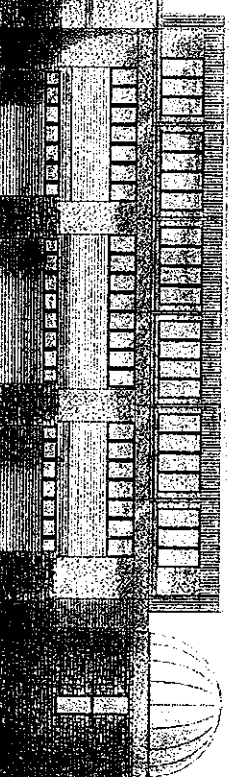
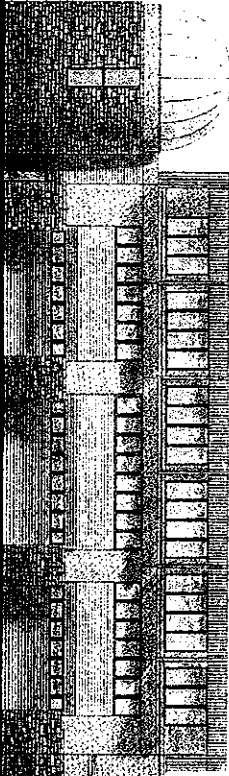
1st	2nd	3rd	4th
5th	6th	7th	8th
9th	10th	11th	12th



NORTH BUILDING ELEVATION



SOUTH BUILDING ELEVATION



BIOBASED SYSTEMS
FAYETTEVILLE, ARKANSAS

DOUGLAS
SHEET TITLE
SHEET NO.
DATE
BY
CHECKED
APPROVED
A-201

DECODE

ALDERMAN AGENDA REQUEST FORM

B. 2
Amend Chapter 92
Animal Ordinance
Page 1 of 52

FOR: COUNCIL MEETING OF MARCH 20, 2007

FROM: ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

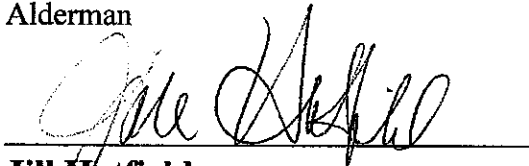
An Ordinance Amending Chapter 92 Animals, Code of Fayetteville, To Improve The Treatment Of Animals And Ensure The Safety Of The Citizens Of Fayetteville

APPROVED FOR AGENDA:



Brenda Thiel
Alderman

3/1/07
Date



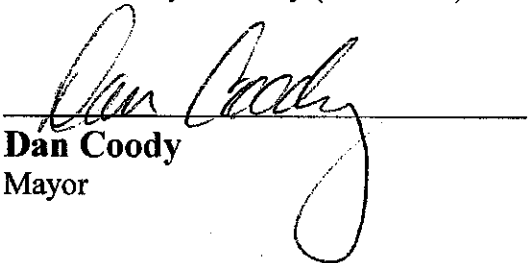
Jill Hatfield
Animal Services

3/5/07
Date



David J. Whitaker
Assistant City Attorney (as to form)

3/5/2007
Date



Dan Coody
Mayor

3/6/07
Date

Left on the second reading 4/3/07
Left on the first reading 3/29/07



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 harbored, 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 harbored thereof and accompanied by the owner or harbored.

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 harbored 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 harbored. 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 harbored.

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 unspayed 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,



MEMORANDUM

TO: City Council and Mayor Coody

FROM: Jill Hatfield, Animal Services Superintendent, 
Ad Hoc Animal Ordinance Committee

DATE: March 21, 2007

RE: Proposed Animal Ordinance

Attached please find a copy of the proposed Chapter 92 Animal Ordinance that highlights the additions made and strikeouts of current ordinance information. Also included is supplemental information regarding materials used for containment and documents concerning pet overpopulation. The Ad Hoc Animal Ordinances Review committee worked on areas of the ordinances that are complaint driven and focused on public safety along with humane treatment of the animals in our city.

The committee revised several of the definitions and included additional terms to assist with clarification. Areas addressed by the ad hoc committee included dangerous and vicious animals restricted, living space requirements for each animal, and prohibiting the use of chains as a means of restraint. The ad hoc committee also recommended increasing the city license fee for un-sterilized animals, increasing the impound and boarding fees for animals reclaimed along with provisions to microchip animals on the first impound and sterilize an intact animal upon reclaim on its third impound.

- One change was made to 92.20 Annual License and Tag, the yearly licensing fee for spay/neutered animals would remain \$5, while the yearly licensing fee for un-neutered dogs and cats would increase from \$15 to \$75, thus providing an incentive to spay/neuter the animal. If an un-neutered animal is impounded, the option to pay the lesser fee and have the animal spay/neutered before redemption will be offered to the owner. Many municipalities, and counties across the country are mandating spay/neutering of animals that are not used for showing, breeding, or hobbyist purposes. A Hobbyist Permit would be available for \$25 per animal with a \$25 application fee per year.
- Ninety-seven percent (97%) of the 4,787 animals impounded in 2006 were un-sterilized. Giving reclaiming owners the option to spay/neuter on the first impound versus paying a \$75 city license fee will decrease the city's over-population of stray and unwanted animals over time. Many impounded animals are males running at large searching for females in heat or estrous. Often impregnating stray females and producing unwanted

litters. The City will see a cost savings in this area over several years with the continuation of the spay/neuter programs now in operation. The City of Fayetteville Low Cost Spay/Neuter program, the Unincorporated Washington County Free Spay/Neuter program, and the Humane Society of the Ozarks program for citizens in need throughout the Washington County area combined will reduce the stray and unwanted population collectively. This collective program is the only one in the state of Arkansas and no other municipal shelter in Arkansas has a full-time veterinarian. Most programs of this magnitude occur in major urban settings and over a decade have seen great success. Many cities have stopped euthanizing adoptable animals.

- Since beginning the three programs in 2003, a decrease in animals coming into the shelter occurred by 2005. A decrease in 568 animals was seen in a two year period although the human population continued to increase. If such a decrease in unwanted animals was realized every two years, the city would reduce sheltering costs by approximately \$12,000 for that period. The savings would be recognized in vaccinations, euthanasia drugs and incineration costs. Animal Services Officers would be able to decrease time picking up strays and euthanizing animals and dedicating more time to investigating citizen complaints and conducting ownership education.
- The three spay/neuter programs combined have sterilized 9,000 animals since 2003. These programs alone have not reduced the euthanasia rate. In 2006 Animal Services euthanized 2,239 animals although adoption and owner reclaim rates continued to increase. Adult dogs can have two litters a year as cats may have three. It continues to be challenging each spring and fall to find homes for 7 to 10 puppies or 4 to 6 kittens per litter. These unwanted litters are born and then must be euthanized in a matter of months due to lack of adopters or rescues.
- Animal Services staff and volunteers provide thousands of hours of outreach and education in the community. Monthly segments televised on KNTV, Jones TV, and the Government Channel, PSA's on Cumulus radio stations and in the Northwest Arkansas Times and Free Weekly newspapers. Ongoing presentations at elementary and middle schools, Rotary Club, Kiwanas Club, Optimist Club, and Neighborhood Association meetings. Showing adoptable dogs and cats at Petsmart, Farmer's Market, Concerts in Gulley Park, HSO special events and Shelter events. Foster programs of animals to Veterinarian Clinics for adoption. Services information not only on AccessFayetteville, but on Petfinder.com and MySpace.com. Animals from the shelter have been adopted and rescued to persons all over the United States and in Canada. Animal Services has a good working relationship with many reputable breed specific rescue groups.
- Tacoma, Washington has offered a spay/neuter program for 12 years along with a higher licensing fee for unaltered animals gave citizens an incentive to spay/neuter. Shelter intake decreased from 40,000 animals per year to 25,000 animals per year. They attribute their success to the combination of the two components.
- The chaining of an animal to a fixed point is prohibited in the revised ordinance 92.02 Animal Care. The revision states that dogs may be restrained by a trolley system.

Chaining animals is a dangerous restraint device that often ends in a person being bitten by the chained animal. The American Veterinary Medical Association statement on chaining, "Never tether or chain your dog because this can contribute to aggressive behavior." According to Karen Delise author of Fatal Dog Attacks, "Chained dogs killed at least 109 people from 1965-2001. Of the 109 people, 99 were children that wandered into reach of a chained or similarly restrained dog. For citizens who are unable to build a fence or kennel run, a trolley system allows the animal more range for exercise and with stoppers used correctly keeps the animal from entanglement.

- Specific enclosure space requirements per animal, as clarified in 92.01 Definitions, would allow Animal Services Officers to view the area where each animal is being kept. Complaints concerning too many animals in a small area will be managed using specified square footage. A 10x10 area would allow for proper waste and odor control. Many municipalities in Arkansas and around the country utilize such space requirements to manage the number of animals per household along with providing humane living conditions.
- Addressing barking dogs in 92.05 Noisy Animals Restricted, an additional requirement will be made if the dog is found to be in violation. The owner will be educated on devices for noise control and required to utilize a method. If the barking continues, the owner will be cited to court.
- In 92.24 Redemption of Animals, an increase in impound and boarding fees was recommended. At present other municipalities and Washington County pay sheltering fees of \$15 each day per animal. Currently Fayetteville citizens are paying boarding fees of \$5 each day. The boarding and impound fees have not been increased since 1991. The increases would assist in reclaiming the actual sheltering and animal control costs associated with picking up and housing the animal. Along with the increase in fees would be more aggressive steps to identify the owner on the first impound if the animal is not wearing proper identification. Animal Services would microchip the animal with a permanent identifying microchip at the owner's expense. On the third impound in a 12 month period the animal would be considered a public nuisance and would be spay/neutered at the owner's expense. The un-neutered dogs and cats that are continually running at large are partly responsible for the continued increase in stray animals. In 2006 Animal Services sheltered 4,787 dogs and cats. An increase of 642 animals over 2005. The committee felt the owner's of such animals should pay for costs of services and thus lessen the burden placed on the taxpayers.

It is the Ad Hoc Committees hope to protect the citizens of Fayetteville with the proposed revisions to the Animal Ordinances as well as protect the animals and provide for their humane treatment. Please contact me at 444-3455 or at jhatfield@ci.fayetteville.ar.us if you have questions or concerns about these revisions.

cc: Greg Tabor, Chief of Police
Tracey Risley, Deputy Chief of Police

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 harborer, 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 harborer thereof and accompanied by the owner or harborer.

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 harborer 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 harborer. 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 harborer.

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 ~~\$15.00~~ \$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 ~~\$5.00~~ \$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; ~~\$15.00~~ \$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. ~~\$25.00~~ \$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. ~~\$50.00~~ \$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 ~~\$100.00~~ \$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 ~~\$5.00~~ \$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 unspayed 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

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, or both.



The Crisis of Pet Overpopulation

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Every day in the United States thousands upon thousands of puppies and kittens are born because of the uncontrolled breeding of pets. Add to that number the offspring of stray and abandoned companion animals, and the total becomes even more staggering. Every year, between six and eight million dogs and cats enter U.S. shelters; some three to four million of these animals are euthanized because there are not enough homes for them.

Too many companion animals competing for too few good homes is the most obvious consequence of uncontrolled breeding. However, there are other equally tragic problems that result from pet overpopulation: the transformation of some animal shelters into "warehouses," the acceptance of cruelty to animals as a way of life in our society, and the stress that caring shelter workers suffer when they are forced to euthanize one animal after another. Living creatures have become throwaway items to be cuddled when cute and abandoned when inconvenient. Such disregard for animal life pervades and erodes our culture.

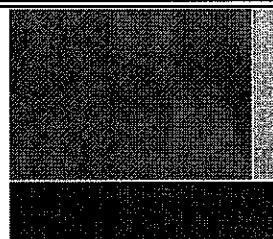
Abandoned and stray companion animals who survive in the streets and alleys of cities and suburbs pose a health threat to humans and other animals. Homeless companion animals get into trash containers, defecate in public areas or on private lawns, and anger citizens who have no understanding of their misery or their needs. Some of these animals scare away or prey upon wildlife—such as birds—or frighten small children.

The public health epidemic of dog bites—which number more than 4.5 million each year—is due in part to uncontrolled breeding of pets. Bites by so-called dangerous dogs have drawn an enormous amount of media attention, and fatalities caused by dangerous dogs are a serious concern. Often, the vicious tendencies found in some dog breeds can be attributed to irresponsible breeding without regard for temperament. Neutering can help reduce this aggressive behavior.

Clearly, pet overpopulation is not just a problem for the animals or for the shelters involved. Each year communities are forced to spend millions of taxpayer dollars trying to cope with the consequences of this surplus of pets. These public costs include services such as investigating animal cruelty, humanely capturing stray animals, and sheltering lost and homeless animals.

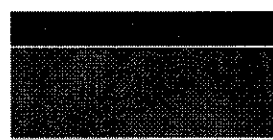
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SPAY DAY



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MAIN PAGE**



Solving the Pet Overpopulation Problem

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The solution can be simply stated. Its implementation, however, requires sweeping efforts from a variety of organizations and people, including you.

The solution is this: Only by implementing widespread sterilization programs, only by spaying and neutering all companion animals, will we get a handle on pet overpopulation. Consider the fact that in six short years, one female dog and her offspring can give birth to hundreds of puppies. And, in seven years, one cat and her young can produce hundreds of kittens.

Given these high reproductive rates, it stands to reason that, in only a few years, carefully planned and implemented sterilization programs could produce a dramatic reduction in the number of unwanted companion animals born. In fact, in those towns and cities that have implemented such programs, we've already seen the number of companion animals who had to be euthanized decline by 30 to 60 percent—even in those communities where human populations have been steadily increasing.

But these programs don't create themselves. They require the planning and coordination of many people. Successful pet population control programs range from subsidized sterilization clinics to cooperative efforts involving local veterinarians to mass media educational campaigns. Only through the continued nationwide establishment of such programs will we bring an end to the tragedy of pet overpopulation.

Community-Based Solutions

Legislation can have the most direct impact simply by requiring that every pet adopted from a municipal or county shelter be sterilized within a certain period of time. Similarly, differential-licensing laws—laws that substantially increase license fees for pets who have not been spayed or neutered—give owners an incentive to sterilize their pets.

Education, too, is an essential part of solving this problem. Unless people know the facts about pet overpopulation and sterilization, they are virtually helpless to do anything about the problem.

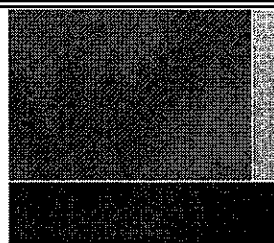
Reduced spay/neuter fees play an important role as well. Subsidized spay/neuter clinics and programs in some communities have already helped bring down the cost of sterilization. In areas where veterinarians have agreed to reduce their spay/neuter fees, we've seen a significant decline in the number of animals euthanized.

Finally, pet owners can do their part by having their companion animals spayed or neutered. This is the single most important step you can take. Have your pet sterilized so that he or she does not contribute to the pet overpopulation problem, and adopt your next pet from an animal shelter.

Updated Oct. 12, 2006.

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- [Adopting from an Animal Shelter](#)
- [Myths and Facts About Spaying and Neutering](#)
- [Stamping Out Pet Overpopulation](#)



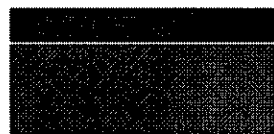
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❖ [Pets for Life](#)

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HSUS Position Statement: Trap-Neuter-Return (TNR)

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The Humane Society of the United States believes that feral cat overpopulation is a community-generated problem and that every community has a responsibility to work toward a solution. The HSUS is concerned about feral cat populations, the welfare of individual cats, and the welfare of wild animals.

Feral cats are unsocialized cats who may be one or more generations removed from a home environment and may live in a group, or colony, of similar cats. These cats and their offspring are victims of abandonment, accidental loss, and failure by owners to sterilize their pets.

The HSUS advocates community-based Trap-Neuter-Return programs with ongoing responsible management as the most viable, long-term approach available at this time to reduce feral cat populations. Responsible management of existing feral cat colonies should include: humane trapping, sterilization, rabies vaccination, and treatment for illness or injury; removal of kittens and friendly adults for possible placement in homes; euthanasia of animals whose suffering cannot be alleviated; ear-tipping and returning ferals to the same location where they were trapped provided they would not face imminent risks; and providing lifelong care consisting of adequate food, water, and shelter as well as regular monitoring of the colony for sickness, injury, and the arrival of new animals. The goal of any feral cat management program should be to maximize quality of life for the cats and to eliminate the existing colony over time through attrition.

For a TNR program to be successful, cooperation among many members of the community is essential. No one person or agency should be expected to devote all the resources needed or shoulder the responsibility alone. Instead, organizations and individuals can offer their services to achieve a comprehensive goal, while still working within the scope of their mission and capability. A single program, such as subsidized sterilization, is an excellent step forward, but cannot effect change without other supportive pieces in place, such as public education and outreach, adoption resources, dedicated colony caretakers, and cooperation among the various interest groups. A working coalition, in which each member respects the others' contributions and limitations, and where there is productive and open communication, is a formula for success. While The HSUS strongly recommends that each community works toward the goal of non-lethal management, we realize that euthanasia may be considered as an interim solution where TNR cannot be implemented.

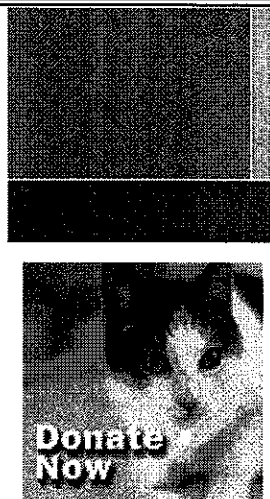
Inherent in all decisions about whether to maintain a particular colony is the potential negative impact on local wildlife. The HSUS values the lives of individual wild animals, no matter their species status. The goal of any TNR program should be to lessen the impact on wildlife by reducing the number of feral cats and eventually eliminating their presence from the environment. The location of colonies is an extremely important issue, and reinforces the need for a community-based approach to ensure that colonies are managed so that impacts on wildlife are minimized.

The HSUS recognizes that there are real challenges to reducing the numbers of feral cats currently living on the streets of this country, and this statement is meant to encourage all members of the community—citizens, veterinarians, animal shelters, wildlife advocates, policy makers, public health departments, businesses—to work together towards a goal of non-lethal approaches to feral cat management.

[Download The HSUS Position Statement: Trap-Neuter-Return](#)



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Installing a Trolley System

[Easiest Method](#) | [Real Cases](#) | [How to Sink a Post](#)

Please consider building a fence or bringing your dog inside instead of putting your dog want to be able to run free. Would you want to be attached to a chain for your whole life dog! A trolley/dog run is still a chain. Dogs can and do hang themselves on trolleys, just chains.

A one-time investment in a fence will improve your property value *and* improve your dog. Learn more about fence building, and read a story about how we fixed a fence to unchain a dog is a fence jumper, there are *alternatives* (see number 7) other than a trolley or chain. rest of this site to learn about ways to improve an outside dog's life.

However a trolley/dog run is better than a fixed chain, because it does give a dog more freedom. Installing a trolley system is easy. A trolley system is like a clothesline that the dog is attached to. The leash is attached to the line by a rolling trolley. The dog can run back and forth the

You can buy dog runs from Petsmart, Walmart and other pet and discount stores. They have instructions. You can also buy the individual parts to a trolley (line, trolley, hooks for the line) at improvement stores such as Home Depot or Lowe's. Ask a worker to show you what you need.

We have found that the brand of trolley that works best is the Skyline Aerial Dog Run. This trolley's attachments are made of metal rather than plastic, so they are stronger and less likely to break.

You can attach a stronger downline (leash) to the trolley for strong dogs. You can replace the downline in the package with the Beast Tie-Out.



The Easiest Method

The easiest way to attach a trolley is to run it between two trees. It will only take you a minute. If you don't have two trees, you can easily sink posts into the ground and run the trolley between the posts. Or you can use a tree and one post.

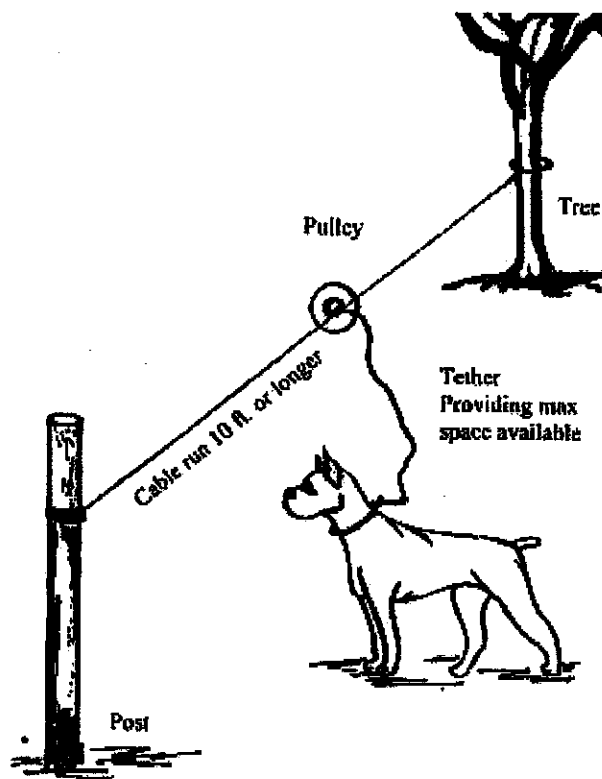
Important!

Make sure to put the trolley system in a place where the dog won't get entangled in a fence. If there is a fence in place, and the dog jumps over on his leash, he can get stuck.

The trolley kit should include **stoppers** that you can put anywhere on the line to stop the dog. If you want the dog to stop four feet from one end of the line, you can put a stopper at that point. The trolley won't be able to get past the stopper.

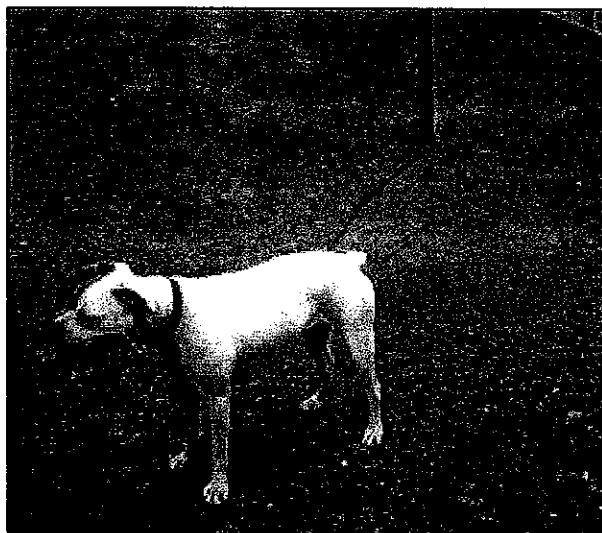


You can buy extra stoppers at home improvement stores. Ask for rope pick the size that will work best for the size of your line. If the clamp is around on the line.



Real Cases: Lady and Maggie

Here's how Lady's and Maggie's lives were improved by installing a trolley.



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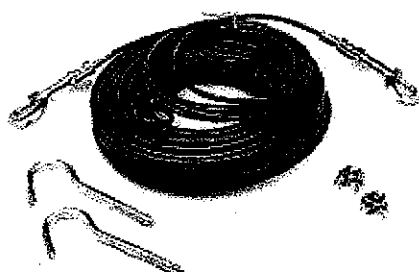
[previous](#) [Return to Results](#) [next](#) #6 of 20

Skyline Aerial Trolley by Roccorp

Item: 302582

Product Description:

A complete aerial trolley kit that includes a 10 ft. downline.
[more details](#)



[view detailed image](#)

Place your order here

* required field

step 1: * 1 qty.

Your price: \$ 30.99

[Add to Wish List](#)

Overall Rating ★★★★★ 5

Performance ★★★★★ 5

Appearance ★★★★★ 5

Quality ★★★★★ 5

100% of customers said they would recommend this product to a friend.

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You might also like these related products.

All products are covered by our [PetSmart Guarantee](#) and can be returned at your local [PetSmart Store](#).

Description [Product Reviews](#) [Shipping Info](#)

A complete aerial trolley kit that includes a 10 ft. downline. The downline is replaceable with a larger tie-out for bigger dogs. Pulleys are die-cast for long life.

May we also suggest:



Slobber Stopper Dog Toys by PetSport

from \$5.99

Slobber Stopper handles make these toys great for interactive games of fetch and tug-of-war with your dog.

Shop within Dog:

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Color

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Product Type



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Building Fences

All fence building follows the same basic steps:

1. Determine the fence's boundaries.
2. Set the posts into the ground. Think of posts as the framework of the fence.
3. Attach fencing to the posts.
4. Install a gate.

Mesh Fencing

The simplest and cheapest type of fence is a mesh fence. T-posts or wooden posts are and mesh fencing is attached to the posts. This type of fence is not as sturdy as chain link fence. Many dogs contained. Learn more about mesh fencing.

You can also extend the height of your existing fence with mesh fencing.

Chain Link

Chain link is very strong and durable, and looks nice when installed. Chain link material is stronger than a T-post fence, but it is still cheaper to install yourself than to hire someone to do it.

The following sites have step-by-step instructions for building a chain link fence:

- Hoover Fence Company
- Do It Yourself Or Not
- Tractor Supply Company

Don't be intimidated by the long lists of instructions on the websites. Yes, building a chain link fence takes time and work. But the average person can build chain link on their own. Our site also has information on chain link fencing.

Look around your neighborhood at fences for ideas about the different fencing options. Looking at other people's fences might also give you ideas about construction and cost.

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[Replacement Batteries](#)
[Replacement Collars](#)

Style
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Price
[Under \\$25](#)
[\\$26 to \\$50](#)
[\\$51 to \\$100](#)

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Deluxe Bark Collar by Petsafe

Item: 360058



[view detailed image](#)

Product Description:

A simple way to safely train your dog.
[more details](#)

Place your order here

* required field

step 1: * qty.

Your price: \$ 64.99

[Add to](#)

Overall Rating ★★★★★ 4
Effectiveness ★★★★★ 4
Quality ★★★★★ 4

100% of cus
said they wo
recommend
product to a
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Description [Product Reviews](#) [Shipping Info](#)

With 18 correction levels, the Deluxe bark collar uses a combination of sounds and vibrati
effectively train your dog. Automatic shut-off if dog barks more than 15 times. Includes o
battery and training video. Lifetime guarantee.

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DOG CAT BIRD WILD BIRD FISH REPTILE SMALL PET HORSE

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[Return to Results](#) [next](#) #1 of 14

Citronella Bark Dog Collars by Premier Pet Products

Item: 301789



[view detailed image](#)

Product Description:

Ships free! A new dog collar with a twist in bark cc dogs. Safe and effective. Emits a harmless citrus sr barking.
[more details](#)

Place your order here

* required field

step 1: * qty.

Your price: \$ 89.99

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Overall Rating 4.7

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Accessories for this product.

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Description [Product Reviews](#) [Shipping Info](#)

The safe and humane way to deter excessive barking. This unique dog collar is equipped with a battery-operated, electronic bark-sensing unit. The adjustable collar releases an all-natural citronella spray when your dog barks. The harmless citrus smell and quick action of the spray startles and confuses the pet's highly developed olfactory sense, causing him to stop bark

Unit includes spray control receiver and collar, citronella spray refill (additional refills sold separately), battery, and operations manual. Manufacturer provides a lifetime warranty.

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- barking [\(remove\)](#)

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Product Type
[Collars](#)
[Non-Stimulus](#)
[Replacement Batteries](#)
[Replacement Collars](#)

Style
[Training](#)

Price
[Under \\$25](#)
[\\$26 to \\$50](#)
[\\$51 to \\$100](#)

Other ways to shop
[Top Seller](#)
[Free Shipping](#)

- We, the undersigned, are opposed to the proposed animal control ordinance because:
- Increased license fees will increase non-compliance, abandonment, stray population and euthanasia rate.
 - The problem of dog bites should be addressed by laws specifically targeting owners of biting dogs, not by general harassment & punishment of all animal owners.
 - Ordinances that provide owners with positive incentives should be put into place before ordinances to penalize.
 - Existing confinement requirements & licensing fees for cats should be repealed. Repeal of cat confinement ordinance would allow volunteers to implement trap-neuter-return of cats, proven to be the only effective means of municipal feline population control.

NAME	ADDRESS	PHONE	E-MAIL
Jaylin Hilder	800 E. Pittman Dr.	200-3024	
Scott Gussow	931 E Ash Fay AR	236-1366	
Jody Phelps	2072 Austin Dr.	521-5960	SURNDRTODY@aol.com
Melissa Subanks	2294 Juneway	522-9368	
Phillip Subank	2294 Juneway	521-9368	
Nate Phelps	862 OLIVE	871-8437	
Vonna Radley	930 E Ash Fay AR	571-3145	dgrackley@hotmail.com
Brown Hanna	711 E Rockwood Tr	871-2955	bhanna@indiana.com
Laura Beard	717 Rockwood Tr.	582-3708	lornabeard@hotmail.com
Betty P. Morris	4236 Lakeshore Fayetteville AR	582-9158	
Dorothy Williams	1543 E 5th St	443-6459	
Robert A. W. W.	127 E. University	521-4940	
R.P. Worthy	136 E. Spring	966-0750	
Shannon Doise	1650 E. Carolyn Dr.	442-7012	adedoise@yahoo.com
M. Stuffle	733 Rockwood Tr.	442-8496	
Mary Rankin	807 Woodlawn	442-6419	
Theresa Farris	2142 N. Chestnut	236-2048	

B. 2
Amend Chapter 92
Animal Ordinance
Page 32 of 52

[illegible]

- Avoid seeking help from animal services when trying to locate a lost pet.
- Fail to redeem their pets if they become impounded.
- Stop providing homeless animals with food & shelter.
- Reduce the amount of veterinary care provided to their animals.
- Spay & neuter fewer animals.
- Sacrifice or abandon animals for whom they can no longer afford to provide good care.

Compliance for animal licensing (both cats & dogs) in Fayetteville, is, currently, estimated to be only 3 to 4%. Judging from the number of tame, friendly, free-roaming cats, compliance with confinement of cats is even less than that. Non Compliance means animal owners DO NOT WANT this type of law!

We request that the proposed ordinance be sent back into committee for revision, including repeal of the ordinance requiring cats to be strictly confined to indoors or outdoor enclosures.

[illegible]

Ridgelee / Sourashy / Amberwood /

B. 2
Amend Chapter 92
Animal Ordinance
Page 35 of 52

[illegible]

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Amended Chapter 92

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NAME	ADDRESS	PHONE	E-MAIL
Mary Jean	712 E. Rockwood Trl	521-8656	226vya@gmail.com
Lorrie Bachman	848 Rockwood Trl	521-6441	-
WM. BEVER	604 VINSON AVE	582-4663	-
Gertrude L. Smith	603 Vinson Ave.	442-6327	-
Michael White	560 Vinson Ave	443-3498	
T. Stauffer	733 Rockwood	442-8446	
Blake Jones	821 Broadview	443-2859	Blake Jones@kcl.com
Jane Mitchell	822 E Broadview	871-2694	
John Smith	822 E Broadview	601-5659	
Dale Kirby	504 E. Maple	442-7171	
Louise Hinkley	1681 Broadview	442-9376	
Clara Maurer	1628 Broadview	442-7026	
Virginia Bealright	822 E Windy Hill	443-4616	
Sonja Barnett	804 Windy Hill	587-9999	
Soyce Keller	2233 Shrewsbury Terrace	582-4275	
Scott Kone	" "	582-4275	Kellerb6@cox.net
Sonia Jennings	548 Fallin Ave	466-0402	love2bchick@yahoo.com

The proposed animal ordinance raises licensing, impound & penalty fees & affects cats, as well as dogs. High licensing, impound fees & penalties discourage people from helping animals. They cause people to:

- Avoid seeking help from animal services when trying to locate a lost pet.
- Fail to redeem their pets if they become impounded.
- Stop providing homeless animals with food & shelter.
- Reduce the amount of veterinary care provided to their animals.
- Spay & neuter fewer animals.
- Sacrifice or abandon animals for whom they can no longer afford to provide good care.

All of this leads to reduced quality of life for animals, more homeless animals & costs the taxpayers more money to publicize & enforce the law & euthanize (kill) the unwanted animals.

Compliance for animal licensing (both cats & dogs) in Fayetteville, is, currently, estimated to be only 3 to 4%. Judging from the number of tame, friendly, free-roaming cats, compliance with confinement of cats is even less than that. Non Compliance means animal owners DO NOT WANT this type of law!

There are alternatives the city could implement to help animals, provide incentives to reduce the number of homeless animals, & support people who provide care to both domestic & feral animals.

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NAME	ADDRESS	PHONE	E-MAIL
Edward Olsen	434 E 12 th Pl.	587-0132	—
Red Boege	1415 S. School St		
Dan Fine	2100N Fort Oaks Dr	502-1978	—
Amarie Reynolds	4305 12th pl	502-3931	—
Phyllis Cruise	P.O. Box 1163 Fayetteville	799-2164	
Andrea Lays	438 E. 12 th Pl. n.e.	799-2164	
Chris Bayanogor	311 E 12 th street	502-0966	—
Raven Woods	313 E 12 th St.	251-8972	—
Tiffany Crivens	414 E 12 th St. Fayetteville	444-8805	
Kasha Watson	326 E. 12 th	409-9135	—
Paul Watson	116 N. Washington	313-3911	
Charles Ruppert	423 E 12 st	305-9417	
Erin Hamerick	1194 S.W. Washington	203-7036	

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NAME	ADDRESS	PHONE	E-MAIL
Mana E. Barragan	312 12 th & Fay Ar 72701	582-2725	Barragan9919@SAC GALSON.NET
Shirley Archer	343 12 th Pl Fay AR 72701	313-3561	none
Mary Drummond	341 E 12 th pl fay, ar	799-2262	NONE
Jugla Cold	336 E 13 th Pl. Fay, ar	827-387-1874	NONE
Dawn M. Smith	309 E. Dean St. Lincoln, AR. 72744	824-0976	NIA
Joyce Henson	353 E 13 th PLACE FAYETTEVILLE, AR. 72701	521-0217	NONE
Nancy McDonald	342 E 12 th Place Fayetteville, AR 72701		
Alisha Newell	431 E 12 th Place Fayetteville AR. 72701	871-8392	NONE
Julie Drake	435 E 12 th Place Fayetteville AR 72701	313-3855	None
Rachel Frick	2038 N. Shannon Dr. #1 Fay, ar 72703	502-5567	None
Robert Dickson	332 E. 12 th Fayetteville	443-2739	none
Cheryl Hird	332 E 12 th Fayetteville	443-2739	none
Courtney Bell	2378 N. Brandi Ave Fayetteville	502-0301	none
Kristal Dickson	332 E 12 th Fayetteville	4432739	none none

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The proposed animal ordinance raises licensing, impound & penalty fees & affects cats, as well as dogs. High licensing, impound fees & penalties discourage people from helping animals. They cause people to:

- Avoid seeking help from animal services when trying to locate a lost pet.
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We request that the proposed ordinance be sent back into committee for revision, including repeal of the ordinance requiring cats to be strictly confined to indoors or outdoor enclosures.

NAME	ADDRESS	PHONE	E-MAIL
Russell Goughan	1645 S. School	909-2462	
Andy Woo	2100 S. School	879 84 97	
Kaden Robbins	1121 S. West Ave	251-9022	
Katki Glenn	1123 S. West Ave.	442-2397	
Shelley McGehee	1127 South West Ave. ^{Fay AR}	443-1376	
Pamela Sufi	1340 S. Dunn ^{Fay AR}	444-0092	
Cally McGehee	1348 S Dunn ^{Fay AR}	521-0597	
Naida Pool	1405 Ellis Ave	443-0856	
[Signature]	4401 S. Ellis Ave	263-2860	
[Signature]	1381 Ellis	466 7432	
[Signature]	1215 Ellis Ave	387 5232	
Joel Macey	1209 Ellis Ave	445-6253	
[Signature]	1203 S. Ellis Ave	313-4246	

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 - The problem of dog bites should be addressed by laws specifically targeting owners of biting dogs, not by general harassment & punishment of all animal owners.
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 - Existing confinement requirements & licensing fees for cats should be repealed. Repeal of cat confinement ordinance would allow volunteers to implement trap-neuter-return of cats, proven to be the only effective means of municipal feline population control.

NAME	ADDRESS	PHONE	E-MAIL
Ansel Ogle	14294 Hwy. 16 West	479-263-3811	ansel880sbcglab.net
Gavin Wiggins	101 W. 4th St.	479-575-9302	ggwin@downsthouwitt.com
Jane Daulton	257 22nd St	479-200-1853	Crysallight@Cay.net
Dawn Graham	937 S. Morning side ^{Fay. 72701}	479 443 6780	dgrahnc@stcglab.net
Stacy Whites	1561 Healey St	479-466-8075	
Garrett Hunt	219 Hymn Hollow Rd.	479-283-8499	hunt-garrett@yahoo
Tyler Thomas	3414 Chevalier apts	479-530-7523	HTylerThomas@yahoo.com
Marnie Thomas	15293 White Rock Lane	479-521-0371	bthomas@arkansasusa.com
SEAN	12049 W Hwy 16	479-502-2102	
Jim Coz	512 E Johnson	279-287-9216	K6ERO & cox.net
Pam Horowitz	188 E Davidson	479 575 9113	pam@taylorwack.com
RICHARD THOMAS	112 S. HILL - FAYETTEVILLE	NO PHONE	N/A
Ronald Watson	1279 #6 McComb Rd ^{Fayetteville}	No Phone	NO
Billy Wark	1718 Brower Ave	No	No
Zoe Wolfe	302 E 12th St. Fay.	799 9560	No
JOHN KEARY	257 22 ST. FAY	521-6561	NO!!
Jonny Pry	1327 S. DUNCAN B th 46 FAY AR	251-7605	NO

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NAME	ADDRESS	PHONE	E-MAIL
Carmen Cubillo	102 S. West Ave.	479-521-5677	
David Druding	" "	" "	
Phil Mason	3110 Market	479-502-1299	
Dwight Mittingly	2706 Shadybrook Lane	479-200-4432	
GRAYSON WALKER	501 Selle Drive	479 790-5410	
CYNTHY MEARES	528 SELLE DR	443-7817	
Phil Meares	528 SELLE DR	443-7817	
Leona Hampton	527 Sella Dr.	587-8340	
Sean Rimes	533 Sella Dr	479-444-7199	
Jamie Fields	545 Sella Dr	479-409-9826	
Hanna A. Behr	2219 EMMA AVE 72701		
1994 J. Wafford	2225 EMMA AVE 72701		
L. S. Swafford			

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NAME	ADDRESS	PHONE	E-MAIL
Kyle Ampston	1117 Ellis Ave.	716 868 9564	N/A
Brandi Kiergaard	1043 S. Hill Ave.	(479) 601-2473	brandi4uop@yahoo.com
Garland Cuthbert	1069 50 Betty Jo	479-422-8589	
Man Ray	1027 S. Hill Ave	479-200-4166	
R. Brown	105 S. Hill Ave		
Jonathan Smith	979 S Hill Ave	(479) 530-0009	
Robert C. Williams	957 S. Hill Ave	521-6458	
R R Christie	920 S. Hill Ave	442-2729	
Flatt Wood	844 W 12th St.	N/A	
Chuck Ferris	601 S. Government Ave	479 501 4504	ARK BRO @ Hotmail.com
J. O'Connell			
Chris Fisher	617 Gov. Ave	479-6057	
Christina Williams	1138 Dunn		

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NAME	ADDRESS	PHONE	E-MAIL
Larry Hanson	521 Fallin	479-502-0125	
William Hunsley	305 S. University	—	
Misty Fortenberry	801 Broadway	—	mistyfortenberry@hotmail.com
LEONARD MARTIN	1404 N. GREGG		
Cody Smith	1114 S. Duncan		
Jason Ross	1118 S. Duncan Hwy. AR	N/A	N/A
Jon Edwards	1600 Persimmon Hwy	N/A	N/A
Mark O Sills	1247 STEPHENS	N/A	N/A
Jim Cannady	1801 SIOUX	551 4918	N/A
Kimberly Smith	401 Lewis Ave. #B5	479-313-3280	NA
Paula Skywola	13529 Lake Rd.	NA	NA
David Webee	326 W. Platinum	NA	NA
Joe Dearing	318 S. Project	—	—
Dante Wooten	907 Daisy Lane	NA	—
Julie Straw	PO Box 144	NA	NA
Yvonne McFall	65 S. DUNCAN AVE	263-4708	N/A
Nathan Brumme	354 N. West.	X	X

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NAME	ADDRESS	PHONE	E-MAIL
Bethany Vangilder	2555 East Korte #6	(479) 264-0930	bvangil@uark.edu
Phyllis Tollett	117 E 9th Fay.	1429 445-7635	_____
Roy Lunkford	605 Nantalet Fay	479-521-8767	_____
JARY LITTE	716 S College Ave	313-0009	_____
Sharon Duncan	252 N Thompson Av	_____	_____
Patricia Allen	1400 E 15th Lot 48	479-562-7095	_____
MARK BASSETT	222 South College	479-409-6088	_____
DAVID BROWNING	175 South Hill Ave	NONE	_____
Steve Bassett	135 Hill Ave	479-502-0710	_____
Fred Eggstein	117 E 9th Fay AR	445-7235	_____
David Smith	1400 E 15th #48 Fay	313-3795	_____
Deber	433 College	NONE	_____
Belinda Van Meter	1514 Washington	313-4122	_____
Timothy Adam	210 W South #5	479-409-0910	_____

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[illegible]

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

B.3
Amend Chapter 177
Landscape Regulations
Page 1 of 14

3-Apr-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

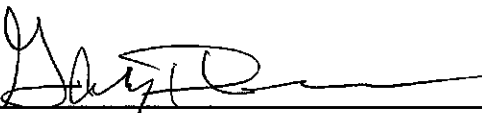
Action Required:

Approval of an ordinance amending Chapter 177: Landscape Regulations of the Unified Development Code, requiring the use of a minimum 8-foot wide sidewalk when utilized in conjunction with Urban Tree Wells.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

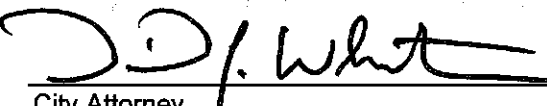
Budget Adjustment Attached ☐


Department Director 3-14-07
Date

Previous Ordinance or Resolution # n/a

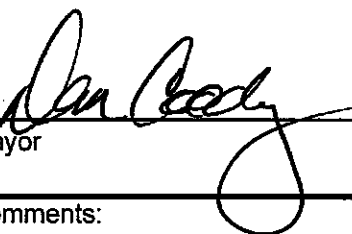
Original Contract Date: n/a

Original Contract Number: n/a


City Attorney 3/15/07
Date


Finance and Internal Service Director 3-15-07
Date

Received in City Clerk's Office
ENTERED
3/14/07


Mayor 3/19/07
Date

Received in Mayor's Office
ENTERED
3/15/07

Comments:

Left on the Second reading 4/3/07 mtg

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Director of Current Planning *X*

Date: March 14, 2007

Subject: Amend Ch. 177 Landscape Regulations of the UDC

RECOMMENDATION

Planning Staff and the Urban Forester recommend approval of an ordinance amending the Unified Development Code, Ch. 177 Landscape Regulations, which would revise the width of sidewalk required from 10 feet in width to eight feet in width when utilized with Urban Tree Wells.

BACKGROUND

The City Council on September 05, 2006 adopted Ordinance No. 4917, which created Chapter 177, Landscape Regulations, a consolidated landscape code. One of the new proposals adopted in this ordinance was to address the planting of trees within urban conditions, specifically where buildings are adjacent to a wider sidewalk, which is adjacent to the street, much like Downtown Fayetteville is developed today. In the initial code, staff recommended minimum 10-foot sidewalks to accommodate both urban tree wells (specifically designed tree pits with amended, structural soil and tree grates) and adequate sidewalk clearance for passersby. In a review of accessible clearance requirements and the application of this regulation to several projects, it has become apparent that 10 feet of sidewalk is not necessary in most situations. Consequently, the Planning Commission has reviewed and approved several variances from that requirement. Staff recommends reducing this minimum width to eight feet, which allows for the four-foot tree grate and four feet of free and clear sidewalk width; A.D.A. requires only three feet, however staff finds four feet to be more accommodating to a higher density of pedestrian traffic, and specifically to those with disabilities. This would reduce the amount of variances being requested, and enable development to occur that also meets the needs of pedestrians.

DISCUSSION

The Planning Commission voted unanimously to forward this ordinance amendment to the City Council with a recommendation for approval on March 12, 2007.

BUDGET IMPACT

None.

New Ordinance
Handed out at
City Council Meeting
4/3/07

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 177, LANDSCAPE REGULATIONS, OF THE UNIFIED DEVELOPMENT CODE TO REQUIRE MINIMUM EIGHT-FOOT WIDE SIDEWALKS WHEN UTILIZED IN CONJUNCTION WITH URBAN TREE WELLS.

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

Section 1. That Chapter 177.05 (B)(3): Landscape Regulations, of the Code of Fayetteville, is hereby repealed, and the following is inserted in its stead:

177.05 Street Tree Planting Standards

(B)(3) *Optional Street Tree Planting Plan for Urban Streetscapes.*

"The Street Tree Planting Plans of subsections (1) and (2) may be replaced by an urban streetscape including sidewalks at least eight feet wide from curb to building. At the time of developmental submittal, the proposed urban streetscape shall include a street tree planting plan in compliance with the following requirements:

- "(a) A minimum of one (1) two-inch caliper, large species tree per 30 linear feet of street frontage or every 10 parking spaces, whichever provides the most trees, shall be planted with this option.
- "(b) Location of trees shall be approved by the Urban Forester to ensure that adequate spacing, access and visibility are maintained. The spacing of trees may be varied with approval of the Urban Forester.
- "(c) Trees shall be planted within urban tree wells. The minimum width of an urban tree well shall be four feet (4'); the minimum area shall be 16 square feet. Four feet of unobstructed sidewalk shall be maintained. This option is only permitted to allow trees to be planted within wide sidewalks in a downtown/urban fashion.
- "(d) Tree wells shall be covered with either a tree grate or some form of permeable pavers, (block or stone), to be approved by the Urban Forester.
- "(e) Structural soil or similar treatment shall be utilized with this option (see Landscape Manual for specifications).
- "(f) Street tree planting plans utilizing this option shall follow the construction procedures and details as outlined in the Landscape Manual.

"(g) Development applications approved for the use of Urban Tree Wells shall not be required to provide additional landscaped area exclusive of the right-of-way."

PASSED and **APPROVED** this 3rd day of April, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Proposed Amendments to Ch. 177 Landscape Regulations

177.05 Street Tree Planting Standards

(B)

- (3) *Street Tree Planting Plan Requirements for Urban Streetscapes.* Submittals for all proposed developments that incorporate an urban streetscape, in which wide ~~(ten eight)~~ feet or greater pedestrian sidewalks are adjacent to the curb and building replace those development patterns mentioned above, shall include a street tree planting plan at the time of development submittal.
- (a) A minimum of one (1) two-inch caliper, large species tree per 30 linear feet of street frontage or every 10 parking spaces, whichever provides the most trees, shall be planted with this option.
 - (b) Location of trees shall be approved by the Urban Forester to ensure adequate spacing, access and visibility is maintained. To meet this goal for the public health, safety and welfare, the spacing of trees may be varied with approval of the Urban Forester.
 - (c) Trees shall be planted within urban tree wells. The minimum width of an urban tree well shall be four feet (4'); the minimum area shall be 16 square feet. This option is only permitted to allow trees planted within wide sidewalks, in a downtown/urban fashion.
 - (d) Tree wells shall be covered with either a tree grate or some form of permeable pavers, (brick or stone), to be approved by the Urban Forester.
 - (e) Structural soil or similar treatment shall be utilized with this option (see Landscape Manual for specifications).
 - (f) Street tree planting plans utilizing this option shall follow the construction procedures and details as outlined in the Landscape Manual.
 - (g) ~~Development applications approved for the use of Urban Tree Wells shall not be required to also provide the landscape area exclusive of the right-of-way.~~



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION

Date: February 28, 2007

From: Sarah K. Patterson, Urban Forester 

Subject: Amendment to Chapter 177.05 – Street Tree Planting Standards

Chapter 177.05 (B) Landscape Regulation of the Unified Development Code addresses a minimum sidewalk width when utilizing urban tree wells. This width is currently defined as 10 feet. Many of our urban designs will be utilizing this new street tree option. Staff requests to amend the current Chapter to allow for the minimum to be 8 feet in width. This smaller sidewalk is more commonly used and would still allow for adequate tree growth and pedestrian traffic.

Clarification is also needed for the typical 15-25 foot greenspace requirement adjacent to right of way. An additional letter (g) would be added to clear any confusion on the issue. When utilizing the Urban Streetscape option for Street Tree Standards, an additional amount of greenspace would not be required. It is our intent to have a wide sidewalk adjacent to the curb and building to allow for frontage closer to the street.

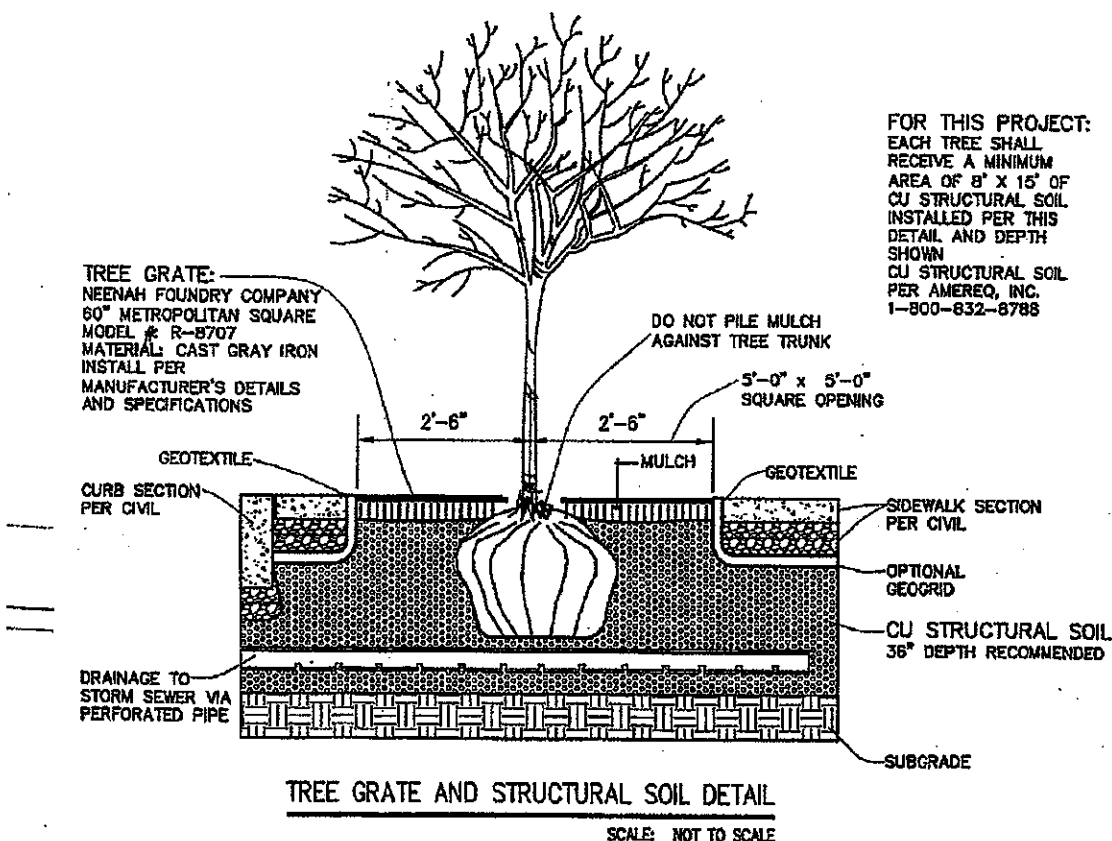
City of Fayetteville Landscape Manual

Urban Tree Wells: §177.05 (B)(3)

This option is only available after approval from the Urban Forester. To ensure the health of the tree, several requirements need to be met when placing trees in urban plantings:

- structural soil shall be used
- the bottom of the well should be open to allow the root system to develop
- the well should be a minimum 4' x 4' or 6' x 6'
- trees should be planted so as the root ball is even with the bottom of the paving
- before the grates are placed, 3-4 inches of mulch must be filled in above the tree
- the tree grate design chosen shall allow for expansion of the tree and have 1/4 inch slot openings to discourage trash from falling underneath-contact Urban Forester
- irrigation is required either in the form of drippers or a hose bib within 100' O.C.

Below is an example of the planting specifications for tree wells. A similar type diagram would need to be included on the landscape plan and construction plans for the Urban Forester to review.



City of Fayetteville Landscape Manual

Structural Soil

Structural soil was first developed by Cornell University. This mixture allows engineers to get the compaction required for sidewalks, roadways, and/or parking lots but still allows porosity for tree roots. Using structural soil in plantings minimizes if not eliminates the problems trees in urban conditions face with compaction and lack of planting space. It is important that the ratio of these two components is correct otherwise the product will not work as designed. Structural soil must be obtained from a licensed and qualified producer to ensure quality control. Preferably the soil should be used to a depth of 34 inches below the surface and should extend as far as allowable. Because of the unique compactable capability the soil can be used from the fronts of business all the way to the curb line. The more area you allow for the expansion of roots the better quality of street tree you will obtain. Irrigation, like in all landscaped beds, is very important. The amount of space in these pits that will allow water to infiltrate is minimal. With the heat and pollution found in urban conditions these trees need ample water to maintain a healthy canopy. A 3-4 inch layer of mulch should also be utilized if grates are being used. The mulch will help hold in moisture for the tree and discourage weeds from sprouting.

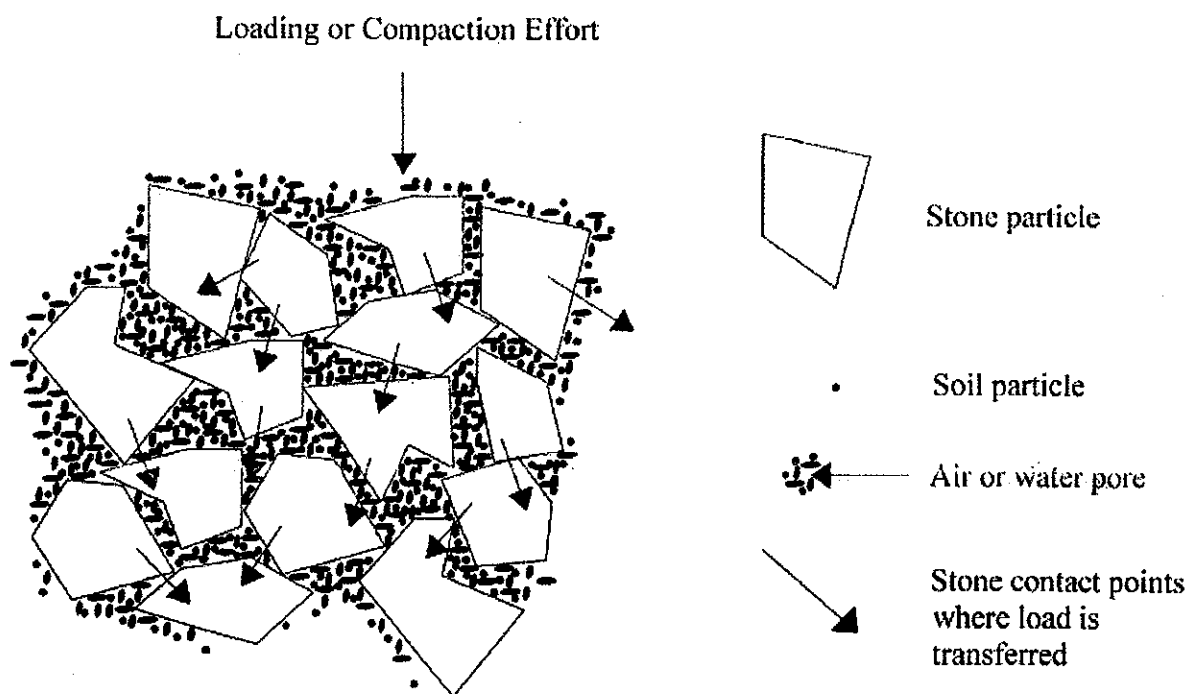
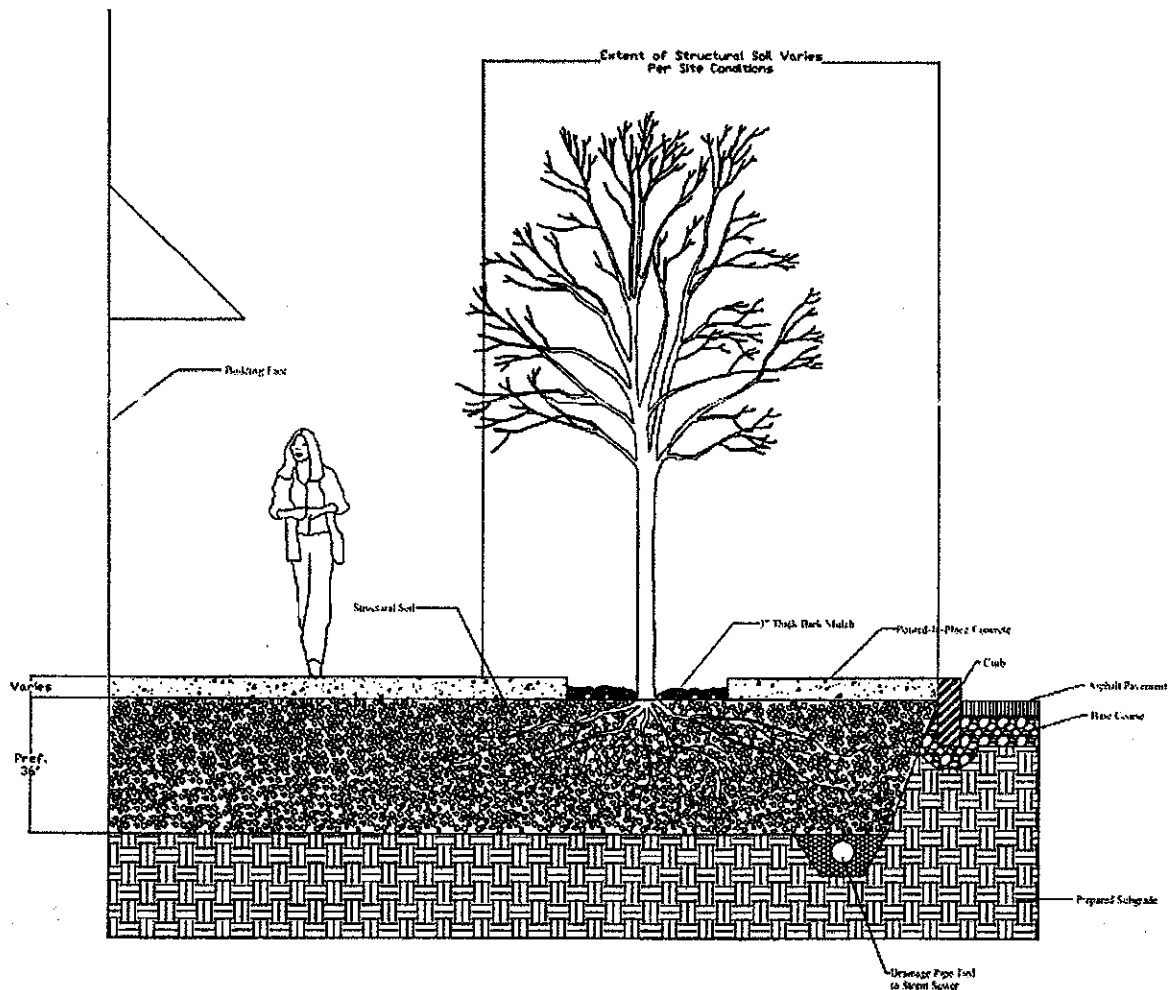


Image from "Using CU-Structural Soil in the Urban Environment"-Cornell University

City of Fayetteville Landscape Manual

Urban Tree Wells using Structural Soil



TYPICAL STREET TREE PLANTING - VIEW 1

Image from "Using CU-Structural Soil in the Urban Environment"-Cornell University

4 SIDEWALK CORRIDORS

CHAPTER

Table 4-1

Zone	Minimum Width
Curb Zone	152 mm (6 in)
Planter/Furniture Zone	610 mm (24 in) [1.22 m (48 in) if planting trees]
Pedestrian Zone	1.525 m (60 in)
Frontage Zone	760 mm (30 in) *
Total Sidewalk Corridor	3.10 m (10 ft) *

* If at least 760 mm (2.5 ft) of open space is available between the sidewalk corridor and the property line, no frontage zone is needed and the minimum recommended width for the sidewalk corridor is 2.285 m (7.5 ft).

that is oriented at a 90 degree angle to the curb is recommended for access from the pedestrian zone to the street (see Section 7.2.1).

4.1.2.1 Curb zone

The curb zone is the first 152 mm (6 in) of the sidewalk corridor immediately adjacent to the roadway. It is an integral part of the drainage system and prevents excess water from collecting in the sidewalk corridor. The curb zone also discourages motor vehicles from driving onto the sidewalk corridor and is a valuable cue used by people with vision impairments to identify the border between the sidewalk corridor and the roadway.

4.1.2.2 Planter/furniture zone

The planter/furniture zone lies between the curb and pedestrian zones and is intended to house utilities, such as traffic poles and fire hydrants, and pedestrian amenities, such as benches and bus shelters. The purpose of the

At pedestrian crossings (e.g., midblock crossing or street intersections), the sidewalk corridor should be wide enough to install curb ramps with level landings. If the ramp is primarily in the planter/furniture zone, the pedestrian zone remains level. Although a variety of designs may be considered, a perpendicular curb ramp

Source: Designing Sidewalks and Trails
for Access Best Practices
Design Guide
March 2001
(U.S.D.O.T.)



Figure 4-5. A minimum width of 2.5 m (60 in) is recommended for pedestrian zone. This width should be completely free of obstacles and intruding objects.

planter/furniture zone is to ensure that the pedestrian zone will be free of obstacles. Depending on the design of the sidewalk corridor, the planter/furniture zone may or may not be paved. On sidewalk corridors where the sidewalk is set back from the street, such as when a planting strip is provided, the planter/furniture zone consists of the width of the unpaved area. On sidewalks that are paved from the curb to the property line, the planter/furniture zone is not as clearly defined.

If movable objects are originally placed in the planter/furniture zone, they may migrate into the pedestrian zone. Therefore, any movable objects should be chained or otherwise secured in place so that they cannot impede the flow of pedestrian traffic.

In addition to providing a location for sidewalk infrastructure, the planter/furniture zone also serves as a buffer between the pedestrian zone and the roadway. As a rule, pedestrians tend to avoid this area, even when it is free of obstacles, because it is uncomfortable for most people to walk near traffic.

To provide a sufficient buffer for pedestrians, the minimum recommended width is 610 mm (24 in). However, many cities with on-street parking allocate at least 915 mm (36 in) to the planter/furniture zone to separate objects from the curb face and to allow car doors to open and people to exit from the vehicle without entering or blocking the pedestrian zone. The planter/furniture zone next to on-street parking should have the areas adjacent to the vehicle doors free of obstacles.

If the sidewalk corridor is large enough or additional space is required for infrastructure, the width of the planter/furniture zone should be increased. Locations with transit stops will also require a larger planter/furniture zone. Transit requirements vary, however, the boarding pad is typically 1.525 m x 2.44 m (60 in x 96 in) and should be connected to an accessible pedestrian path of travel. Additional space may be required because wheelchair lifts on transit vehicles may extend up to 1.22 m (48 in) beyond the side of the vehicle. In addition to the boarding pad, an accessible bus shelter

The planter/furniture zone buffers pedestrians from traffic and provides space for:

- Utilities;
- Sidewalk furniture;
- Trees and grass; and
- Other sidewalk amenities.

may require an additional space up to 2.44 m x 3.96 m (96 in x 156 in) in size.

Areas that have significant accumulations of snow during the winter will also require a wider planter/furniture zone. A minimum width of 1.83 m (72 in) is recommended for areas where significant amounts of snow will be plowed onto the planter/furniture zone. This additional width will help keep the pedestrian zone free of obstacles, such as piles of snow.

In areas where all of the street planter/furniture and utilities can be placed away from the street in the adjacent property (e.g., on the front lawn in a residential area), the size of the planter/furniture zone may be reduced to 610 mm (24 in). The planter/furniture zone should not be completely eliminated because many pedestrians are not comfortable walking directly adjacent to the roadway. At a pedestrian crossing area, a planter/furniture zone is needed to ensure

sufficient space between the curb and pedestrian zones for two perpendicular curb ramps. In very confined existing facilities, a reduction in the width of the

planter/furniture zone can be combined with the installation of parallel curb ramps (see Section 7.2.3 for information on parallel curb ramps). Trees need room to grow and spread roots (minimum 48 in). Trees should be selected for the space provided, and surface roots should not be removed. Realigning the sidewalk (see Figure 4-42) or ramping over the roots will provide access and protect the tree. See Section 4.4 for more information on trees.

4.1.2.3 Pedestrian zone

The pedestrian zone is the area of the sidewalk corridor that is specifically reserved for pedestrian travel. It should be completely free of obstacles, protruding objects, and vertical obstructions because they can be hazardous to pedestrians, particularly for individuals with vision impairments who may not be able to detect or avoid the hazard.

The pedestrian zone should be at least 1.525 m (60 in) wide. This provides sufficient space for two pedestrians to travel side by side without passing other

Case Study 4-1

In New York City, if a new building is installed, the property owner is responsible for allocating a sidewalk area in front of the building that will accommodate the increased pedestrian traffic the new building will generate.

pedestrians, or for two people going in opposite directions to pass one another. In commercial and urban areas, pedestrian volumes are often much higher than in residential areas. The pedestrian zone should be expanded according to the Highway Capacity Manual based on the anticipated volume of users. In areas with heavy pedestrian traffic, the sidewalks should be wide enough to accommodate groups of pedestrians traveling in both directions. The expanded area should still remain free of obstacles. If additional utilities are necessary in an urban setting, the planter/furniture zone should also be expanded.

The pedestrian zone should never be less than 915 mm (36 in.), which is the minimum width required for an accessible route (ADAAG 4.3.3, U.S. Access Board, 1991). The minimum width provides sufficient space for people who use mobility aids to travel within the restricted space, since most mobility devices have a maximum width of 710 mm (28 in). However, restricting the pedestrian zone to 915 mm (36 in) prevents passing and

does not account for two-way travel, traveling with a sighted guide 1.22 m (48 in) or with a guide animal. This minimum width is only acceptable when:

1. A wider width is impossible
2. The narrow width continues for short a distance as possible; and
3. Passing spaces are provided at intervals of no more than 61.0 m (200 ft).

4.1.2.4 Frontage zone

The frontage zone is the area between the pedestrian zone and the property line. Pedestrians tend to avoid walking close to barriers at the property line, such as buildings, storefronts, walls, or fences, in the same way that they tend to avoid walking close to the roadway. This is especially true in areas with many doorways that swing open into the sidewalk corridor. In most situations, the width of the frontage zone should be at least 305 mm (12 in). However, if the sidewalk corridor is adjacent to a wide open or landscaped space, such as

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

4/17/2007

City Council Meeting Date

Tim Conklin

Submitted By

Planning and Development Mgt.

Division

Operations

Department

Action Required:

Approval of a resolution to change seven street names and convert addresses to the Fayetteville E911 house numbering system within the City of Fayetteville as a result of the West Fayetteville annexation.

\$1,800

Cost of this request

\$ 250,020 -

Category / Project Budget

Miscellaneous

Program Category / Project Name

1010.6600.5315.00

Account Number

\$ 170,490 -

Funds Used to Date

Services & Charges

Program / Project Category Name

\$ 79,530 -

Remaining Balance

General

Fund Name

Project Number

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature] 3-30-07
Department Director Date

[Signature] 3-30-07
City Attorney Date

Paul A. Becher
Finance and Internal Service Director Date

Dan Coody 4-2-07
Mayor Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office
ENTERED 3/30/07

Received in Mayor's Office
ENTERED 4/2/07

Comments:

City Council Meeting of April 17, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Tim Conklin, Planning and Development Management Director
Date: March 30, 2007
Subject: Approval of a resolution to change seven street names and convert addresses to the Fayetteville E911 house numbering system within the City of Fayetteville as a result of the West Fayetteville annexation.

RECOMMENDATION

Staff recommends approval of a resolution to change seven street names and convert addresses to the Fayetteville E911 street numbering system within the City of Fayetteville as a result of the West Fayetteville annexation.

BACKGROUND

The City of Fayetteville has adopted an addressing system that provides a uniform four-digit numbering grid system, which also doesn't allow duplicate street names. Currently, there are seven street names that are duplicated in the City as the result of the annexed area. This grid also differs from the Washington County five-digit street numbering system. After consulting with Fayetteville Central Dispatch, Fire Department, and Police Department, the City recommends making this change in order to provide the best emergency response to this area. Attached is a list of proposed street name changes.

BUDGET IMPACT

The City proposes to distribute new address numbers to the residents at a cost of approximately \$1,800.

RESOLUTION NO. _____

**A RESOLUTION TO CHANGE THE NAMES OF SEVERAL
STREETS OR ROADS WITHIN FAYETTEVILLE BECAUSE
OF DUPLICATE OR CONFUSING STREET NAMES WITHIN
ANNEXED AREAS**

WHEREAS, GIS and emergency services have requested that the streets shown below be renamed in order to prevent confusion especially for the possible dispatch of emergency services for citizens living on those streets.

**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 changes the names of the listed streets to the new names as shown:

- (a) Zion Drive – changed to North Columbia Drive
- (b) Harmon South Road – changed to Harmon Road (with northern and southern portions identified)
- (c) West Hill Side Drive – changed to West Scarborough Drive
- (d) West Highway 16 – changed to West Wedington Drive (within City limits)
- (e) East Overlook Place – changed to East Canyon Court
- (f) Timber Ridge Lane – changed to North Riding Ridge Lane
- (g) Edwards Lane – changed to Athens Lane

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby resolves this Resolution to be in full force and effect on May 1, 2007.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Street Name Changes:

1. ZION DR change to N COLUMBIA DR

- Prior to ORD. 4888, there was already a ZION RD and ZION PL. Propose change due to possible confusion for e911 dispatch.

2. HARMON SOUTH RD change to N HARMON RD and S HARMON RD

- Using the City's address blocks, the northern half of HARMON SOUTH RD would have been given a NORTH pre-direction, making it N HARMON SOUTH RD. In order to avoid confusion for citizens & e911 dispatch and comply with the addressing system, HARMON SOUTH RD should be split at the 00 N/S block line.

3. W HILL SIDE DR change to W SCARBOROUGH DR

- Prior to ORD. 4888, there was already a N HILLSIDE TER. Propose change due to possible confusion for e911 dispatch.

4. W HWY 16 change to W WEDINGTON DR

- Propose change because W HWY 16 is the continuation of W WEDINGTON DR within the City Limits.

5. E OVERLOOK PL change to E CANYON CT (there are lots, but no housing units on this street yet)

- Propose change to E OVERLOOK PL (within City Limits prior to ORD. 4888) because there are currently no addresses off this street and would not affect anyone. There is also, in the newly annexed area, a S OVERLOOK DR. Propose change to avoid confusion for e911 dispatch.

6. TIMBER RIDGE LN change to N RIDING RIDGE LN

- Prior to ORD. 4888, there was already a N TIMBERRIDGE CT. Propose change due to possible confusion for e911 dispatch.

7. EDWARDS LN change to ATHENS LN

- Prior to ORD. 4888, a street named Ed Edwards Rd existed within the City. Proposed change due to possible confusion for E911.



Notice of Address Change

««AddressBlock»»

In the event of an emergency, the rapid response of emergency service personnel is critical for your safety and well being. When the E911 system was developed, there were two types of address numbering systems put in place. One is used by the county and the other is used by cities, individually. As the population of each city increases, there is a need to incorporate the county addresses into the city's addressing scheme. For this reason, with the recent annexation in west Fayetteville, it is appropriate to change the county addresses to fit the City of Fayetteville's addressing scheme.

While this will create some short-term inconvenience, the long-term benefit to your safety and well-being will be well worth the inconvenience.

In order to comply with E911 standards the following address has changed:

Old Address: «FULLADD_OLD», «CITY», «STATE» «ZIP»

New Address: «FullAdd_new», «New_City», «STATE» «New_Zip»

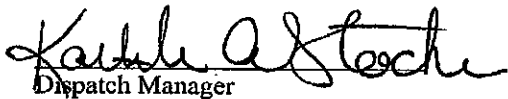
We will notify the utilities, the post office, AT&T and Prairie Grove Telephone and E911 response agencies. Your mail will be forwarded for up to one year, this will allow time for you to notify those you do business with, and deplete your existing stationary, checks etc. It is important that you verify that the County Clerk's office has changed the address for your **voter registration (444-1711)**.

For your convenience, I have enclosed new address numbers for your use. For your safety and the convenience of those who are delivering items to you, or to locate your home or business in an emergency situation **please post your address so it can be seen from the street.** Please change your address numbers as soon as possible, as E911 will begin using this new address immediately. The enclosed nail-up house numbers and mail box labels are highly visible and will assist all those trying to locate your home or business. Using an old address may increase the time it takes emergency services to reach your location.

In the cases where this letter goes to a corporate office or property owner at a different location than this address, please make sure those doing business at this address are notified of this change and will make the appropriate adjustments.

If you feel you received this letter in error, please contact Susan Pierce at 575-8391 at your earliest convenience.

Sincerely,


Dispatch Manager


EMS Chief


Fire Chief


Police Chief



FAYETTEVILLE

C. 1
Fayetteville E911 House Numbering
Page 6 of 8

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

March 5, 2007

Dear Newly Annexed Fayetteville Resident:

I would like to take this opportunity to welcome you into the city limits of Fayetteville. It is our wish to provide you with prompt and efficient service especially in public safety related matters. On behalf of the divisional directors that represent the City of Fayetteville's service related operations, we sincerely thank you for your cooperation and understanding as we undertake the task of mapping and identifying your property for service delivery.

One of the largest challenges we face is the ability to effectively identify your property with a unique address that does not permit any ambiguity or possibility for confusion with similar preexisting addresses within Fayetteville. This issue is of great concern to police and fire officials responding to emergency calls for service. Timely response is critical in matters involving your safety. We will be working with the city's Mapping Services Division to clear up any duplicate or similar addresses. This will require the renaming and renumbering of many streets within the annexed area. We understand this poses an inconvenience for many of you. It will be essential for you to mark your mailbox and property with the new address so it is clearly visible to service providers.

Please feel free to contact the Fayetteville Police Department if you need our services. You may visit our website at www.accessfayetteville.org for a comprehensive list of services offered by the City of Fayetteville or we can provide you with a list of services by standard or electronic mail. The Fayetteville Police Department's non-emergency phone number is 479-587-3555. Ask for the Community Policing Division to request information about the Fayetteville Police Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracey Risley".

Tracey Risley
Deputy Chief of Police



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

March 1, 2007

To: New City of Fayetteville Residents

I would like to take this opportunity to welcome each and every household that has been annexed by the City of Fayetteville, to our community. The City provides the highest level of service and offers many opportunities for its residents to enjoy. As fire chief, it is my priority to maintain the reputation of the City as a "Safe Community."

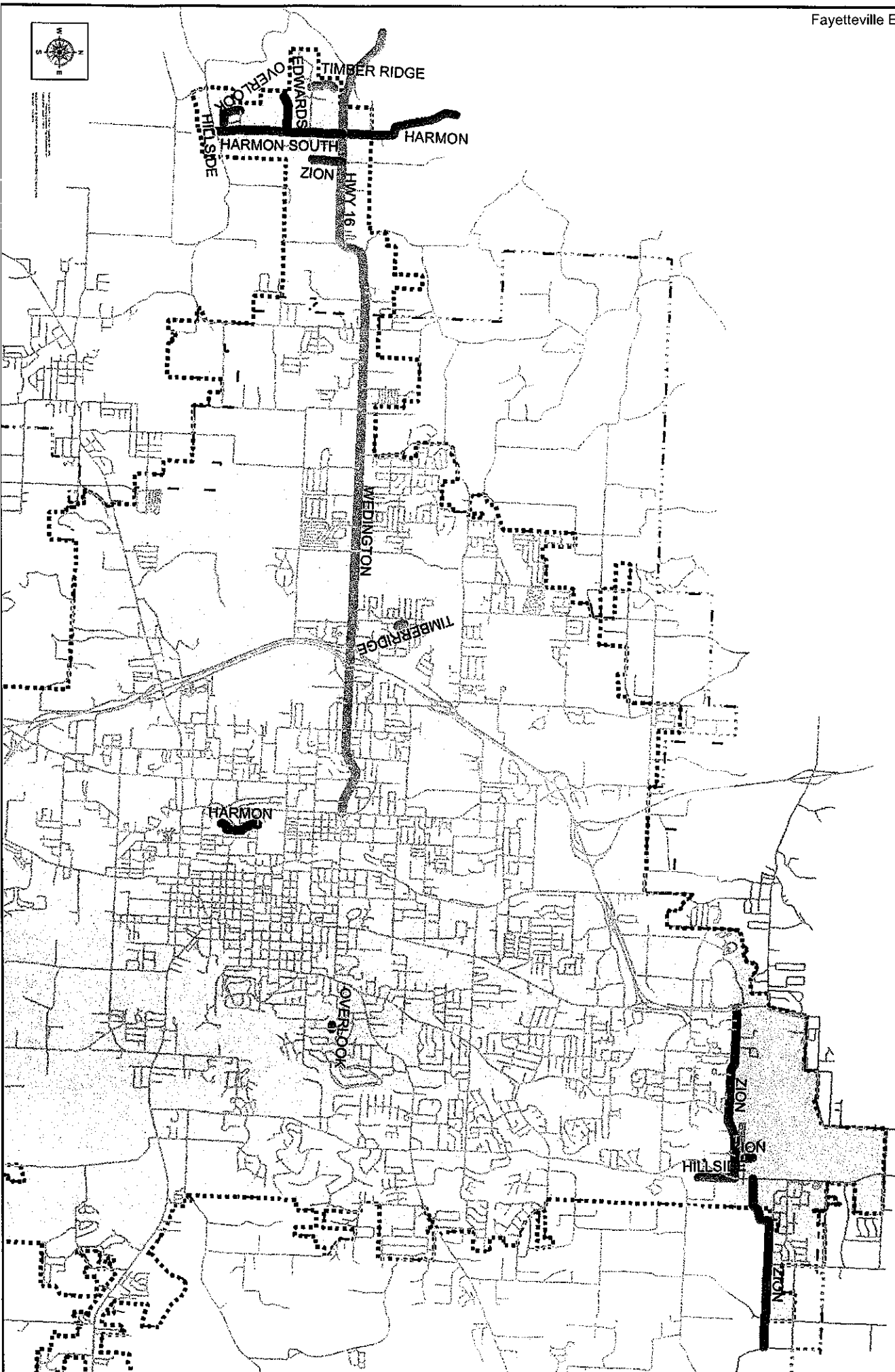
In an effort to continue with our reputation and to provide for an effective, efficient and accountable emergency response, I'm supporting a request that will be going before the Fayetteville City Council for address and street name changes. Your current house number does not follow in sequence with Fayetteville's numbering system. In addition, there may also be a need to change the name of your street from the county index to a municipal index. These changes are important from an emergency service standpoint and it will assist the firefighters and emergency medical technicians of our department to locate and respond to your call for service in the shortest amount of time.

I am asking that you help me to better serve you by supporting the proposed changes in the re-numbering and re-naming of addresses.

Thanking you in advance for your support,

Tony Johnson, Fire Chief
City of Fayetteville

Annexed Streets with Same/Similar Names



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C. 2
Solar Splash International
Boating Competition
Page 1 of 16

17-Apr-07

City Council Meeting Date

Connie Edmonston

Submitted By

Parks and Recreation

Division

Operations

Department

Action Required:

Approve an agreement with Solar Splash International and waive various provisions of the Ordinance 97.070 - Recreational Activities at Lakes, Fayetteville, Sequoyah and Wilson - to allow the Solar Splash International boating competitions to be held on Lake Fayetteville in June 2007 - June 2011.

n/a

Cost of this request

n/a

Account Number

n/a

Project Number

n/a

Category/Project Budget

n/a

Funds Used to Date

n/a

Remaining Balance

n/a

Program Category / Project Name

n/a

Program / Project Category Name

n/a

Fund Name

Budgeted Item

--

Budget Adjustment Attached

--

[Signature] 3-30-07
Department Director Date

Previous Ordinance or Resolution #

Original Contract Date:

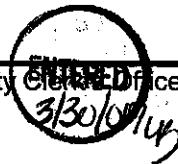
Original Contract Number:

[Signature] 4/3/2007
City Attorney Date

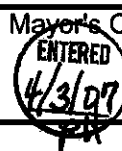
Paul A. Bach 4-3-07
Finance and Internal Service Director Date

[Signature] 4/4/07
Mayor Date

Received in City Clerk's Office



Received in Mayor's Office



Comments:

Solar Splash
p. 1 of 2

City Council Meeting of April 17, 2007

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Connie Edmonston, Director of Parks and Recreation

From: David Wright, Recreation Superintendent *DW*

Date: March 17, 2007

Subject: An exemption of City Ordinances relating to Recreational Activities at Lake Fayetteville to host Solar Splash Boating Competition in June of 2007.

RECOMMENDATION

Parks and Recreation recommends City Council approve an agreement and an exemption of the Lake Fayetteville Ordinance allowing Solar Splash International Boating Competition to take place at Lake Fayetteville each year, through 2011. This waiver would be for a four day span, occurring in June of each year. The exact dates will be approved annually by the Parks and Recreation Director. The agreement allows the City of Fayetteville and Solar Splash the opportunity to terminate the agreement six (6) months of the scheduled competition.

BACKGROUND

The Solar Splash competition is the World Championship of solar/electric boating. It is an international collegiate boating competition between electrical and mechanical engineering students working as teams to overcome design challenges and create a successful solar/electric boat. Universities from all over the country design and build boats that are charged using solar energy during the competition. The competition consists of seven scoring categories, including four events on the water. Categories include technical report, visual presentation, workmanship, qualifying event, solar slalom event, sprint event, and endurance event. The sprint is a 300 meter race that will run parallel to Lake Fayetteville dam. The endurance element will consist of a rectangular course that will be in the western part of the lake.

The event traditionally attracts approximately thirty (30) teams to the community. In 2006, teams from Canada, Mexico, Costa Rica and the United States were represented. Schools including the University of Miami, the United States Naval Academy and Notre Dame participated. Due to the success of the event, Solar Splash, the University of Arkansas and Fayetteville Advertising and Promotions has requested this event be hosted in Fayetteville for the next five years, through 2011.

The Lake Fayetteville dam offers an exceptional site for the public to view the event. Event organizers are looking into the possibility of hosting a 5K run and other promotional events, in collaboration with the main competition.

DISCUSSION

The Solar Splash event will take place June 14 – 17, 2007. This is a date that is compatible to other Parks and Recreation Programs and Events at Lake Fayetteville. Although softball will be played during that week, games for the evening will not begin until 6:30 pm. This will be close to the time the competitors begin closing down for the day. There will be some overlap; however, it will be minimal.

This event will require the operations of Lake Fayetteville to be closed for fishing or boating from Thursday through Sunday. Competitors will begin setting up for the event on Wednesday, which will not interfere with the normal boat dock operations. The competition will begin on the lake on Thursday. Event organizers suggested a couple of time frames daily would be given where boat stall occupants could access their boats.

Event organizers are responsible for carrying their own liability insurance. The City will not be held responsible for their event. Prior to the beginning of the competition, Solar Splash is required to provide the City of Fayetteville a proof of insurance.

BUDGET IMPACT

This event will not have an impact on the expenses of the City's Operational Budget. Solar Splash will pay a facility event fee in 2007 of \$1,600 for use of the facility. This fee, which will be evaluated annually, was determined by the amount of fishing and boating permits sold during this time frame on a normal operating business day(s). Advertising and Promotions estimates the local economic impact of this event is \$207,600.

Attachments:

Solar Splash Agreement with City of Fayetteville
Solar Splash Promotional Materials

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE VARIOUS PROVISIONS OF § 97.070 RECREATIONAL ACTIVITIES AT LAKES FAYETTEVILLE, SEQUOYAH AND WILSON TO ALLOW THE SOLAR SPLASH INTERNATIONAL BOATING COMPETITION TO BE HELD ON LAKE FAYETTEVILLE IN JUNE 2007 AND EACH JUNE THROUGH 2011; AND APPROVING THE AGREEMENT WITH SOLAR SPLASH INTERNATIONAL.

WHEREAS, the City of Fayetteville Parks & Recreation Division has negotiated an Agreement to host the Solar Splash Boating Competition on Lake Fayetteville in June of 2007, and each June through 2011, and that Agreement requires a waiver be passed by the City Council to allow the event to be held; and

WHEREAS, the Fayetteville Parks & Recreation Staff recommends that Fayetteville host this international collegiate solar powered boating contest and waive the normal no "boat racing" and no large wake rules for City lakes in order to conduct this event.

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 agrees to host the Solar Splash International Collegiate Boating Competition on Lake Fayetteville in June of 2007, and each June through 2011, and hereby waives provisions of § 97.070 concerning permits, wake limits, boat racing and any other provisions necessary to host this event on Lake Fayetteville in June, 2007 and each June through 2011.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the Agreement with Solar Splash International to host the Solar Splash International Collegiate Boating Competition on Lake Fayetteville in June of 2007, and each June through 2011. A copy of the Agreement, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 17th day of April, 2007.

APPROVED:

ATTEST:

By: DAN COODY, Mayor

By: SONDRA E. SMITH, City Clerk/Treasurer

Solar Splash International Agreement with City of Fayetteville / Fayetteville Parks and Recreation Division

This agreement, made and entered into on the ____ day of _____, 2007,
by Solar Splash International, hereinafter called Solar Splash, and the City of
Fayetteville, Arkansas:

Solar Splash, for and in consideration as hereinafter fully set out, hereby agrees with the
City of Fayetteville as follows:

1. Solar Splash will host its International Solar Boat Racing Championships at Lake Fayetteville for each of the next five years, through 2011. The date will be determined annually on a mutually agreed upon date by Solar Splash and the Mayor, or his/her designee.
2. The City of Fayetteville will prepare the facilities for the event and will provide routine daily maintenance during the event. If additional maintenance is required, it will be provided by Solar Splash.
3. Solar Splash will pay an annual facility rental expenses of \$1600.00 to the City of Fayetteville for use of the Lake Fayetteville Marina and exclusive use of the lake. This fee will be evaluated annually by Solar Splash and the Mayor, or his/her designee.
4. Solar Splash will allow Lake Fayetteville Boat Slip renters the opportunity to pick up / return their boat at their rented slip. These times will occur from sunrise – 8:00am and 7:00pm – sunset.
5. Solar Splash is responsible for the programming and promotion of the event.

6. The City of Fayetteville will close the lake for fishing and boating to the general public to allow for the event. The facility will close for five (5) consecutive days, normally occurring Wednesday – Sunday. If a change is needed to the set days of the week of operation, it must be approved by the Mayor, or his/her designee.

7. The City of Fayetteville will suspend enforcement of that portion of § 97.070 of the Code of Ordinances regarding boats not creating a wake in Lake Fayetteville during the course of this event.

8. The City of Fayetteville will not be responsible for any boats, motors or any equipment left on the site by the participating teams or the event sponsors. Solar Splash is must provide security officers overnight, if necessary.
9. Solar Splash organizers will be allowed to begin preparing the site for the event two (2) days prior to the beginning of the event. However, any prior set up must

not interfere with normal lake operations and must be coordinated with Parks and Recreation Staff.

10. Solar Splash is permitted to sell memorabilia promoting the Solar Splash event.
11. Solar Splash is permitted to set up a public address system, provided it operates in compliance with Fayetteville's sound ordinance.
12. This agreement is renewable in five, one year increments continuing through 2011. It may be terminated, in writing, by either Solar Splash or The City, provided the termination occurs six (6) months prior to the next scheduled event.
13. It is agreed that the failure of either party to invoke any of the available remedies under this agreement or under law in the event of one or more breaches or defaults by either party under the agreement 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.
14. This agreement constitutes the entire understanding of the parties and no modification or variation of the terms of this agreement shall be valid unless made in writing and signed by the duly authorized agents of the City and Solar Splash.
15. Each paragraph of this agreement 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 will remain in full force and effect.
16. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

DRAFT
IN WITNESS WHEREOF, the City and Solar Splash have executed this Agreement on this day of the date first written above.

City Of Fayetteville, Arkansas

Solar Splash International

DAN COODY, Mayor

ALLAN MANTOOTH, Director

ATTEST:

SONDRA E. SMITH, City Clerk/Treasurer

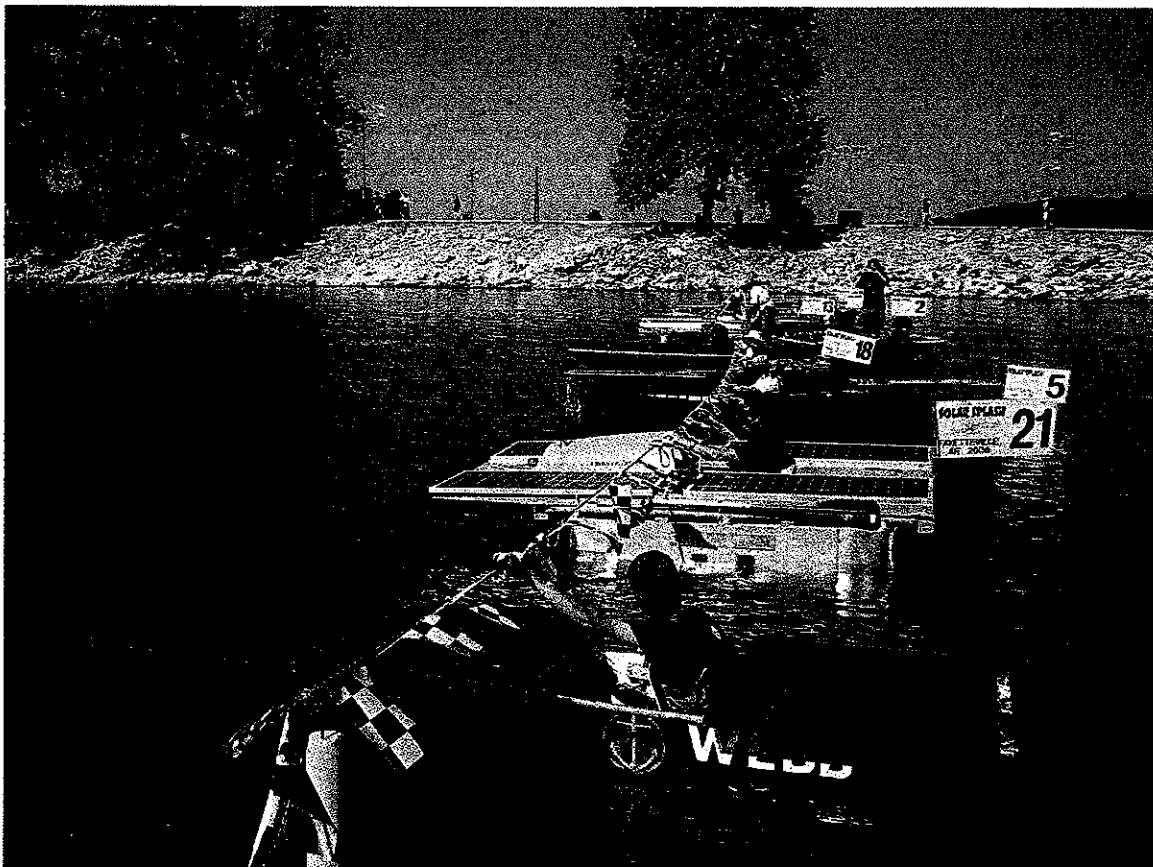
Witness



The ASME International SOLAR SPLASH[®]

The World Championship of Intercollegiate Solar Boating

**SOLAR SPLASH 2007
Fayetteville, Arkansas
June 13-17, 2007**



Solar Splash

The World Championship of Solar Intercollegiate Boating

June 13 through 17, 2007 – Lake Fayetteville
Fayetteville, Arkansas

A Proposal for Funding

Students who apply classroom ideas to hands-on projects gain confidence in their discipline and maturity in their inter-personal skills – traits that any employer can appreciate. Solar Splash is an intercollegiate solar boating competition that challenges students and gives interested sponsors the chance to see how emerging technologies can be applied in action. The fourteenth annual Solar Splash competition will be hosted by the University of Arkansas-Fayetteville this summer. Students and advisors on the planning committee created a tier of donation options and we ask that – after reviewing this proposal and its attachments – you consider participating in this exciting event as a donor.

Solar Splash is a five-day, practical, educational experience that helps develop teamwork and inter-disciplinary skills. The event draws attention to the practical application of solar energy technologies – an application that is sure to grow in importance in coming decades.

At Solar Splash, engineering students and students from other disciplines work as a team to design, build, and operate small single-occupancy boats in a competition focused on speed, maneuverability, and endurance. As of Jan. 29, 25 teams have officially enrolled and/or have expressed an interest in participating. They include a team from Puerto Rico and a team from Turkey as well a high school team from California and institutions as disparate as Carnegie Mellon and the United States Naval Academy. (To see the complete list of teams, visit www.solarsplash.com.) Teams may apply through April 23, and event coordinators expect about 25 teams in 2007.

Since 1994, Solar Splash has been hosted by schools in Milwaukee, New Orleans, and Buffalo. The University of Arkansas first hosted the event in 2006 and will continue to do so through 2010.

To participate in Solar Splash, teams must submit a design report by May 1 and pass close technical inspections on the first day of the competition, which takes place over five days. Teams accrue up to 1,000 points based on the design report, the workmanship of the craft, an informational visual presentation, and – at the crux of the matter – their performance in five on-the-water competitive events.

The boats must qualify in events that test maneuverability and short-distance speed. They then face off in: the slalom event, which tests both speed and maneuverability; a 300-meter sprint; a four-hour endurance run; and, on the last day, one more sprint heat.

Throughout the competition team members must adapt to the shifting variables of actual water and energy conditions, finding ways to maximize relationships among the variables of sun, temperature, cell design, and power demand. Team members who have learned to work effectively with one another will have a contingency plan to address unforeseen challenges. Effective teams also have a leadership structure, but also remain flexible enough to allow versatility in assigned roles.

Solar Splash nurtures innovation, discipline, and persistence. Many teams return year after year, accumulating the knowledge and experience they need to improve their designs.

Dr. Jeffrey Morehouse, professor in the mechanical engineering department at the University of South Carolina at Columbia, serves as the main coordinator for Solar Splash. Academics from each participating institution serve as advisors to their teams, but the students bear ultimate responsibility for the design and performance of their boats. Solar Splash is a unique and valuable learning experience that benefits not only the students but the entire energy industry as students improve the designs and methods needed to use solar energy efficiently.

Please review the donor levels and the recognition opportunities that pertain to each level. As you will see in the attached budget, we expect the event to cost approximately \$70,000 in 2007. We respectfully request that you join the University of Arkansas in presenting this important event. We also invite you to join us in June to watch this exciting competition unfold.

Solar Splash
The World Championship of Solar Intercollegiate Boating
June 13 through 17, 2007 – Lake Fayetteville
Fayetteville, Arkansas

Budget

Item	Expense
Event security, 4 12-hr night shifts, \$20/hr	\$ 1,300
Rent/buy Solar Splash trademark	2,500
Event Insurance	2,000
Lake-location rental	1,600
Signs, banners and leader board	4,300
Honorariums for officials	7,000
T-shirts for staff and volunteers	2,500
Golf shirts for judges and sponsors	1,400
Tent rental, 3 tents, 7 days, \$275/tent/day	5,775
Chase boats and fuel	500
Timing equipment	8,000
Bottled water, 35 cases/day, \$5/case, 5 days	875
Lunches, \$7/person/day, 250 people, 4 days	7,000
Portable toilets and trash dumpster rental	800
Awards and entry certificates	1,700
Boat numbers and brackets	750
Electrical power setup and misc. equipment	4,000
Electrical power cost	600
Sound system and tables and chair rental	1,200
Miscellaneous rentals/purchases	2,500
Catering Wednesday Night Welcome, \$14/person, 350 people	4,900
Travel, food and lodging for event staff	5,000
Advertising and promotion	2,000
Golf Cart Rental	600
Bus Charter	1,200
Total	\$70,000

Solar Splash

The World Championship of Solar Intercollegiate Boating

**June 13 through 17, 2007 – Lake Fayetteville
Fayetteville, Arkansas**

Donor Levels

<u>Tier</u>	<u>Min. Contribution</u>	<u>Benefits</u>
Platinum Sponsor	\$ 15,000	*Logo on all boats *Logo on T-shirt *Logo on primary signage and advertisements *Table in sponsor tent *Seating at head table for representative at dinner *Quotation in press releases or press coverage *VIP seating or viewing, 1 person/\$1,000 *Sponsor plaque *Link from website to sponsor site *Name in program and web page
Gold Sponsor	\$ 7,500	*Logo on T-shirt *Logo on primary signage and advertisements *Table in sponsor tent *Seating at head table for representative at dinner *Quotation in press releases or press coverage *VIP seating or viewing, 1 person/\$1,000 *Sponsor plaque *Link from website to sponsor site *Name in program and web page
Silver Sponsor	\$ 1,000	*VIP seating or viewing, 1 person/\$1,000 *Sponsor plaque *Link from website to sponsor site *Name in program and web page
Contributor	\$ 250	*Name in program and web page

All donations are 100% tax deductible and will be acknowledged with a letter from the University of Arkansas.

The ASME International **SOLAR SPLASH**

An Intercollegiate Student Design
SOLAR/ELECTRIC BOAT COMPETITION



Competition Format (5 DAY EVENT: Wed – Sun)

- **ENGINEERING DESIGN (150 points):**
 - Design report submitted (~May 1st)
 - Poster presentation
 - Workmanship
- **ON-THE-WATER COMPETITION (850 points):**
 - Qualifying: Maneuverability & Sprint
 - Slalom
 - Sprint (300 meters)
 - Endurance (2 heats, 2 hours each)

Competition "Happenings" (5 DAY EVENT: Wed – Sun)

- **WEDNESDAY** – register, begin technical inspection, attend Opening Reception.
- **THURSDAY** – continue Tech Inspections and run Qualifying Events
- **FRIDAY** – run Slalom Event and 300-meter Sprint Heats
- **SATURDAY** – run 4-hour Endurance Event
- **SUNDAY** – run Final Sprint Heats and attend Awards Ceremony

Wednesday "Happenings"

Team arrival, registration, inspections, reception

- Registration of team
- Get boat and equipment set-up in tent (paddock)
- Get skippers/drivers weighed & ballasted
- Skippers to the swim test
- Prepare boat for technical inspections: (Mechanical, Electrical, Battery, Solar Cells)
 - * Try to get at least 2 inspections done!
- Stop at 6pm: Attend "Opening Reception"

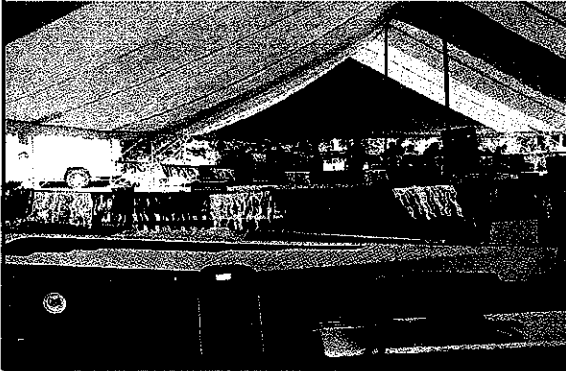
Registration



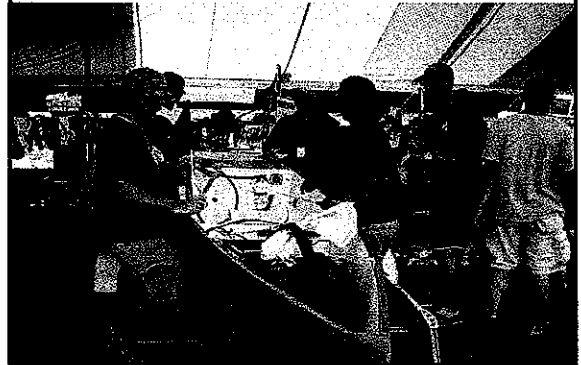
Tent area (Paddock)



Work Space Inside Paddock



Technical inspection



Opening reception

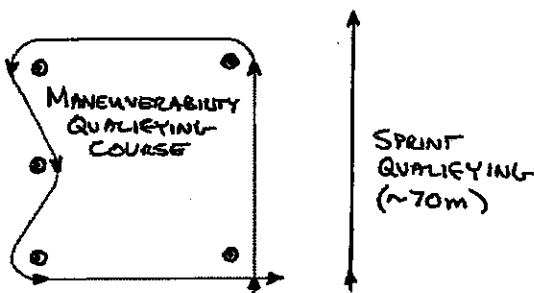


Thursday "Happenings"

Inspections, qualifying events

- Get remaining technical inspections done
(Mechanical, Electrical, Battery, Solar Cells)
- Get boat in Endurance configuration and
run "Maneuverability Qualifying"
- Get boat in Sprint configuration and
run "Sprint Qualifying"
- (If possible!) Get boat in Slalom configuration
and run "Slalom"

Qualifying Courses



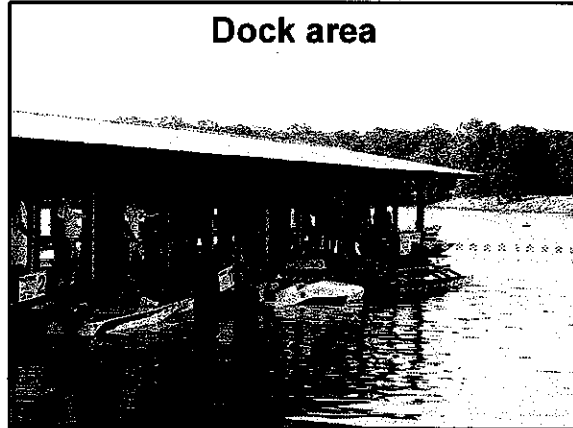
More inspections



Visual display



Dock area



Friday "Happenings"

–Slalom Event and 300 meter Sprint Heats

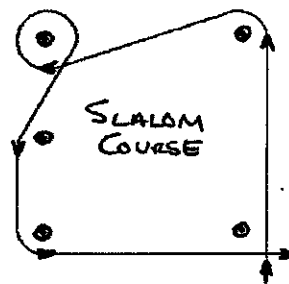
Morning (before noon):

- Use solar panels to charge batteries all day
- Get boat into Slalom configuration and run "Slalom" (noon deadline)

Afternoon:

- Get boat in Sprint configuration and run "Sprint Heat(s)"

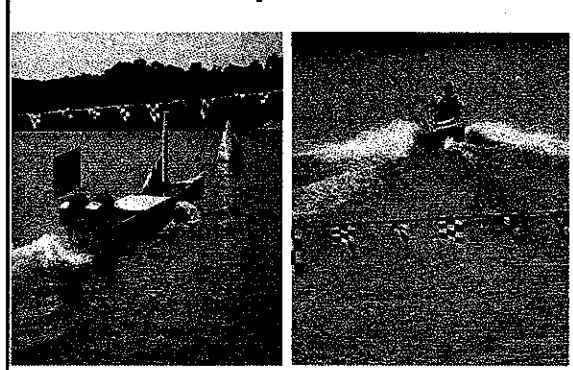
Slalom Course



Start of a Sprint Heat



More Sprint Heats



Saturday "Happenings"

– Endurance Event (closed-circle course of approx. 1 km)

Morning:

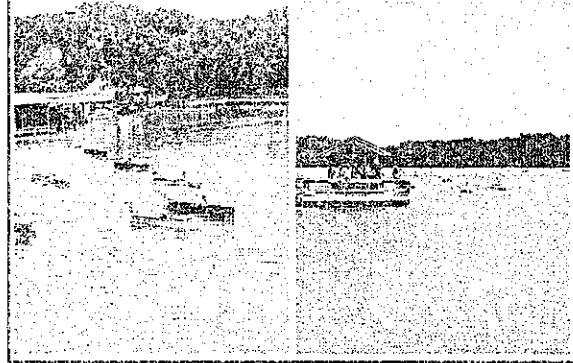
→ Run first 2-hour "Endurance Heat"

Afternoon:

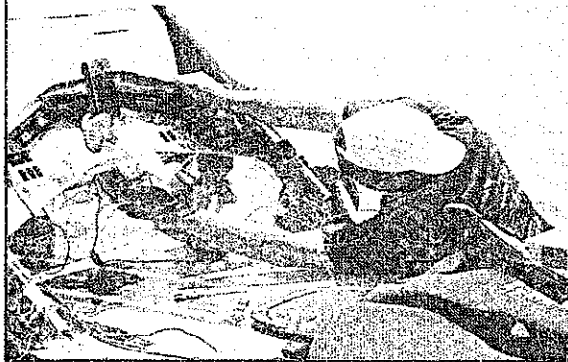
→ Replace battery set during "lunch break"

→ Run second 2-hour "Endurance Heat"

Endurance Event



Problems Occur



The Solar Splash "Rain Dance"



Sunday "Happenings"

– Final "Sprint Heats" and Awards

Morning:

→ Charge batteries with solar cells all morning

→ Run last of "Sprint Heats"

Afternoon:

→ Run "Sprint Finals" (if you've made it!)

→ Attend Awards Ceremony

*** Pack up, say good-byes, and head for home!

Sprint Finals



Awards Ceremony



SOLAR SPLASH® Competition Points

- **1000 Points Possible:**
 - 90 points for DESIGN REPORT (due May 1st)
 - 400 points for 4-hour ENDURANCE EVENT (boats go ~ 8-10 mph using solar & battery)
 - 250 points for SPRINT EVENT (300m with boats going ~ 30 mph)
 - 100 points for SLALOM EVENT
 - 100 points for "Maneuverability & Sprint" QUALIFYING EVENTS
 - 40 points for a VISUAL PRESENTATION and 20 for WORKMANSHIP

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

17-Apr-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2504: (Sloan/Cobblestone, 246): Submitted by Dave Jorgensen for property located south of Salem Road and east of Crystal Springs Subdivision in the interior of the Cobblestone Subdivision. The property is zoned RSF-4, Residential Single-Family, 4 units per acre, and contains approximately 17.22 acres. The request is to rezone the subject property to RSF-8, Residential Single-Family, 8 units per acre.

Action Required:

n/a

n/a

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

Project Number

Remaining Balance

Fund Name

Budgeted Item

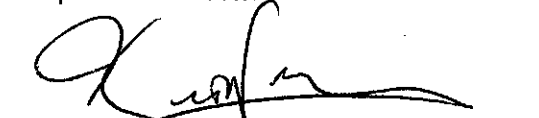
Budget Adjustment Attached


Department Director

3-29-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

3-29-07

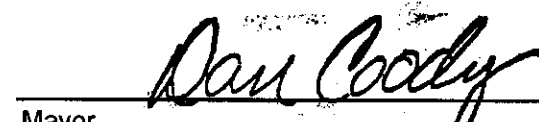
Original Contract Number: n/a


Finance and Internal Service Director

3-30-07
Date

Received in City Clerk's Office

ENTERED
3/29/07


Mayor

4-2-07
Date

Received in Mayor's Office

ENTERED
3/30/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ✂

Date: March 28, 2007

Subject: Rezoning for Sloan/Cobblestone Subdivision (RZN 07-2504)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of rezoning the subject property from RSF-4 to RSF-8 for approximately 17.22 acres located at south of Salem Road and east of Crystal Springs Subdivision, in the interior of the Cobblestone Subdivision that is currently under construction.

BACKGROUND

The subject property contains approximately 17.22 acres. The property is located in the southern, interior portion of the Cobblestone Subdivision, Lots 154-195 (see attached site plan). The property is zoned RSF-4, Residential Single Family, 4 Units per Acre.

The request is to rezone the subject 17.22 acre property from RSF-4, Residential Single-Family, 4 Units per Acre to RSF-8, Residential Single Family, 8 Units per Acre within the interior of the development, to allow for the opportunity for a variety of lot/home size within the residential neighborhood.

DISCUSSION

This item was heard at the regular Planning Commission on March 26, 2007. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council. No public comment was received.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2504, FOR APPROXIMATELY 17.22 ACRES, LOCATED SOUTH OF SALEM ROAD AND EAST OF CRYSTAL SPRINGS SUBDIVISION IN THE INTERIOR OF THE COBBLESTONE SUBDIVISION FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE, TO RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

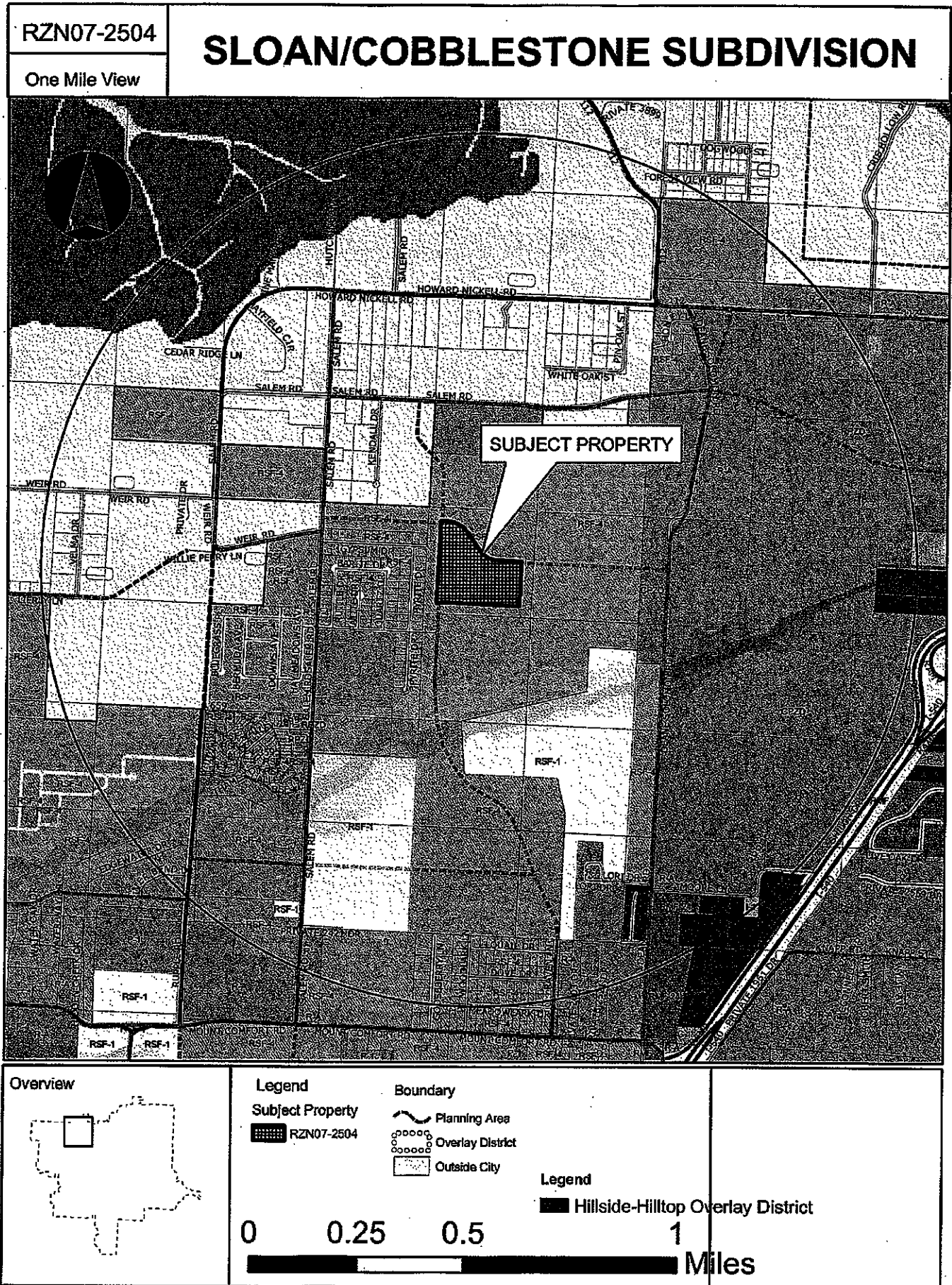


EXHIBIT "B"
RZN 07-2504

PART OF THE NW1/4 OF THE NE1/4 OF SECTION 32, T17N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID NW1/4, NE1/4 THENCE EAST 146.50 FEET, THENCE SOUTH 170.08 FEET TO THE P.O.B., THENCE S87°04'11"E 61.31 FEET, THENCE ALONG A CURVE TO THE RIGHT 325.75 FEET, SAID CURVE HAVING A RADIUS OF 350.00 FEET AND A CHORD BEARING OF S60°24'23"E 314.12 FEET, THENCE S33°44'35"E 238.67, THENCE ALONG A CURVE TO THE LEFT 279.22 FEET, SAID CURVE HAVING A RADIUS OF 300.00 FEET AND A CHORD BEARING OF S60°24'23"E 269.25 FEET, THENCE S87°04'11"E 295.80 FEET, THENCE S02°55'49"W 554.92 FEET, THENCE N87°04'11"W 921.99 FEET, THENCE ALONG A CURVE TO THE LEFT 26.80 FEET, SAID CURVE HAVING A RADIUS OF 150.00 FEET AND A CHORD BEARING OF S87°48'42"W 26.77 FEET, THENCE S82°41'35"W 69.93 FEET, THENCE ALONG A CURVE TO THE RIGHT 32.61 FEET, SAID CURVE HAVING A RADIUS OF 150.00 FEET AND A CHORD BEARING OF N03°17'51"W 32.55 FEET, THENCE N02°55'49"E 990.60 FEET TO THE P.O.B.; CONTAINING 17.22 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.



PC Meeting of March 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: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 20, 2007~~ Updated March 28, 2007

RZN 07-2504: (SLOAN/COBBLESTONE SUBDIVISION, 246): Submitted by DAVE JORGENSEN for property located SOUTH OF SALEM ROAD AND WEST OF DEANE SOLOMON ROAD in the interior of the COBBLESTONE SUBDIVISION. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 17.22 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre.

Developer: SCM PROPERTIES, LLC
Planner: ANDREW GARNER

RECOMMENDATION:

Staff recommends approval of the requested rezoning from RSF-4 to RSF-8 based on the findings herein.

PLANNING COMMISSION ACTION:		
Required	<u>YES</u>	☐ Denied
☒ Forward to City Council (recommend approval)		
Date: <u>March 26, 2007</u>		
Motion: <u>Clark</u>		
Second: <u>Ostner</u>		
Vote: <u>8-0</u>		
CITY COUNCIL ACTION:		
Required	<u>YES</u>	☐ Denied
☐ Approved		
Date: <u>April 17, 2007 (1st reading if recommended)</u>		

BACKGROUND:

Background: The Planning Commission approved the preliminary plat for Cobblestone Subdivision on the subject property on March 13, 2006 (PPL 06-1940). The preliminary plat granted approval of 194 single-family lots.

Property Description: The overall Cobblestone Subdivision property contains approximately 60.28 acres located east of Salem Road, adjacent to Crystal Springs Phase I and Rockhaven Subdivision to the west and Crystal Springs Phase III to the south. The property is zoned RSF-4 and is bisected by two Collector Streets shown on the Master Street Plan. The subject property requested for rezoning is 17.22 acres in the southern, interior portion of the Cobblestone Subdivision. The proposed subdivision surrounds the property in its entirety.

Surrounding Land Use and Zoning:

Direction from Site	Land Use	Zoning
North	Rural Residential; one Single Family property	R-A
South	Crystal Springs Phase 3 (under construction)	RSF-4
East	Vacant (school-owned))	RSF-4
West	Crystal Springs Phase 1, Rockhaven and Rural Residential property	RSF-4 and Planning Area

Proposal: The applicant proposes to rezone 17.22 acres of the overall 60.28-acre Cobblestone Subdivision to RSF-8 for a single-family development. The portion of the subdivision that is proposed to be rezoned is in the southern interior portion of the property, Lots 154-195. The applicant proposes the RSF-8 zoning to allow for reduced building setbacks and smaller lot size than those permitted within the RSF-4 zoning district. This would allow for a varied lot/housing size within the same neighborhood. The zoning criteria for RSF-4 and RSF-8 are attached to this report.

Recommendation: Staff recommends approval of the rezoning request. Development on this site will be regulated by the city allowing for a uniform and consistent development pattern. The higher density proposed in the interior of the Cobblestone Subdivision would transition with surrounding RSF-4 lots in the subdivision before transitioning again outside the neighborhood to other surrounding RSF-4 development. The RSF-8 designation allows the potential for a more traditional form of development with narrow lots and homes closer to the street than would be allowed under a typical RSF-4 zoning. It also provides a greater opportunity to provide a variety of lot and house size within the same development, creating the potential for an attainable housing product.

INFRASTRUCTURE:

Streets and Drainage:	Street and drainage improvements are being constructed with the subdivision development.
Water:	Public water is located adjacent to the site. There is a 12" waterline along being constructed through the development with a system of 8" mains.
Sewer:	Sanitary sewer is available on the site. There is an 8" sewer main system being constructed throughout the development as a part of the subdivision development.

Fire:

These 17.22 acres are covered by Engine 7 located at 835 Ruppel Road. The property is 2.9 miles from the station with an expected response time of 7.25 minutes. This response time is above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the goal of assembling all responding units on the scene of a moderate risk assessment within 10 minutes, 90% of the time. It has been proposed to build a fire station (Station 9) to cover the northwest part of the city and the Fire Department is currently working with builders in that area to locate a suitable lot.

Police:

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services. The volume of traffic accessing and exiting this area through the one existing street will possibly create an appreciable increase in traffic congestion; however the completion of the proposed streets will help with this issue.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Residential Neighborhood Area**. Rezoning this property to RSF-8 in the interior of the Cobblestone Subdivision is compatible to the surrounding density of adjacent residential development and consistent with the surrounding land uses. The RSF-8 zoning would allow for a more traditional form of residential development with narrower lots and buildings closer to the street. This would allow for a mix of lot sizes in an area that currently has a number of standard suburban neighborhoods, consistent with the City Plan 2025 policies. In order to alter the preliminary plat from that which is approved, a new plat would have to be reviewed and approved by the City.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-8 zoning in the interior of the Cobblestone Subdivision for single-family residential use is compatible with adjacent and nearby single family residential land use while promoting a variety of lot sizes and development patterns. These developments include residential subdivisions zoned RSF-4 (maximum four units per acre) and being developed to the south and west of the property (Crystal Springs Phases I and III, and Rockhaven). In addition, the Fayetteville School District has purchased the property to the east and may be developed for a school.

The 17.22-acre portion of the Cobblestone Subdivision tract is currently zoned RSF-4, consistent with the City Plan 2025 designation of the site as Neighborhood Residential Area. Residential development in the interior of the

Cobblestone Subdivision at a density of approximately eight units per acre is appropriate in this developing area. The RSF-8 zoning will allow for a mix of residential housing types in a more traditional design and the opportunity for narrow lots and houses closer to the street, consistent with land use planning policies, and common in other developed areas of the City.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to provide for a variety of lot sizes and variation in development pattern consistent with City land use objectives and policies.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will generate additional traffic on the surrounding street system over the existing RSF-4 zoning. As shown in the revised conceptual subdivision layout provided by the applicant, this rezoning would yield 12 additional single family lots, subject to a new preliminary plat approval. The street improvements required as part of the Cobblestone Subdivision will be adequate to account for these additional vehicle trips. The Fayetteville Police Department finds that rezoning this property will possibly result in an appreciable increase in traffic congestion but that the completion of the proposed streets as part of the Cobblestone Subdivision will help with this issue.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase population density. The proposed zoning would allow for 12 additional single family lots in this subdivision. However, this increase in single-family residences is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

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

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
-------------------------	--------

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

(F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

March 7, 2007

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

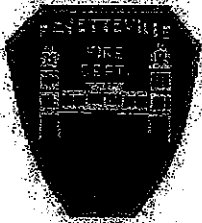
This document is in response to the request for a determination of whether the proposed RZN 07-2504: (SLOAN, 246): Submitted by DAVE JORGENSEN for property located at COBBLESTONE SUBDIVISION would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 17.22 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre.

It is the opinion of the Fayetteville Police Department that this Rezoning will not substantially alter the population density causing an undesirable increase in the load on police services. The volume of traffic accessing and exiting this area through the one mapped street will possibly create an appreciable increase in traffic congestion, however the completion of the proposed streets will help with this issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "William Brown", is written over a horizontal line.

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeren [unclear] and Jesse Fulcher
Thru: Chief Tony Johnson *TD*
Chief Bud Thompson *BT*
From: Captain Dale Riggins
Date: March 5, 2007
Re: March 7, 2007 Zoning Review -- Fire Department Comments

RECEIVED
MAR 07 2007
PLANNING DIV.

ANX 07-2485 (Homestead Homes)

These 125.32 acres are covered by Engine 7 located at 835 S Ruppel Road. It is 2.4 miles from the station with an anticipated response time of 5.75 minutes to the beginning of this development.

The Fire Department anticipates 33(30 EMS – 13 Fire/Other) calls for service per year at the current R-A Zoning of one dwelling per two acres. 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.

ANX 07-2507 (Spencer)

These 13.22 acres are covered by Engine 5 located at 833 N Crossover.

It is 5 miles from the station with an anticipated response time of 8 minutes. When the new station 3 is in service at Happy Hollow and Huntsville, the response time will be reduced to 7 minutes. 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. There should be no adverse effects on our call volume.

RZN 07-2503 (Moler)

These 4.20 acres are covered by Engine 4 and Ladder 4 located at 3385 N Plainview.

It is 1.7 miles from the station with an anticipated response time of 4.5 minutes. The Fire Department does not figure calls for service on properties being re-zoned to R-0, Residential Offices, but typically this type of development will not increase our call volumes or response times.

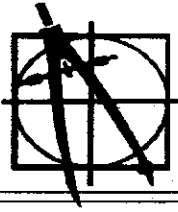
RZN 07-2504 (Sloan)

These 17.22 acres are covered by Engine located at 835 S Ruppel Road.

It is 2.9 miles from the station with an anticipated response time of 7.25 minutes. 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 2*) to cover this northwest part of the city and we are currently working with builders in that area to locate a suitable lot.

If you have any questions concerning these comments please don't hesitate to call me

Captain Dale Riggins
Fayetteville Fire Department



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

February 15, 2007

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Attn: Planning Department
Re: Cobblestone Subdivision - Rezoning

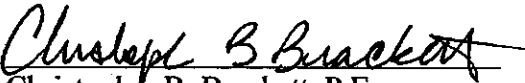
Attached herewith please find the documents for a rezoning request on the Cobblestone Subdivision property. This property is located east of Crystal Springs Subdivision Phase I and II and north of Crystal Springs Subdivision Phase III. The property is currently zoned RSF-4 and the request is to rezone to RSF-8. This area to be rezoned is completely enclosed within the subdivision with RSF-4 surrounding it on all sides.

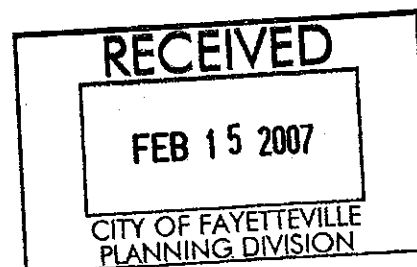
New 8" waterline and 8" sewerline is currently being installed within this area and around it with the infrastructure of the Cobblestone Subdivision. Access to this area will be through the new streets that are being installed at this time. This new streets will have two connections into the Crystal Springs Subdivision to the east and south and there will be one connection to a new subdivision north of Crystal Springs.

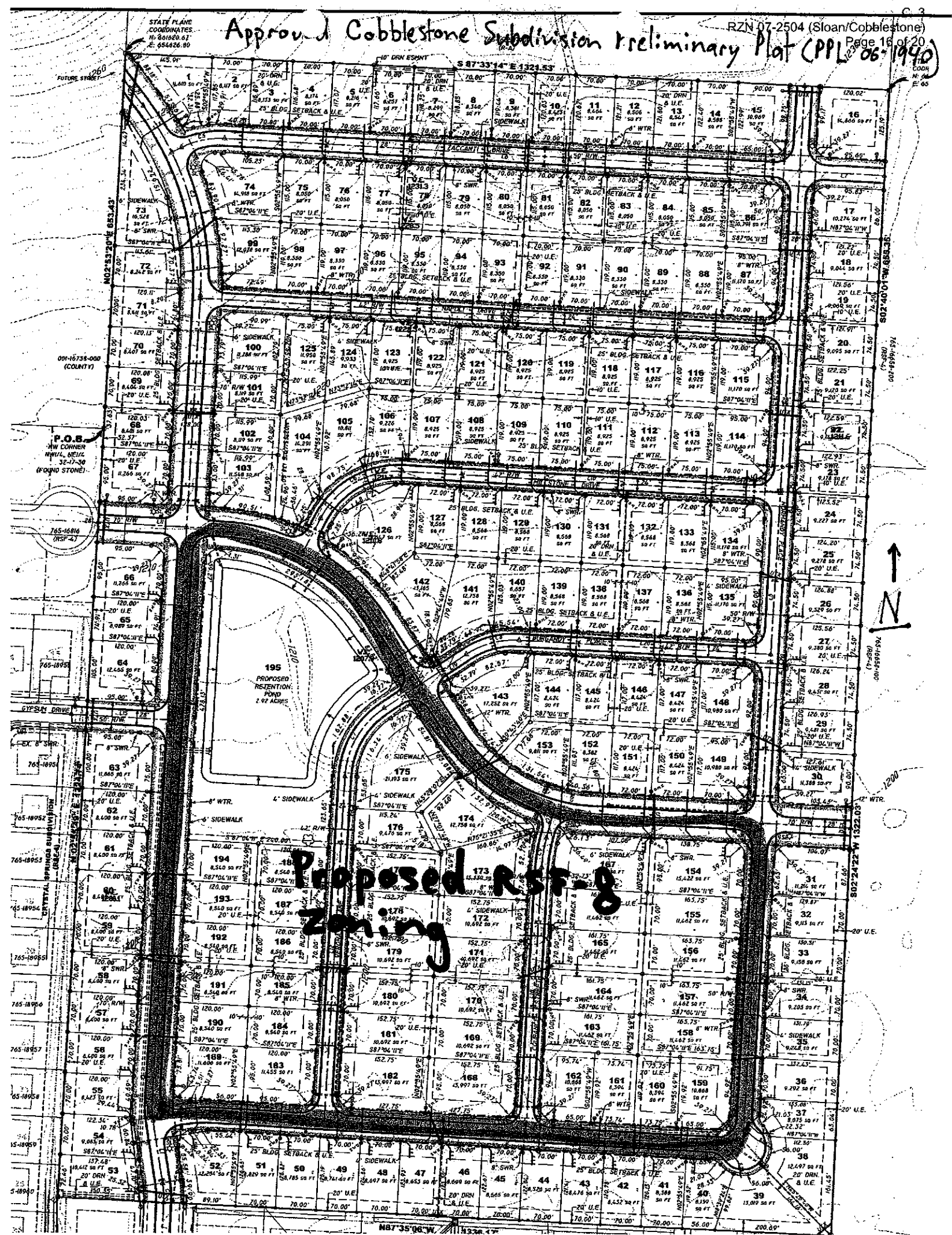
Please review this information and call concerning any questions you may have.

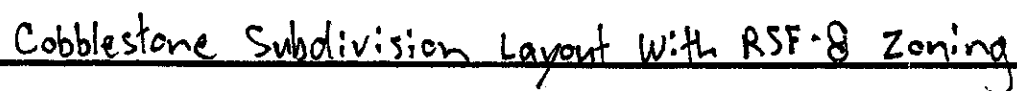
Thank you.

Sincerely;


Christopher B. Brackett, P.E.







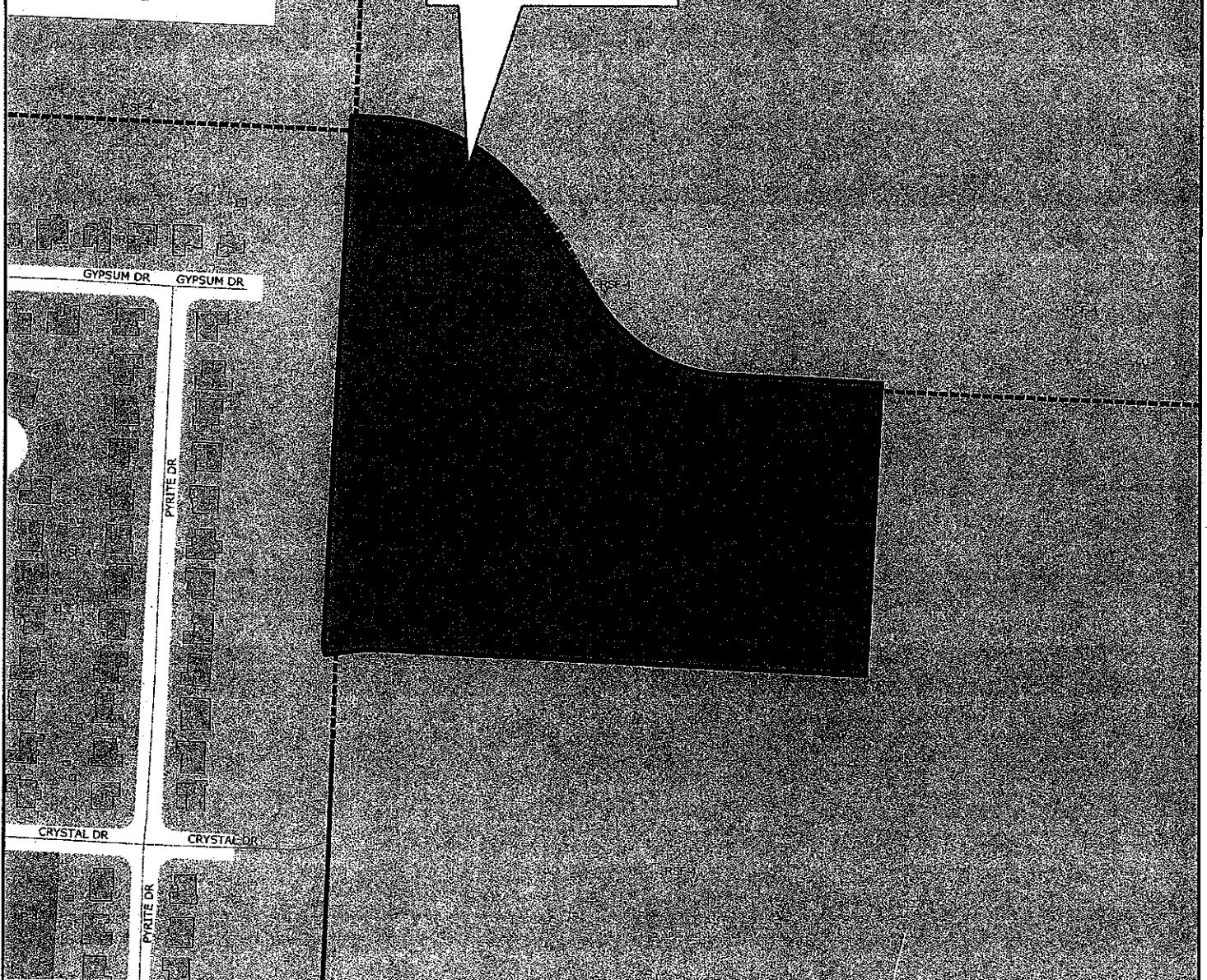
RZN07-2504

Close Up View

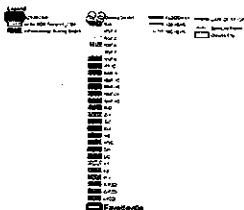
SLOAN/COBBLESTONE SUBDIVISION



SUBJECT PROPERTY



Overview

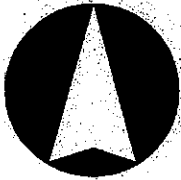


0 125 250 500 750 1,000 Feet

RZN07-2404

SLOAN

Future Land Use



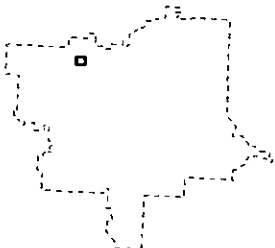
SUBJECT PROPERTY

GYPSUM DR GYPSUM DR
PRIVATE DR

Legend

- Building (2004)
- Future Land Use 2025 CLASS
- Industrial
- Non-Municipal Government
- Complete Neighborhood
- 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

Overview



Legend

- Subject Property
 - RZN07-2404
- Streets
 - Existing
 - Planned
- Boundary
 - Planning Area
 - Overlay District
 - Outside City

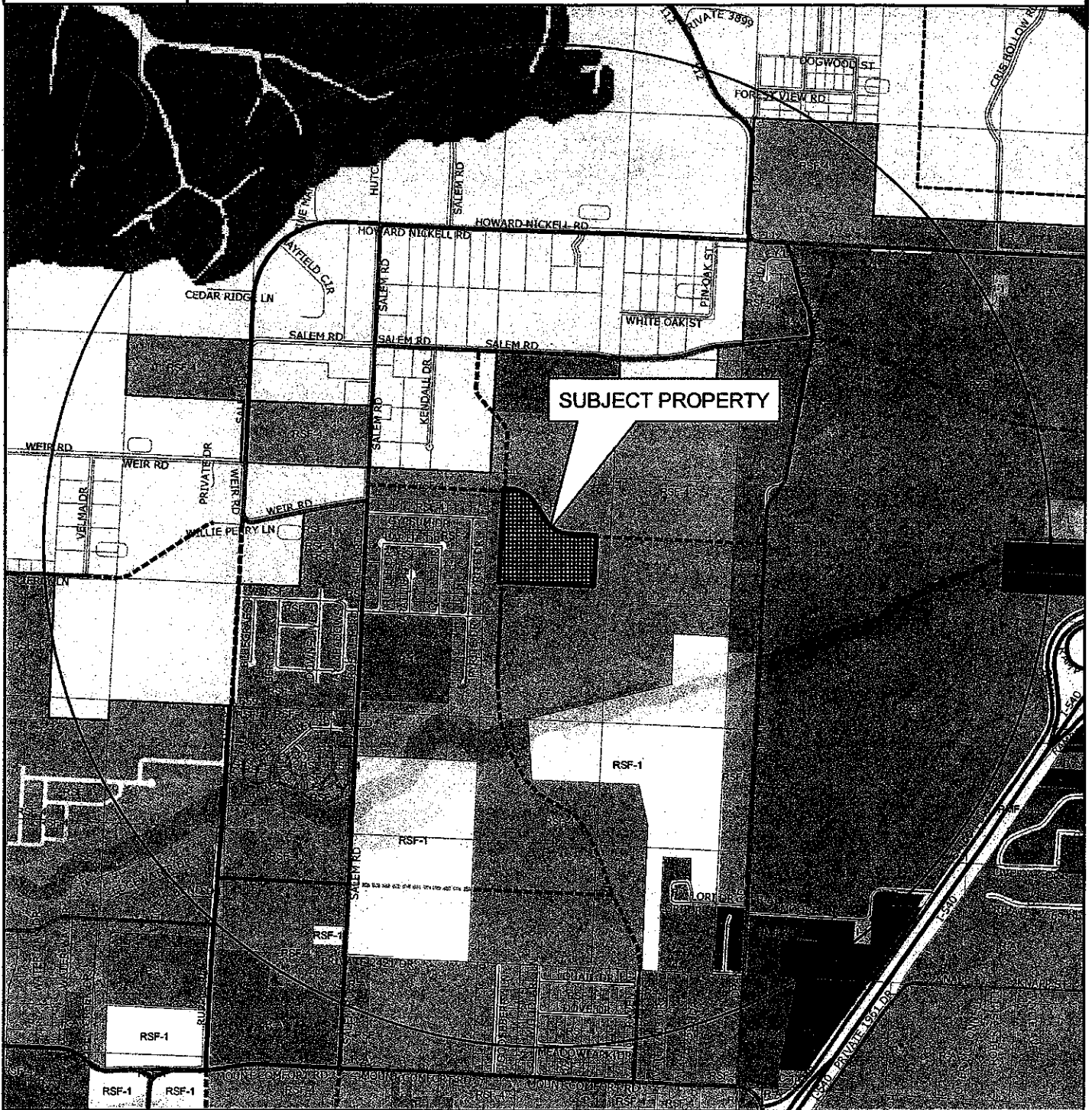
Legend



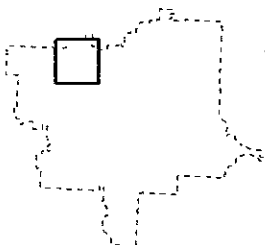
RZN07-2504

One Mile View

SLOAN/COBBLESTONE SUBDIVISION



Overview



Legend

Subject Property

RZN07-2504

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



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

17-Apr-07

City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 07-2507 (Spencer, 572, 573): Submitted by Dan and Anita Spencer for property located at 835 South Lewis Woods Lane, west of Lake Sequoyah. The property is in the Planning Area and contains approximately 13.22 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] 3-29-07
Department Director Date

[Signature] 3-29-07
City Attorney Date

Paul A. Bach 3-30-07
Finance and Internal Service Director Date

Dan Coody 4-2-07
Mayor Date *AB*

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED
3/29/07

Received in Mayor's Office
ENTERED
3/30/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: March 28, 2007

Subject: Annexation for Spencer (ANX 07-2507)

RECOMMENDATION

Planning staff and the Planning Commission recommended approval of the subject annexation request for approximately 13.22 acres of property located at 835 South Lewis Woods Lane, west of Lake Sequoyah.

BACKGROUND

The subject property contains approximately 13.22 acres. The subject property is located within the city's Planning Area west of Lake Sequoyah, east of Lake Sequoyah Drive. Property south, west, and east of the subject property was annexed into the City of Fayetteville in the 1960s to incorporate Lake Sequoyah, a primary water source at the time.

DISCUSSION

This item was heard at the regular Planning Commission on March 26, 2007. The Planning Commission voted 8-0-0 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 07-2507, FOR PROPERTY LOCATED AT 835 SOUTH LEWIS WOODS LANE, WEST OF LAKE SEQUOYAH, CONTAINING APPROXIMATELY 13.22 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 described in Exhibit "B" and map labeled Exhibit "A" 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. 1.

PASSED and APPROVED this of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

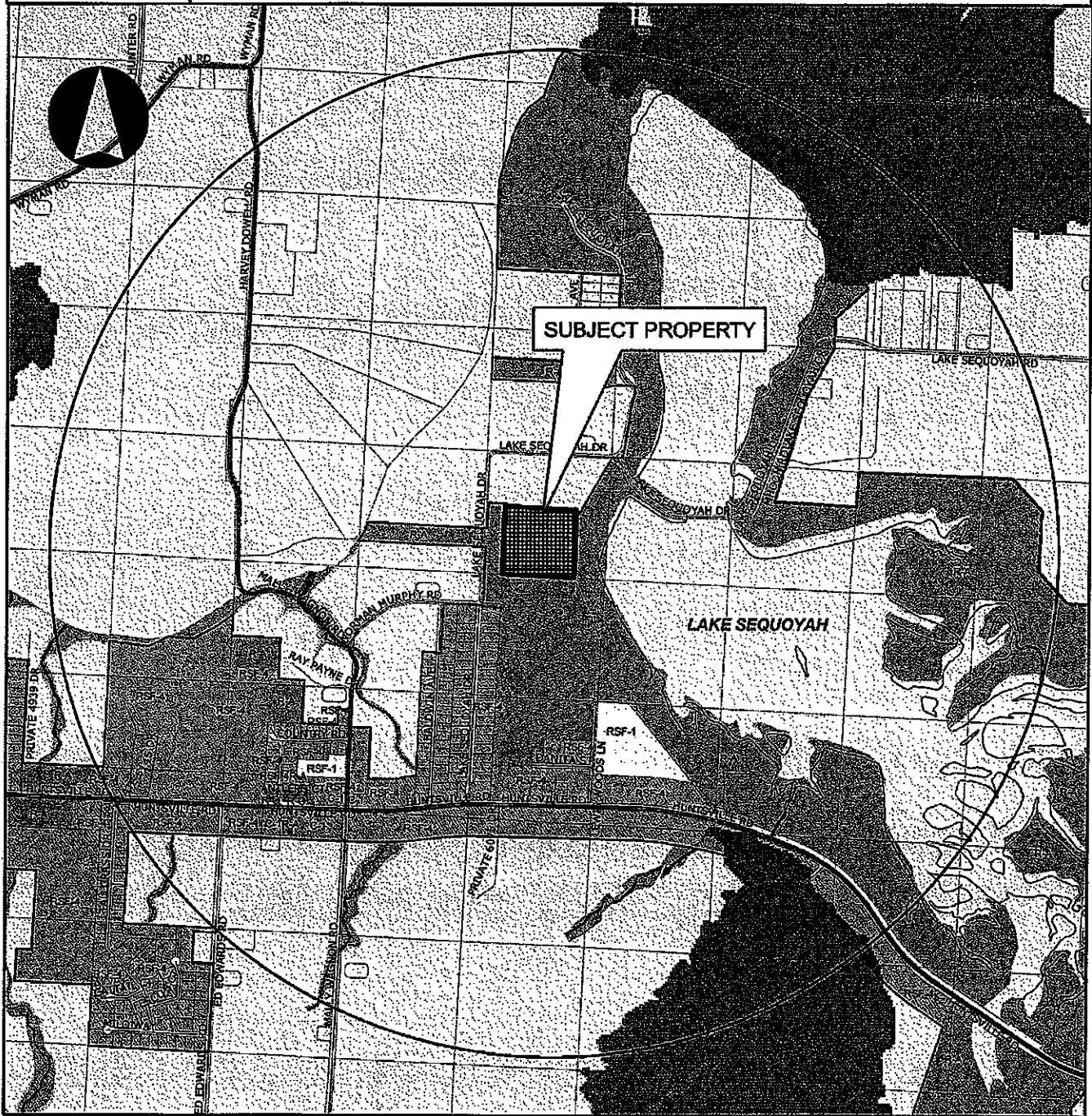
By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

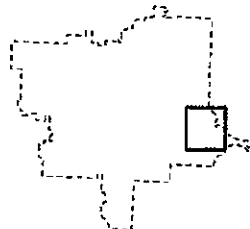
ANX07-2507

One Mile View

SPENCER



Overview



Legend

Subject Property

ANX07-2507

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

EXHIBIT "B"
ANX 07-2507

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION SEVENTEEN (17), TOWNSHIP SIXTEEN (16) NORTH, RANGE TWENTY-NINE (29) WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER (SE ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SAID SECTION 17; THENCE S02°46'26"W 556.88 FEET; THENCE S86°44'08"E 236.05 FEET TO THE POINT OF BEGINNING; THENCE S87°10'29"E 803.68 FEET; THENCE S29°22'03"W 115.69 FEET; THENCE S02°51'00"W 660.00 FEET; THENCE N87°02'49"W 751.55 FEET; TO THE EAST BOUNDARY OF LEWIS BALDWIN ADDITION; THENCE ALONG SAID EAST BOUNDARY OF LEWIS BALDWIN ADDITION N02°48'50"E 761.82 FEET TO THE POINT OF BEGINNING, CONTAINING 13.22 ACRES, MORE OR LESS. SUBJECT ANY EASEMENTS THAT ARE RECORDED OR UNRECORDED.



PC Meeting of March 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: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 19, 2007~~ Updated March 28, 2007

ANX 07-2507: (SPENCER, 533/572/573): Submitted by DAN & ANITA SPENCER for property located at 835 SOUTH LEWIS WOODS LANE, WEST OF LAKE SEQUOYAH. The property is in the Planning Area and contains approximately 13.22 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: Dan and Anita Spencer
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested annexation of 13.22 acres into the City of Fayetteville based on the findings herein. Incorporation of this property into the City of Fayetteville will establish zoning regulations and ensure compliance with ordinance regulations at the time of development.

PLANNING COMMISSION ACTION:		☒ Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>March 26, 2007</u>	Motion: <u>Clark</u>	Second: <u>Trumbo</u>	Vote: <u>8-0</u>
CITY COUNCIL ACTION:		☒ Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>April 17, 2007</u> (1 st reading if recommended)			

BACKGROUND:

Property description: The subject property contains one parcel of property containing 13.22 acres. The property is located west of Lake Sequoyah, east of Lake Sequoyah Drive. Property south, west, and east of the subject property was annexed into the City of Fayetteville in the 1960s to incorporate Lake Sequoyah, a primary water source.

Proposal: The applicant proposes annexation of 13.22 acres into the City of Fayetteville.

Public Comment: Staff has received no public comment concerning the requested annexation.

Recommendation: Staff recommends the incorporation of this property into the City of Fayetteville. Incorporation of this property will create an acceptable city boundary and ensure that development of the property is compliant with City regulations within an appropriate zoning district.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Agricultural	Planning Area
South	Rural Residential	R-A, Residential Agricultural
East	Undeveloped/Lake Sequoyah	R-A, Residential Agricultural
West	Single Family Residential	R-A, Residential Agricultural

INFRASTRUCTURE:

Streets: The site **does not** have access to a public street. Lake Sequoyah Road is the closest public street. A row of single family residences is between this parcel and the road to the west, and a piece of agricultural property is located between this parcel and the road to the north. Lake Sequoyah Road is an unimproved, narrow roadway in this location. Street extension and improvements to the adjacent streets will be evaluated at the time of development.

Water: Public water **is not** located adjacent to the site although there is a 6" waterline along Lake Sequoyah Road to the west and north. Water service will need to be extended to the property at the time of development. The fire flow capacity of the existing mains may need to be studied at the time of development.

Sewer: The site **does not** have access to sanitary sewer. There is a 6" sewer main along Lake Sequoyah Drive to the west and north of the property. Sewer service may need to be extended to the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately 5 miles from Fire Station #5 at 833 North Crossover. Response time to the property is projected at 8 minutes. When the new Fire Station #3 is completed at the Tyson complex on Huntsville the response time will be reduced to 7 minutes. This response time is above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: City Plan 2025 identifies the portion of this property within the Planning Area as Rural Area.

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is not urban in character, although there is a street of single family residential homes along Lake Sequoyah Drive adjacent to the western border of the site. Sufficient infrastructure, including improved streets, sewer, drainage improvements and other essential public services are not available to the site, but are located approximately 200' to the west near Lake Sequoyah Drive. This property in contrast to urban character, consists of agricultural land and pasture. Surrounding property to the north, east, and south the subject property are rural in nature.

2. Areas that can be developed at urban densities.

Finding: Densities that characterize an urban area and which can support the infrastructure, commercial and institutional development associated with these uses, do not characterize the subject property. The nearest property within the city is zoned RSF-4 and developed at a relatively low density less than 4 units per acre. Adjacent property within the city to the east and south is zoned R-A allowing for 0.5 units per acre (2 acres per residence). Adjacent properties to the north are within the Planning Area and zoned for one single family dwelling unit per acre. These densities cannot support a complete, compact and connected urban development pattern. Though zoning is not requested to be reviewed with this specific annexation request it is unlikely that the property can be developed at urban densities at this time and be compatible with surrounding properties.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: The city currently provides water and sewer service along Lake Sequoyah

Drive. This property is within this general area of service, although the property does not currently have direct access to a public street, public water, or public sewer service. The city's police and fire department service the properties on Lake Sequoyah Drive.

4. Areas where urban services are already provided.

Finding: Urban services are not provided to the immediate property as it is a landlocked piece of agricultural property. However urban services are provided to the residences along Lake Sequoyah Drive to the west of this property.

5. Areas where urban services are needed.

Finding: As stated in Finding No. 4 above, urban services are provided to the residences in the immediate vicinity. There may be improvements needed to the existing water and sewer facilities in the area as discussed in the comments provided by the City Engineering Division. Comments from the fire department and police department are included in this staff report and do not discuss a need for improved service.

12.3.5 ANNEXATION GUIDING POLICIES BOUNDARIES

- 12.3.5.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 a peninsula. In the 1960s, property was annexed into the City to create the peninsula with which this property adjoins. The incorporation of this property will not extend the city limits further west than the surrounding city properties to the north and south. The proposed annexation site would fill in an area currently surrounded on three sides by property within the City limits and would make for a more logical boundary.

- 12.3.5.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, east, and west.

- 12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: This area is currently utilized for several single family homes to the west and agriculturally related activities. The annexation of this property would neither include nor exclude subdivisions/neighborhoods.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels, not natural corridors.

12.3.5.e The provision of services should be concurrent with development.

Finding: Annexation of the property as currently developed will not place an additional burden on the services within the area. Should this property remain in the Planning Area, the property could be developed with a minimum 1-acre single family lots with septic systems, city water, and streets constructed to city standards. Incorporation of the property into the City of Fayetteville will ensure that the property is zoned such that it is compatible with surrounding properties and development in accordance with all city regulations, and would provide the opportunity to connect to City sewer. Significant evaluation and potential improvements of water and sewer services are required to adequately service this property. In addition, new streets would have to be built to access this property. Fire response time to the property is 8 minutes from Fire Station No. 5. This can be improved in the near future with a planned Fire Station No. 3 on Huntsville Road. Reduction of this response time to 7 minutes is anticipated with the construction of a new fire station on the former Tyson Complex. Construction for Fire Station No. 3 is anticipated to begin in late summer of 2007 and be completed and operational by late summer of 2008.

ENVIRONMENTALLY SENSITIVE AREAS

12.3.5.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property consists of cleared pasture land and wooded areas. No information has been presented to designate the subject property environmentally sensitive. However, the property is very near Lake Sequoyah. Annexation of the property would allow for the extension of sanitary sewer. Development within the Planning Area would necessitate the utilization of a community septic system or individual septic systems on each lot. Incorporation of this property would also allow for the requirement of parks, open space and tree preservation.

EMERGENCY AND PUBLIC SERVICES

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water and sewer service is of concern, with the Engineering Division requiring a study of the water at the time of development and extension of the nearest sewer services which are located approximately 200 feet from the property. Response time to this location for emergency personnel is anticipated at 8 minutes. Additional fire hydrants and adequate access would need to be provided. Annexation of the property and a zoning of Residential-Agricultural or other low density zoning comparable to the surrounding properties would not necessitate significant improvements to public services in this area.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: This property is located in an area surrounded on three sides by city limits. There is very little development in the surrounding area to the north, east and south, and single family development to the west. This area does not require a high level of service from fire, police or water services. Sewer is not readily available to this property, but could be extended through adjacent property owned by the applicant. The annexation of property with a zoning of R-A will not result in significant increase of demand on emergency and public services.

12.3.5.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

12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas. The subject property is not being served by city utilities at this time.

12.3.5.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: Annexation and future development of this property will result in an increased demand on the existing infrastructure systems should the property be zoned and developed at a density greater than the low density residential similar to the surrounding development and comparable to the R-A zoning district. No long range improvements to the water system are planned for the water system around Lake Sequoyah. Increased use of the existing services in the area may negatively impact the water supply in this area. Sewer service could be extended to the property through adjacent parcels also under the ownership of

the applicant. Development of the property would require an extension of the existing sewer lines, the nearest being approximately 200 feet from the property.

Analysis of the downstream sewer lines and a capacity analysis of the lift stations downstream of the site would need to be conducted prior to development. As discussed in previous Findings of Fact in this report, the property does not have direct access to any public streets. Furthermore, there is high level of traffic congestion and a low level of service on the existing surrounding street system, particularly State Highway 16, the only arterial street providing access into and out of this vicinity. A thorough evaluation of the existing and resulting traffic conditions would be required if this property were to develop at a density over an R-A zoning density. This evaluation may require substantial street improvements to ensure that development would not create or compound a dangerous traffic condition. If the proposed annexation is approved the property would automatically be zoned R-A. This zoning could result in 6-7 single family residential units, with a calculated 15-person population increase. This increase would not result in adverse impacts to provision of public services by the city.

- 12.3.5.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

- 12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 12.3.5.0 Develop a land use plan for annexation initiated by the city.

- 12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request annexation without a rezoning. Density on this property would be decreased as Washington County zoning requirements allow for one-acre lots and the R-A zoning requires two-acre lots.

12.3.5.q 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. These studies have been incorporated into the findings in this report.

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed. At the time the applicant desires to develop the property, the applicant will be required to submit project plans for review and approval by the Planning Commission.

12.3.5.s 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.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: This annexation consists of 13.22 acres owned by the Spencers. Extending the city boundary as proposed would fill in a parcel of land surrounding on three sides by the city. This is an acceptable city boundary.

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 13.22 acres.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

March 7, 2007

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 ANX 07-2507: (SPENCER, 533/572/573): Submitted by DAN & ANITA SPENCER for property located at 835 S. LEWIS WOODS LN would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property is in the Planning Area and contains approximately 13.22 acres. The request is to annex the subject property into the City of Fayetteville.

It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density nor 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.

Sincerely,

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

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeren [unclear] and Jesse Fulcher
Thru: Chief Tony Johnson T.O.
Chief Bud Thompson B.T.
From: Captain Dale Riggins
Date: March 5, 2007
Re: March 7, 2007 Zoning Review – Fire Department Comments

RECEIVED
MAR 07 2007
PLANNING DIV.

ANX 07-2485 (Homestead Homes)

These 125.32 acres are covered by Engine 7 located at 835 S Ruppel Road.

It is 2.4 miles from the station with an anticipated response time of 5.75 minutes to the beginning of this development.

The Fire Department anticipates 33(30 EMS – 13 Fire/Other) calls for service per year at the current R-A Zoning of one dwelling per two acres. 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.

ANX 07-2507 (Spencer)

These 13.22 acres are covered by Engine 5 located at 833 N Crossover.

It is 5 miles from the station with an anticipated response time of 8 minutes. When the new station 3 is in service at Happy Hollow and Huntsville, the response time will be reduced to 7 minutes. 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. There should be no adverse effects on our call volume.

RZN 07-2503 (Moier)

These 4.20 acres are covered by Engine 4 and Ladder 4 located at 3385 N Plainview.

It is 1.7 miles from the station with an anticipated response time of 4.5 minutes. The Fire Department does not figure calls for service on properties being re-zoned to R-0, Residential Offices, but typically this type of development will not increase our call volumes or response times.

RZN 07-2504 (Sloan)

These 17.22 acres are covered by Engine located at 835 S Ruppel Road.

It is 2.9 miles from the station with an anticipated response time of 7.25 minutes. 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 and we are currently working with builders in that area to locate a suitable lot.

If you have any questions concerning these comments please don't hesitate to call me

Captain Dale Riggins
Fayetteville Fire Department

Thursday, February 08, 2007

To Whom it May Concern:

We, as owners of the proposed area of annexation, hereby state that this area is a part of a larger area of land (80 A.) that has been inside the city limits of Fayetteville since the early sixties.

There was a small island, surrounded by the city of Fayetteville city limits, that was in the recent past taken into the city by the city itself. We believe that the total area should be inside of the city limits. This proposed annexation would make the area whole.

We believe that, since we have all the city utilities & services & pay city taxes, that this remaining area, contingent on three sides by the city limits, should be inside the city limits as well.

We would endeavor to answer any questions that you may have concerning this property & the annexation thereof.

Thank You

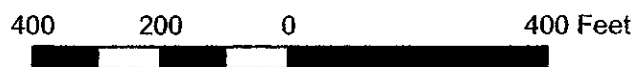
Dan & Anita Spencer
835 Lewis Woods Lane
Fayetteville, AR 72701

Home Phone 479-442-5932
e-mail golfnut12@cox.net



ANX 07-2507 (Spencer)

1 inch equals 300 feet



SPENCER

[illegible]

ANX07-2507

 Planning Area
 Overlay District
 Outside City

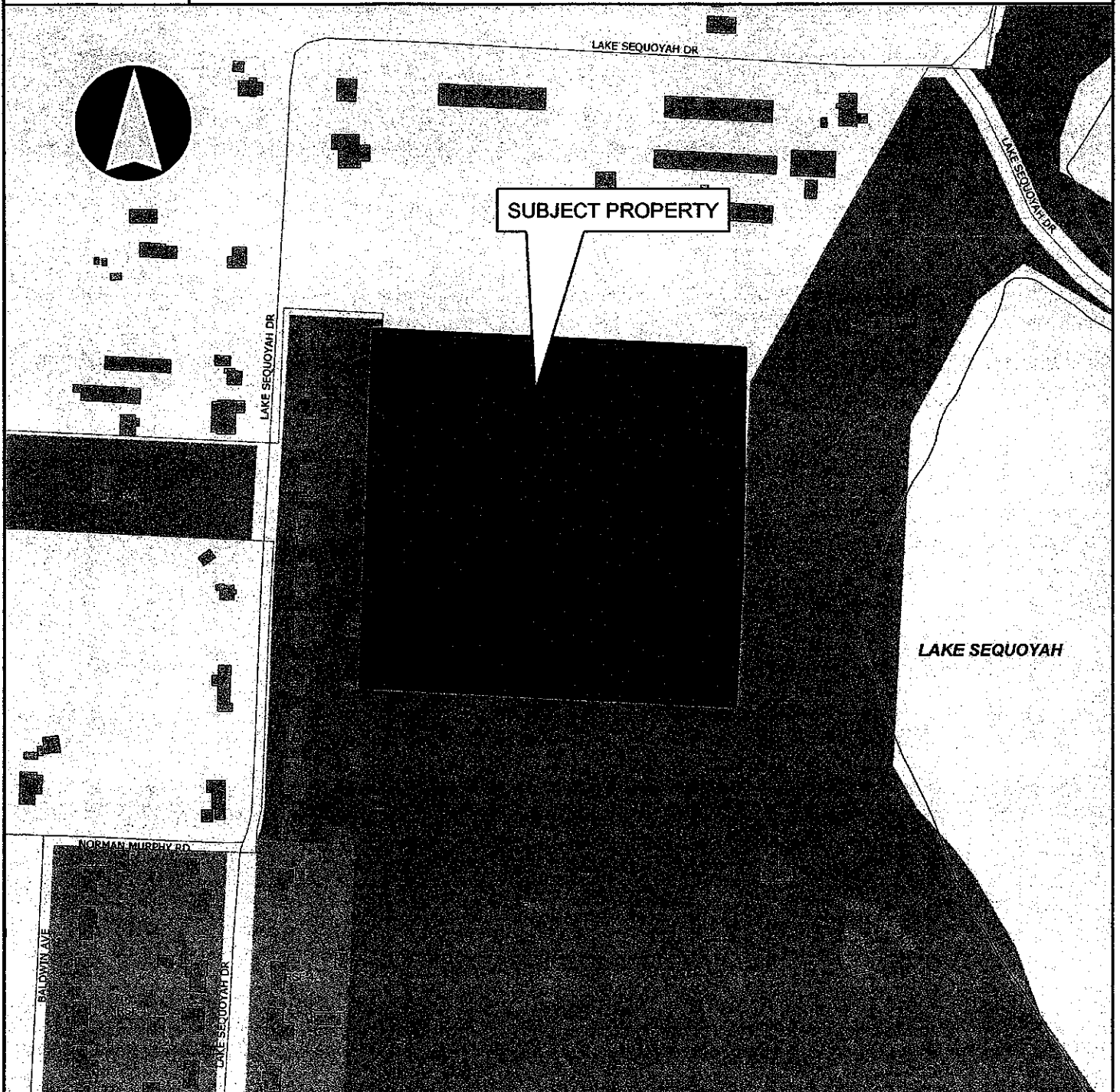
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

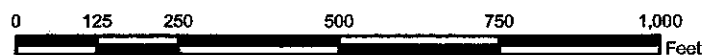
ANX07-2507

Close Up View

SPENCER



Overview

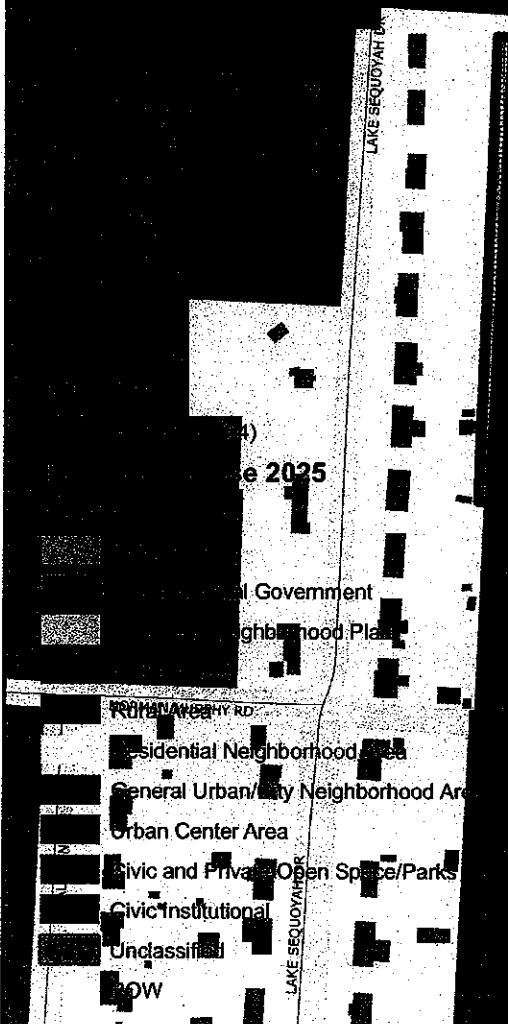


ANX07-2507

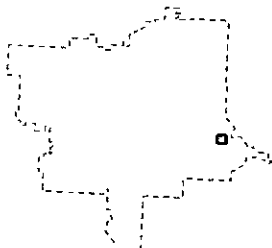
Future Land Use

SPENCER

SUBJECT PROPERTY



Overview



Legend

Subject Property

ANX07-2507

Streets

Existing

Planned

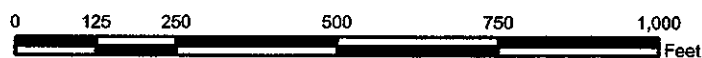
Boundary

Planning Area

Overlay District

Outside City

Legend



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

17-Apr-07

City Council Meeting Date

Jeremy Pate ^{JP}
Submitted By

Planning
Division

Operations
Department

Action Required:

Approval of an ordinance repealing and replacing Chapter 155: Appeals of the Unified Development Code, amending and clarifying to whom and how a decision may be appealed after final action has been taken.

\$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 ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Department Director 3-29-07
Date

ORDINANCE From Planning Div.
Approved as to form only.

City Attorney 4/2/2007

Paul a. Bach 4-3-07
Finance and Internal Service Director Date

Mayor 4/4/07
Date

Received in City Clerk's Office
ENTERED
3/29/07

Received in Mayor's Office
ENTERED
4/3/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy Pate, Director of Current Planning X

Date: March 28, 2007

Subject: Repeal and Replace Ch. 155 Appeals of the UDC

RECOMMENDATION

Planning Staff recommends approval of an ordinance amending the Unified Development Code which would repeal and replace the current Ch. 155 Appeals. This chapter sets out the appeals process for decisions made under the authority of the Unified Development Code.

BACKGROUND

Recently there have been instances in which a decision or action by staff has been appealed by a Fayetteville resident to the Planning Commission. Chapter 155, Appeals of the UDC, sets out the procedure by which a decision or action can be appealed, and to whom. However, there was much confusion and debate about the jurisdiction and authority of this particular appeal, and the Planning Commission asked staff to look into revising the Appeals chapter. Upon review of the Appeals chapter, it became evident that several portions were out-dated, and there was not a clear, comprehensive listing of decisions – specifically those made by the Planning Commission – that could be appealed, and to whom. Certain decisions can only be appealed to Circuit Court; however, staff finds that many of the decisions made by the Planning Commission and/or staff should be able to follow a due course of action and be appealed to the legislative body of the City, the City Council. Accordingly, this chapter has been revised to direct appeals, where appropriate, to the City Council. Those appeals regarding certain zoning actions must still be appealed to the Board of Adjustment; those regarding Building Safety to the Construction Board of Adjustment and Appeals. However, appeals of staff decisions and interpretations regarding development matters, including the Zoning and Development Administrator, City Engineer and Urban Forester, are proposed to be directed to the City Council, as opposed to the Planning Commission.

DISCUSSION

The proposed changes serve primarily to clarify the appeals process for decisions made under the authority of the Unified Development Code.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING CHAPTER 155, APPEALS, OF THE UNIFIED DEVELOPMENT CODE TO AMEND AND CLARIFY THE APPEALS PROCESS FOR DECISIONS MADE UNDER THE AUTHORITY OF THE UNIFIED DEVELOPMENT CODE.

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

Section 1: That Chapter 155: Appeals, of the Code of Fayetteville, is hereby repealed and Exhibit "A" is inserted in its stead.

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

PASSED AND APPROVED this _____ day of _____, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

TITLE XV UNIFIED DEVELOPMENT CODE

Exhibit "A"
CHAPTER 155 APPEALS

155.01 Circuit Court

Unless set forth otherwise below, all appeals from final actions taken by the City Council, Planning Commission, Board of Adjustment, Construction Board of Adjustment and Appeals, and the Zoning and Development Administrator shall be taken to the Circuit Court of Washington County.

(Code 1965, App. A., Art. 9(6); Ord. No. 1747, 6-29-70; Ord. No. 2323, 4-5-77; Ord. No. 2538, 7-3-79; Code 1991, §160.175; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04))

State law reference(s)--Appeals to circuit court, A.C.A. §14-56-425.

155.02 Form/Time/Place

Unless an appeal is filed with the court, the following requirements shall be met:

(A) **Form.** All appeals shall be submitted in writing referencing the applicable UDC section(s) and setting out the reasons the applicant contends the decision was in error.

(B) **Time.**

(1) **Appeals.** Appeals shall be submitted within 10 working days from the date of the final action taken.

(2) **Hearings.** The entity hearing the appeal shall fix a reasonable time for hearing an appeal.

(C) **Place.** Appeals shall be filed with the following:

(1) **City Clerk.** Appeals made to the City Council shall be filed with the City Clerk.

(2) **Zoning and Development Administrator.** Appeals made to the Planning Commission or Board of Adjustment shall be filed with the Zoning and Development Administrator.

(3) **Building Safety Division Director.** Appeals made to the Board of Adjustment, [for inspecting purposes] shall be filed with the Building Safety Division Director.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4652, 12-07-04)

155.03 Stay

An appeal shall stay all proceedings in furtherance of the action appealed from unless the person in charge of administration of the chapter certified that a stay would, in their opinion cause imminent peril to life or property.

(Code 1965, App. A., Art. 13(3); Ord. No. 1747, 6-29-70; Code 1991, §160.173; Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.04 Alderman Appeal On Behalf Of Resident

An alderman may bring an appeal on behalf of any resident of the city on actions which are appealable to the City Council as set forth below.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

155.05 Appeals From Planning Commission Decisions

~~(A) Appeals to City Council.~~

~~(1) Owners of record of the property being considered may appeal a decision by the Planning Commission to deny the following requests, in accordance with the procedures set forth in §155.02:~~

- ~~(a) Annexation~~
- ~~(b) Rezoning~~
- ~~(c) Planned Zoning District~~
- ~~(d) Subdivision (Preliminary Plat, Final Plat, Concurrent Plat, Lot split)~~
- ~~(e) Large Scale Development~~
- ~~(f) Vacation of utility easement, access easement, public right-of-way~~
- ~~(g) Commercial Design Standards~~
- ~~(h) Tree Preservation Plan~~
- ~~(i) Variances and waivers of the UDC~~

~~(2) Conditions of Approval. An owner of record may appeal the conditions of approval determined by the Planning Commission for any of the requests listed in (A)(1).~~

~~(3) Conditional Use Request. Three aldermen, two of whom must reside in the effected ward, may in unison appeal a decision by the Planning Commission approving or denying a conditional use request.~~

~~(4) All other decisions by the Planning Commission must be appealed to Circuit Court.~~

~~(A) Appeals to City Council. The following Planning Commission decisions may be appealed to the City Council.~~

~~(1) Rezoning request. Owners of record may appeal the decision to deny a rezoning request.~~

Fayetteville Code of Ordinances

- (2) ~~Preliminary plat/LSD.~~ Owners of record or any member of the City Council may appeal the decision to deny or approve a preliminary subdivision plat or large scale development.
- (3) ~~Neighborhood park.~~ Owners of record may appeal the decision to require joint development of a neighborhood park.
- (4) ~~Major development park land dedication.~~ An alderman representing the ward in which the proposed major development is located, or any alderman if the major development is outside the city limits may appeal the Planning Commission denial of a variance from requirements of §166.03(K).
- (5) ~~Commercial design standards.~~ Appeals from decisions of the Planning Commission concerning commercial design standards shall be to the City Council.
- (6) ~~Conditional use.~~ Three aldermen, two of whom must reside in the effected ward, may in unison appeal a decision by the Planning Commission approving or denying a conditional use request.
- (7) ~~Tree preservation plan.~~ Owners of record or any member of the City Council wishing to contest a tree preservation plan must appeal the decision to deny or approve the preliminary subdivision plat or large scale development according to the procedures set forth in subsection (A)(2) above.

(Ord. No. 4334, 9-4-01; Ord. No. 4340, 10-2-01)

~~(B) Appeals to Housing Board.~~

- (1) ~~Denial of permit.~~ Any person whose application for a permit under Mobile Homes and Mobile Home Parks, Chapter 175, that has been denied shall be granted a hearing.
- (2) ~~Suspension or revocation of permit.~~ Any person whose permit has been suspended, or who has received a violation notice may request and shall be granted a hearing.

(Code 1965, §13A-40, App. C., Art. II, Art. V., §B; Ord. No. 1509, 8-8-66; Ord. No. 1750, 7-6-70; Code 1991, §§156.017, 159.12, 159.54(F)(1), (2), 159.66; Ord. No. 3781, §1, 4-19-94; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4340, 10-2-01)

155.06 Appeals From Staff Interpretations/Actions

- (A) Appeals to City Council.** The following staff interpretations/actions may be appealed to the City Council by an owner of record of the property in question or an alderman on behalf of a resident of the city:

(1) Zoning and Development Administrator

- (a) **Design Overlay District requirements.** The decision of the Zoning and Development Administrator not to exempt property from the Design Overlay District requirements as allowed in §161.28(G).
- (b) **Development Matters.** An interpretation or decision of the Zoning and Development Administrator regarding development matters, including subdivisions, large scale developments, parking and loading, and outdoor lighting may appeal.

(2) City Engineer

- (a) **Stormwater, Drainage, and Erosion Control requirements.** The decision of the City Engineer to issue a violation notice related to these requirements.
- (b) **Development Matters.** An interpretation or decision of the City Engineer regarding development matters, including grading, drainage, water and sanitary sewer systems, and storm drainage systems may appeal.
- (c) **Floodplain regulations.** The decision of the Floodplain Administrator, provided that the City Council shall hear and decide an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of Chapter 168.

(3) Urban Forester - Landscape and Tree Preservation and Protection requirements. Decisions of the Urban Forester related to landscape and tree preservation and protection requirements.

(B) Appeals to the Board of Adjustment. The following interpretations and decisions may be appealed by an owner of record of the property in question or an alderman on behalf of a resident of the city to the Board of Adjustment:

(1) Zoning and Development Administrator - Zoning. An interpretation or decision of the Zoning and Development Administrator regarding zoning matters may appeal.

(2) Building Safety Division Director - Airport Zone. Any person aggrieved, or any taxpayer affected by any decision of the

TITLE XV UNIFIED DEVELOPMENT CODE

Building Safety Division Director, made in the administration of Airport Zone, Chapter 165, may appeal.

(C) Appeals to the Planning Commission. Required dedications and improvements

(1) An owner or developer who is aggrieved by the requirements of the Unified Development Code for land, right-of-way or easement dedications, construction of on-site or off-site improvements, or payments in lieu of any dedication or improvement, which are in excess of the "rough proportionality" of the impact of the development upon the city's infrastructure or services may appeal such requirement to the Planning Commission as a part of the submission of the preliminary plat, large scale development, subdivision, building permit, lot split, development permit, or otherwise within 10 days of notification of such development requirements. The appeal must be presented to the Planning Division in writing and state the grounds, or reasons for the appeal.

(2) The Planning Commission shall determine after public hearing whether the required dedications and improvements meet the "rough proportionality" of the impact of the development on city infrastructure and services. If the requirements are in excess of the "rough proportionality," the Planning Commission is empowered to modify or reduce such requirements to achieve "rough proportionality."

(D) Appeals to the Construction Board of Adjustment and Appeals. When the administrative authority under Chapter 173 shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the applicant may appeal the decision to the Construction Board of Adjustment and Appeals.

(A) Appeals to City Council. The following staff interpretations/actions may be appealed to the City Council:

(1) ~~Zoning and Development Administrator—Design Overlay District requirements.~~ Owners of record may appeal the decision of the Zoning and Development Administrator not to exempt property from the Design Overlay District requirements as allowed in §161.21(G).

(2) ~~City Engineer—Drainage requirements.~~ Owners of record may appeal the decision of the City Engineer to issue a violation notice related to drainage requirements.

(B) Appeals to the Board of Adjustment. The following interpretations and decisions may be appealed to the Board of Adjustment:

(1) ~~Zoning and Development Administrator—Zoning.~~ Any person aggrieved by an interpretation or decision of the Zoning and Development Administrator regarding zoning matters may appeal.

(2) ~~Building Safety Division Director—Airport Zone.~~ Any person aggrieved, or any taxpayer affected by any decision of the Building Safety Division Director, made in the administration of Airport Zone, Chapter 165, may appeal.

(C) Appeals to the Planning Commission. The following staff interpretations/actions may be appealed to the Planning Commission.

(1) ~~Floodplain Administrator—floodplain regulations.~~ Any person aggrieved may appeal the decision of the Floodplain Administrator, provided that the Planning Commission shall hear and decide an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(2) ~~Zoning and Development Administrator—Development.~~ Owners of record may appeal the interpretation of the development requirements by the Zoning and Development Administrator.

(3) ~~City Engineer—Grading requirements.~~ Any person aggrieved may appeal the decision of the City Engineer related to grading requirements.

(4) ~~Landscape Administrator—Landscape and Tree Preservation and Protection requirements.~~ Any person aggrieved may appeal decisions of the Landscape Administrator related to landscape and tree preservation and protection requirements.

(5) ~~Required dedications and improvements.~~

(a) An owner or developer who is aggrieved by the requirements of the Unified Development Code for land, right-of-way or easement dedications, construction of on-site or off-site improvements, or payments in lieu of any dedication or improvement, which are in excess of the "rough proportionality" of the impact of the development upon the city's infrastructure or services may appeal

Fayetteville Code of Ordinances

~~such requirement to the Planning Commission as a part of the submission of the preliminary plat, large scale development, subdivision, building permit, lot split, development permit, or otherwise within 10 days of notification of such development requirements. The appeal must be presented to the Planning Division in writing and state the grounds, or reasons for the appeal.~~

- (b) ~~The Planning Commission shall determine after public hearing whether the required dedications and improvements meet the "rough proportionality" of the impact of the development on city infrastructure and services. If the requirements are in excess of the "rough proportionality," the Planning Commission is empowered to modify or reduce such requirements to achieve "rough proportionality."~~

- ~~(D) Appeals to the Construction Board of Adjustment and Appeals. When the administrative authority under Chapter 173 shall disapprove an application, or the applicant is aggrieved by the interpretation of the administrative authority, the applicant may appeal the decision to the Construction Board of Adjustment and Appeals.~~

(Code 1965, §17B-11.2(d), (e), App. A., Art. 10(6), 19(2), App. B, §III, App. C., Art. 10(6), 19(2), App. B, §III, App. C., Art. V, §A; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 2109, 6-375; Ord. No. 2252, 7-6-76; Ord. No. 2538, 7-3-79; Ord. No. 2585, 12-4-79; Ord. No. 2697, 1-20-81; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-14-88; Code 1991, §§150.03, 158.67(B), 158.68(A), (B), 159.65, 160.048, 160.172, 160.176(A), (B), 161.11, 162.03(B), (C), 163.10(D); Ord. No. 3551, 6-4-91; Ord. No. 3587, §1, 1-7-92; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3806, §1, 6-28-94; Ord. No. 3895, §1, 6-20-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3925, §7, 10-3-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4368, §2, 2-5-02; Ord. No. 4377, §§1, 2, 3-5-02; Ord. 4652, 12-07-04)

**155.07 Appeals To The Housing Board –
Mobile Homes And Mobile Home Parks**

- (A) *Permit denied.* Any person whose application for a permit under Chapter 175 has been denied may request and shall be granted a hearing on the matter before the Housing Board.
- (B) *Permit suspended.* Any person whose permit has been suspended, or who has received notice from the enforcement officer that his permit will be suspended unless certain conditions or practices at the mobile home park are corrected, may request and be granted a hearing on the matter before the Housing Board.

- (C) *Petition deadline.* When no petition for hearing shall have been filed within 10 days following the day on which notice of suspension was served, such permit shall be deemed to have been automatically revoked at the expiration of such 10 days.

(Code 1965, §17B11.2(e); Ord. No. 2109, 6-3-75; Ord. No. 2583, 12-4-79; Ord. No. 3152, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Code 1991, §158.67; Ord. No. 4100, §2 (Ex. A), 6-16-98)

(Code 1965, §§13A-40, 13A-43; Ord. No. 1509, 8-8-66; Code 1991, §§156.017, 156.029; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4652, 12-07-04).

155.08-155.99 Reserved

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

C. 6
Roll Off Service, Inc.
Page 1 of 30

April 3, 2007

City Council Meeting Date

John Nelson
Submitted By

Solid Waste & Recycling
Division

Operations
Department

the renewal
Action Required:

A resolution denying an agreement between the City of Fayetteville, Arkansas and Roll Off Service, Inc. to haul and dispose of solid waste in the City 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

3-9-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

3/17/07
Date

Received in City Clerk's Office

Paul a. Buhn
Finance and Internal Service Director

3-14-07
Date

Received in Mayor's Office

[Signature]
Mayor

3/19/07
Date

Comments:



OPERATIONS DEPARTMENT

Interdepartmental Correspondence

To: Mayor and City Council

From: Gary Dumas, Director of Operations

Date: March 6, 2007

Subject: Agreement with Roll Off Service, Inc. to haul and dispose of solid waste in the City of Fayetteville

Recommendation: A resolution denying an agreement between the City of Fayetteville, Arkansas and Roll Off Service, Inc. to haul and dispose of solid waste in the City of Fayetteville.

Background: Roll Off Service, Inc. has requested to renew their contract to haul and dispose of waste within the City of Fayetteville. The contract will permit Roll Off Service, Inc. to continue to haul and dispose of waste in containers twenty (20) cubic yards and greater in size. The agreement requires Roll Off Service, Inc. to pay a monthly fee to the City of Fayetteville of ten (10%) percent of the gross revenue. This is the standard agreement authorized by City Council in implementing the contract fee. In addition, Roll Off Service, Inc. requests to collect source separated recyclables and or scrap metals. Section 3 of the Agreement states no un-separated recyclables collected in any type container shall be hauled from any customer within the corporate limits of the City of Fayetteville. The collection of scrap metal, cardboard and other source-separated recyclables are not controlled or affected by this contract.

Discussion: Roll Off Service, Inc. entered into this agreement in March 2004. The term of this agreement was three years. Staff requests this agreement renewal be denied for the following reason(s): Roll Off Service, Inc. has consistently been in non-compliance with the agreement by failing to remit monthly fees by the deadline stated and by failing to remit the required supporting information. An audit was conducted in December 2004 which uncovered a magnitude of discrepancies and understated gross revenues reported to the City. The month of September 2004 was selected as the sample month. The auditor and Roll Off Service, Inc. reviewed documents for September 1 through September 16, 2004 in which a significant underpayment was revealed. The auditor was **not** permitted by Roll Off Service, Inc. to continue the review of documents for September 17 through 30, 2004. As a result of the incomplete audit, Roll Off Service, Inc. was assessed \$17,256.91 in underpaid fees to the City.

The City issued ten violation letters to Roll Off Service, Inc. during 2005 for non payment of fees and/or failure to pay penalties. Letters specifically instruct that a two (2%) percent penalty be applied. A second letter was needed to collect the penalty on six occasions.

Roll Off Service, Inc. regularly remitted monthly fees through August 2006. A letter was mailed in January 2007 to collect remaining fees for 2006. The letter informed Roll Off Service, Inc. the contract would terminate on January 31, 2007 if remaining fees were not remitted. Those fees were collected, but another letter was needed in February to collect January fees.

A Required Supporting Information Form was mailed to all haulers contracted with the City of Fayetteville in July 2006. The form was developed by the Internal Auditor in an effort to seek compliance with the agreement and to ensure conformity of the required supporting information. Roll Off Service, Inc. does not remit this form and continues to supply backup without sufficient information.

As a result of these and ongoing issues, a great deal of staff time is devoted to monitoring compliance with the agreement, preparing letters, and calculating penalties.

The Staff does not recommend renewal of this agreement with Roll Off Service, Inc. or any subsidiary or renamed or reconstituted company with the same principles due to the continuing noncompliance issues.

RESOLUTION NO. _____

**A RESOLUTION DENYING RENEWAL OF THE CONTRACT
WITH ROLL OFF SERVICE, INC. TO HAUL AND DISPOSE OF
SOLID WASTE WITHIN THE CITY LIMITS OF FAYETTEVILLE.**

**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 denies renewal of the contract with Roll Off Service, Inc. to haul and
dispose of solid waste within the city limits of Fayetteville.

PASSED and APPROVED this 3rd day of April, 2007.

APPROVED:

ATTEST

By:

DAN COODY, Mayor

By:

SONDRA SMITH, City Clerk/Treasurer

Roll Off Service, Inc.

Post Office Box 1700

Lowell AR 72745

Phone 479-872-9098

Fax 479-872-0848

February 26, 2007

City of Fayetteville

Attn: Gary Dumas

113 West Mountain

Fayetteville, AR 72701

Dear Mr. Dumas,

This letter is a request for the ability of Roll Off Service, Inc. to continue our service of 20 yard or greater roll off containers containing waste generated from industrial, large commercial or construction/demolition activities or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal from within the city limits of the City of Fayetteville. In addition we also request to collect source separated recyclables and or scrap metals.

I appreciate your consideration of this request.

Sincerely,



Bob Mager

General Manager

Roll Off Service, Inc.

AGREEMENT TO HAUL AND DISPOSE OF SOLID WASTE
IN THE CITY OF FAYETTEVILLE

This Agreement (the "Agreement"), is entered into on this ____ day of _____, 2007, between the City of Fayetteville, Arkansas, a municipal corporation (the "City"), and _____ (the "Hauler"), and shall be in full force and effect on the date first written above. City and Hauler agree as follows:

1. Hauler agrees that from and after the original date of this Agreement, all customer service Agreements for facilities within the corporate limits of the City entered into before or after the effective date of this Agreement, or renewed shall have terms of no more than two (2) years and any subsequent extensions shall be for terms of no more than one (1) year.
2. The term of this Agreement shall be for three (3) years, unless otherwise terminated pursuant to the terms hereof.
3. Hauler agrees and understands that it may only collect and haul Solid Waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables collected in any type container shall be hauled from any customer within the corporate limits of the City of Fayetteville. The collection of scrap metal, cardboard and other source-separated recyclables are not controlled or affected by this contract.
4. Hauler agrees and understands that it may utilize the City's transfer station for all Class 1 waste collected pursuant to this Agreement and shall deliver all Class 4 waste to a properly licensed landfill facility. Hauler shall pay all transfer station fees to the transfer station operator and all Class 4 landfill fees to the landfill operator, as they may be established and amended, from time to time.
5. Hauler shall pay all fees due hereunder, along with the required supporting information, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of fees received after the due date shall be assessed a 2% penalty per month. If Hauler failed to pay the fees within forty-five (45) days of the due date, the City may revoke this Agreement upon delivery of written notice to the Hauler. The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a blind list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (excluding those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. The City shall have the right to conduct an audit of Hauler's customer files and records for all customers located within the City, provided that such audit privilege shall be limited to once per calendar quarter. If such audit reveals the

hauler should have paid at least 5% more than reported, the cost of the audit shall be paid by the Hauler to the City. During such audit, the City may review certain trade secret information, including rates, frequency of service, customer lists, and other customer information provided that such trade secret information may not be copied or removed by the City. Nor shall such information be divulged to any third party by the City, its employees, officers, or elected officials without the express written consent of the Hauler.

6. Hauler agrees and understands that it shall submit to the City on an annual basis a list of all commercial vehicles used to provide services in the City, proof of appropriate vehicle registration, and proof of the insurance required under Section 16.
7. Hauler agrees and understands that it shall provide a list of vehicle operators collecting and hauling waste in the City of Fayetteville, along with proof of their valid and appropriate commercial drivers' licenses issued by the State of Arkansas. The Hauler shall also provide, maintain, and implement a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
8. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
9. In consideration of the right to provide the services described under this Agreement, Hauler agrees and understands that it shall be required to pay a monthly fee of ten (10%) percent (the "Fee") of the gross revenue received for all services provided under this Agreement. Upon execution of this Agreement, a deposit shall be paid in advance to the City. The deposit shall be equal to one-half of the total fees that were or would have been paid by the Hauler within to the City during the previous twelve (12) months. Such deposit shall be reviewed on an annual basis. Any reasonable disagreement in estimated gross revenue will be decided in the favor of the City. The deposit shall be refunded, less any unpaid fees, when the Hauler ceases operation within the City or this Agreement is terminated, whichever is earlier.
10. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
11. Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator and the Tontitown Landfill operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
12. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable city ordinances. This is a contractual Agreement and is not intended to be part

of or related in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

13. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third party or affiliate.
14. For the purpose of this contract, the Point of Contact of the City of Fayetteville shall be Gary Dumas or his successor. The Point of Contact for the Hauler shall be BOB MAGER. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.
15. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
16. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
- (a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - (b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - (c) The types of coverage and limits of liability of all insurance required herein shall be as follows:

COVERAGE	LIMITS OF LIABILITY
Workmen's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability except Automobile	\$1,000,000 each occurrence
Property Damage Liability Except Automobile	\$1,000,000 each aggregate

Automobile Bodily Injury	\$1,000,000 each person
Comprehensive General Liability	\$1,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

17. Termination:

- (a) Except as otherwise provided herein, if Hauler breaches this Agreement or defaults in the performance of any of the requirements or conditions contained herein, and such breach continues for fifteen (15) days after the City has given the Hauler written notice of such breach or default, the City may: (i) terminate this Agreement fifteen (15) days after the fifteen (15) days in which to cure; or (ii) cure the breach or default at the expense of the Hauler; and (iii) have recourse to any other right or remedy to which it may be entitled by law.
- (b) The City may terminate this Agreement upon written notice to the Hauler if the Hauler makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, receivership or insolvency, or files an answer in any involuntary proceeding of that nature admitting the material allegations of the petition, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted against the offending and such proceeding is not dismissed within sixty (60) days.
- (c) In the event that this Agreement is terminated for any reason, any amounts payable to the City by Hauler for services rendered for any reason whatsoever shall become immediately due and payable as of the date of such termination.

18. All notices required or permitted under this contract shall be submitted in writing to the other party to this contract, by certified mail, return receipt requested, which notice shall be effective three (3) days after deposit therein addressed to the following:

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

Roll Off Service, Inc.
Attn: BOB MAGER
P.O. Box 1700
Lowell, AR 72745

19. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such documents, Hauler 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.

20. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
21. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
22. Each paragraph of this Agreement 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.
23. This contract constitutes the entire understanding of the parties and 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 of Fayetteville and the Hauler.
24. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.
25. To the extent a definition or a specific term is not provided herein but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
26. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

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

CITY OF FAYETTEVILLE

By: _____
DAN COODY, as Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

Roll Off Service, Inc.
By: _____
TOM SMITH

President



OPERATIONS DIRECTOR

February 23, 2005

Roll-Off Service, Inc.
Attn: Mr. Tom Smith
P.O. Box 1700
Lowell, Arkansas 72745

A rectangular stamp with the word "COPY" in a bold, sans-serif font.

Dear Mr. Tom Smith,

The result of the December 1, 2004 audit of Roll-Off Service, Inc. is enclosed.

The audit report includes the following sections: Audit Purpose, Procedures, Results and Remedies. Please pay particular attention to the Remedies section. This section details your options as well as recommendations on how Roll-Off Service and the City of Fayetteville can continue our business arrangement. In addition to the Audit Report there is a calculation worksheet detailing a revenue short fall of \$15,569.99 for 2004 services provided by Roll-Off Service, Inc. within the City of Fayetteville. This amount is due in addition to any outstanding payments owed to the City of Fayetteville.

As per the contract between Roll Off Service, Inc. and the City of Fayetteville paragraph 5, the audit revealed a significant underpayment; as such a 2% penalty is assessed. This penalty is \$80.38. Additionally, since the underpayment was greater than 5%, the cost of the audit services is also assessed as per paragraph 5. This cost is \$1,309.20. Further the forgone interest due to the City of Fayetteville is \$297.33.

The total due is \$17,256.91.

Roll Off Service, Inc. is in breach of its contract with the City of Fayetteville for not remitting appropriate fees. This letter is your Notice To Cure such breach. As per the contract paragraph 17, you have 15 days to remit the total due the City.

Failure to remit the total due will result in the termination of this contract.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Gary Dumas".

Gary Dumas

113 West Mountain
Fayetteville, Arkansas 72701
Office phone - 479-575-8330
Fax - 479-575-8257
e-mail - gdumas@ci.fayetteville.ar.us

Roll-Off Service, Inc. Audit Report

AUDIT PURPOSE:

An audit was performed by the City of Fayetteville (City) to determine if the City is receiving proper payment from Roll-Off Service (Hauler) in accordance with the terms of the contract dated March 2, 2004. According to the contract, the Hauler agrees to pay a monthly fee of 10% of the gross revenues received for open top trash bin services within the corporate limits of the City.

PROCEDURE #1:

The Hauler was informed that an audit would be performed according to the terms of the contract. The Hauler Accounts Receivable Clerk was interviewed regarding the fees remitted to the City for the month of September. A blind listing of payments received from customers within the City, which is a document required by the contract, was requested. It was determined that the listing did not exist. The Hauler was asked to provide a list of the customers within the City who were included with September's payment, but the Hauler was also unable to provide an accurate list.

As a substitute for the contractual documents, the daily deposit slips for the month of September were obtained, and a sample of invoices was chosen from the receipts on the deposit slips. The invoices were reviewed to determine if the gross revenue should have been included in the contract to the City.

RESULTS:

For the month of September, the City received a fee of \$536.06 from the Hauler, which represents gross revenues of \$5,360.61. The results of the sample showed that gross revenues to the City were understated by at least \$2,760.12. The Hauler underpaid the City by \$276.01, the 10% fee on the gross revenues. Because this represented more than a 50% difference from what the City was paid for the month of September, the cost of the audit, \$1,309.20, is payable by the Hauler to the City.

PROCEDURE #2:

Due to the large difference found in the sample, all payments greater than \$65.00 on the September daily deposit slips were listed to be reviewed for correct payment to the City.

RESULTS:

The auditor and Hauler owner reviewed the invoices for September 1 through September 16, 2004. The review revealed additional gross revenue of \$6,166.67 subject to the fee. The Hauler owner reviewed the invoices for September 17 through 30, 2004, without allowing the auditor to participate. The Hauler review revealed additional gross revenue of \$1,123.09 subject to the fee.

REMEDIES:

Gross revenues reported to the City were understated by at least \$10,049.88 in the month of September 2004, which represents a fee due the City of \$1,004.99. According to the

contract, a 2% penalty is assessed per month on payments received after the due date, which would be \$80.38 for September's unpaid balance due.

Due to the magnitude of the discrepancies discovered, the City has a contractual right for an audit of all months of the contract period, with audit costs paid by the Hauler. To provide an independent and objective review of fees payable to the City, it would be in the best interests of both parties to have the audit performed by a mutually agreeable Certified Public Accounting firm. It is expected that this type of audit would be very costly to the Hauler based on the condition of the Haulers' records as documented above. The City also expects this type of audit could be disruptive to the Hauler's on-going efforts to conduct business. Therefore, in the interest of not wanting to appear punitive, the City is willing to apply the audit results for September 1 through 16, the period the City was able to audit, to the other months of the contract period, in lieu of a full audit. By applying the average daily gross revenues from September 1 through 16 to all days of the contract period through 2004, the City is due an additional \$14,565.00. Interest foregone on the monthly unpaid fees to the City at a 2004 blended interest rate of 4.5% totals \$297.33.

City of Fayetteville
Roll-Off Service, Inc. Audit

Gross revenues per audit for Sept. 1 - 16 12,926.59
Average daily gross revenues (12,926.59/16 days) 807.91

Average daily gross revenues applied to all days of contract period

Month	Days in Month	Gross Revenues	Fee Due City per Audit	Payment Made	Difference
April	30	24,237.36	2,423.74	683.33	1,740.41
May	31	25,045.27	2,504.53	709.03	1,795.50
June	30	24,237.36	2,423.74	689.30	1,734.44
July	31	25,045.27	2,504.53	515.48	1,989.05
Aug	31	25,045.27	2,504.53	612.64	1,891.89
Sept	30	15,410.49	1,541.05	536.06	1,004.99
Oct	31	25,045.27	2,504.53	624.31	1,880.22
Nov	30	24,237.36	2,423.74	689.63	1,734.11
Dec	31	25,045.27	2,504.53	705.12	1,799.41
			21,334.89	5,764.90	15,569.99
					1,004.99 less Sept.
					<u>14,565.00</u>

Interest foregone on unpaid monthly balances

Month	Difference	Interest at 4.5%
April	1,740.41	6.53
May	1,795.50	13.28
June	1,734.44	19.84
July	1,989.05	27.37
Aug	1,891.89	34.57
Sept	1,004.99	38.47
Oct	1,880.22	45.66
Nov	1,734.11	52.34
Dec	1,799.41	59.28
	15,569.99	297.33

\$ 1,004.99 Fees due for month of September
80.38 2% penalty on September fees
1,309.20 September audit costs
14,565.00 Fees for April, May, June, July, August, October, November, December, 2004
297.33 Interest on unpaid fees
\$ 17,256.91 Total due to City

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

April 2, 2004

*Fayed
4.2.04*

Roll Off Service, Inc.
Tom Smith
P.O. Box 1700
Lowell, AR 72745

Dear Tom:

I have received the certificate of insurance for Roll Off Service, Inc. from Walker Bros. Insurance, Inc.

I have not received the list of vehicles with proof of registration, the list of vehicle operators with proof of valid and appropriate commercial driver's licenses, the company's plan to insure that the vehicle operators maintain their commercial driver's licenses, and the deposit required.

Your earlier concern regarding privacy of driver's license numbers can be resolved by marking though the number and providing copies of the driver's license cards with the number obliterated.

Roll Off Service, Inc. is in substantial non-compliance with the Agreement to Haul and Dispose of Waste. As a result Roll Off Service, Inc. vehicles doing business in Fayetteville may be stopped and ticketed effective immediately.

You should resolve these outstanding compliance issues immediately to avoid disruption of you services.

Sincerely,



Gary Dumas
Director of Operations

cc COPY

Cc: Rick Hoyt, Chief of Police
Dan Coody, Mayor

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

June 15, 2004

 **COPY**

To Contracted Waste Haulers:

It is the 15th of the month again.

Please be reminded that there are specific stipulations within contract concerning payment of fees and specific reporting that must be provided monthly with each payment.

Specifically this contract requirement is found within paragraph 5. This timing and reporting requirement reads in part (emphasis added):

Hauler shall pay all fees due hereunder, along with the required supporting information, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of the fees received after the due date shall be assessed a 2% penalty per month. If Hauler failed to pay the fees within forty-five (45) days of the due date, the City may revoke this Agreement upon delivery of written notice to the Hauler. *The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a blind list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary customer, and (iv) the fee shall be based upon all activity from each customer account within the City, and shall include the normal billing charges for all free or discounted services (excluding those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges.*

All contracted haulers must provide the above described activity report each month.

Payments should be made by check payable to the City of Fayetteville. The check and supporting information should be delivered together to Gary Dumas, Director of Operations, 113 West Mountain, Fayetteville, Arkansas 72701.

113 WEST MOUNTAIN
FAYETTEVILLE, ARKANSAS 72701
479-575-8330
FAX 479-575-8257



OPERATIONS DIRECTOR

March 24, 2005

Roll-Off Service, Inc.
Attn: Mr. Tom Smith
P.O. Box 1700
Lowell, Arkansas 72745

 **COPY**

Dear Mr. Tom Smith,

This letter is to service as notice that the City of Fayetteville has not received Roll-Off Service's contract payments for January or February of 2005. Per the contract, please include a 2% per month penalty with your payment. Your attention to this matter is greatly appreciated.

Sincerely

Gary Dumas



COPY

OPERATIONS DIRECTOR

April 14, 2005

Roll-Off Service, Inc.
Attn: Mr. Tom Smith
P.O. Box 1700
Lowell, Arkansas 72745

Dear Mr. Tom Smith,

This letter serves as a notice that the City of Fayetteville has not received contract payments from Roll-Off Service, Inc. for October 2004. Per the contract, please include a 2% per month penalty with your payment. I want to thank you for your payments of January 2005 and February 2005 services. Regrettably, the payments were received on April 12, 2005 without the required penalty. Please submit the 2% per month penalty payment of \$77.65 for January 2005 and \$47.16 for February 2005 services.

Your attention to these matters is greatly appreciated.

Sincerely,

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

Gary Dumas

 COPY



OPERATIONS DIRECTOR

May 25, 2005

Roll-Off Service, Inc.
Attn: Mr. Tom Smith
P.O. Box 1700
Lowell, Arkansas 72745

Dear Mr. Tom Smith,

On about April 16, you received my letter to you dated April 14, 2005 informing you that the City of Fayetteville had not received the contract payment from Roll Off Services, Inc. for the month of October, nor the contractual late payment fees for the months of January and February.

Additionally, no contract payment has now been received for the month of April.

Roll Off Service, Inc. is in breach of its contract with the City of Fayetteville for not remitting appropriate fees.

This letter is your Final Notice To Cure such breach.

As per the contract paragraph 17, you have 15 days to remit the total due including all late payment fees due the City.

Failure to remit the total amount due will result in the termination of this contract on June 14, 2005.

Effective June 15, 2005 the City will use any right or remedy to which it may be entitled by law to enforce the provisions of the contract and collect any amounts owed the City.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Gary Dumas", written over a large, diagonal "FILE COPY" watermark.

Gary Dumas

Fayetteville
ARKANSAS
OPERATIONS DIRECTOR

FILE COPY

July 25, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell, AR 72745

Dear Tom Smith,

This letter serves as a reminder there are specific stipulations of the Agreement to Haul and Dispose of Solid Waste in the City of Fayetteville contract regarding payment of fees and specific reporting required monthly with each payment. Specifically, this contract requirement is found in paragraph 5. Payment deadline and reporting requirements read in part (emphasis added):

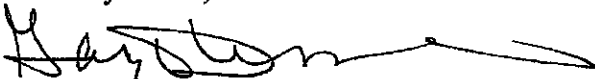
Hauler shall pay all fees due hereunder, along with the required supporting information, on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of the fees received after the due date shall be assessed a 2% penalty per month. If Hauler failed to pay the fees within forty-five (45) days of the due date, the City may revoke this Agreement upon delivery of written notice to the Hauler. ***The supporting information shall be sufficient to demonstrate the accuracy of the fee calculation, and shall include the following information: (i) Hauler's worksheet calculating the fees remitted; (ii) a blind list of payments received from customers within the City; (iii) such list shall clearly indicate whether each payment was from a permanent or temporary account within the City, and shall include the normal billing charges for all free or discounted services (excluding those for non-profit organizations) including but not limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges.***

All contracted Haulers must provide the above described activity report each month. If no activity occurred, e-mail gdumas@ci.fayetteville.ar.us stating as such.

Payments should be made by check payable to the City of Fayetteville. The check and supporting documents should be delivered to Gary Dumas, Director of Operations, 113 W. Mountain St., Fayetteville, Arkansas 72701.

I greatly appreciate your immediate attention to this matter and anticipate hearing from you soon. Please disregard this notice if your check is in the mail.

Sincerely Yours,



Gary Dumas, Director of Operations

113 West Mountain
Fayetteville, Arkansas 72701
Office phone - 479-575-8330
Fax - 479-575-8257
e-mail - gdumas@ci.fayetteville.ar.us

mailed 7/27/05



OPERATIONS DIRECTOR

FILE COPY

July 26, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell, AR 72745

Dear Tom Smith,

This letter serves as a reminder there are specific stipulations of the Agreement to Haul and Dispose of Solid Waste in the City of Fayetteville contract regarding container capacity size for the collection and hauling of solid waste. Specifically, this contract requirement is found in paragraph 3:

Hauler agrees and understands that it may only collect and haul Solid Waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of twenty (20) cubic yards or greater, or roll-off style compactor containers with capacities of twenty (20) cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as Special Waste, Hazardous Waste, grease or any other type Solid Waste which requires special handling or disposal. Hauler shall not collect any Class 1 or Class 4 material in other containers. No unseparated recyclables collected in any type container shall be hauled from any customer within the corporate limits of the City of Fayetteville. The collection of scrap metal, cardboard and other source-separated recyclables are not controlled or affected by this contract.

Containers less than twenty (20) cubic yards are in violation of the agreement entered into with the City of Fayetteville and should be removed immediately. Please resolve the above compliance issue within fifteen (15) days from the date of this letter. Your prompt attention to this matter is greatly appreciated.

Sincerely Yours,


Gary Dumas
Director of Operations

113 West Mountain
Fayetteville, Arkansas 72701
Office phone - 479-575-8330
Fax - 479-575-8257
e-mail - gdumas@ci.fayetteville.ar.us

mailed 7/27/05

Fayetteville

ARKANSAS
OPERATIONS DIRECTOR

COPY

August 10, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell, AR 72745

Dear Tom Smith,

Thank you for your payment of June 2005 franchise fees in the amount of \$1,610.82. Unfortunately, the payment was received on August 5, 2005 without the required penalty assessed on fees remitted after the due date of July 15, 2005. Please remit a 2% penalty of \$32.22 to bring your account up to date.

As a reminder, July 2005 franchise fees will be due on or before August 15, 2005. To avoid additional penalties, please remit your payment promptly.

Payments should be made by check payable to the City of Fayetteville. The check and supporting documents should be delivered to Gary Dumas, Director of Operations, 113 W. Mountain St., Fayetteville, Arkansas 72701.

I greatly appreciate your immediate attention to this matter and anticipate hearing from you soon.

Sincerely,



Gary Dumas
Director of Operations

113 West Mountain
Fayetteville, Arkansas 72701
Office phone - 479-575-8330
Fax - 479-575-8257
e-mail - gdumas@ci.fayetteville.ar.us

mailed 8/10/05



CERTIFIED MAIL
VIOLATION NOTICE

August 22, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell, AR 72745

 **COPY**

Subject: Notice of Violation

Dear Tom Smith,

On July 26, 2005 the City of Fayetteville issued a letter notifying you that containers less than twenty (20) cubic yards are not permitted by your **Agreement to Haul and Dispose of Solid Waste in the City of Fayetteville** ("Agreement") and must be removed immediately.

Roll Off Service, Inc. is in substantial non-compliance with the Agreement.

This letter is your Final Notice To Cure this breach of contract.

As per the contract paragraph 17, you have 15 days to cure this breach of contract.

Failure to cure this breach of contract will result in the termination of this contract on September 6, 2005.

Effective September 7, 2005 the City will use any right or remedy to which it may be entitled by law to enforce the provisions of the contract.

Sincerely Yours,



Gary Dumas
Director of Operations



CERTIFIED MAIL
VIOLATION NOTICE

September 23, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell AR 72745

A rectangular stamp with the word "COPY" in bold, uppercase letters. To the left of the word is a small square containing the letter "C".

Dear Mr. Smith:

On August 10, 2005 I sent you a letter informing you that June 2005 franchise fees were received on August 5, 2005 without the required two percent (2%) penalty of \$32.22. I also reminded you that July fees were due on or before August 15. Unfortunately you did not respond and no contract payment has been received for July or August.

Roll-Off Service, Inc. is in breach of its contract with the City of Fayetteville for not remitting appropriate fees.

This letter is your Final Notice To Cure such breach.

As per the contract paragraph 17, you have 15 days to remit the total due including all late payment fees due the City.

Failure to remit the total amount due will result in the termination of this contract on October 10, 2005.

Effective October 11, 2005 the City will use any right or remedy to which it may be entitled by law to enforce the provisions of the contract and collect any amounts owed the City.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Dumas".

Gary Dumas
Director of Operations

113 West Mountain
Fayetteville, Arkansas 72701
Office phone - 479-575-8330
Fax - 479-575-8257
e-mail - gdumas@ci.fayetteville.ar.us

714261



October 31, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell, AR 72745

Dear Tom Smith,

Thank you for your payment of July, August, and September 2005 franchise fees in the amount of \$6,767.10. Unfortunately, the payment was received on October 25, 2005 without the required penalty assessed on fees remitted after the due date. Please remit a 2% penalty, in the amount of \$262.07, for the months of July, August, and September to bring your account up to date.

As a reminder, October 2005 franchise fees will be due on or before November 15, 2005. Penalties will accrue at a rate of 2% per month for payments received after the 15th day of each month. To avoid additional penalties, please remit your payment promptly.

Payments should be made by check payable to the City of Fayetteville. The check and supporting documents should be delivered to Gary Dumas, Director of Operations, 113 W. Mountain St., Fayetteville, Arkansas 72701.

I greatly appreciate your immediate attention to this matter and anticipate hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Dumas", written over a large, diagonal "FILED COPY" stamp.

Gary Dumas
Director of Operations



CERTIFIED MAIL
VIOLATION NOTICE

December 7, 2005

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell AR 72745

 **COPY**

Dear Mr. Smith:

On October 31, 2005 I sent you a letter informing you that late penalties were due on franchise fees remitted for the months of July, August, and September. On November 22, 2005 the franchise fee payment for the month of October was received past the due date of November 15, 2005. Penalties accrue at a rate of two percent (2%) per month for payments received after the 15th day of each month. **Roll-Off Service has accrued penalties in the amount of \$408.58.** If these fees are not received by December 15, 2005, an additional \$178.93 in penalties will be applied along with a two percent (2%) penalty for November fees.

Roll-Off Service, Inc. is in breach of its contract with the City of Fayetteville for not remitting appropriate fees.

This letter is your Final Notice To Cure such breach.

As per the contract paragraph 17, you have 15 days to remit the total due including all late payment fees due the City.

Failure to remit the total amount due will result in the termination of this contract on December 26, 2005.

Effective December 27, 2005 the City will use any right or remedy to which it may be entitled by law to enforce the provisions of the contract and collect any amounts owed the City.

Sincerely,



Gary Dumas
Director of Operations



THE CITY OF FAYETTEVILLE, ARKANSAS

July 14, 2006

To: All Haulers contracted with the City of Fayetteville to collect and haul solid waste within the corporate limits of the City

According to your agreement with the City of Fayetteville, you are required to pay a monthly fee of 10% of the gross revenue received for all services provided under the agreement. Covered services include the collection and hauling of solid waste using the type equipment commonly referred to as open-top roll-off style containers with capacities of 20 cubic yards or greater, or roll-off style compactor containers with capacities of 20 cubic yards or greater, containing waste generated from industrial, large commercial or construction/demolition activities, or which is classified as special waste, hazardous waste, grease or any other type solid waste which requires special handling or disposal within the corporate limits of the City.

You are required to pay all fees, along with the required supporting information specified in section 5 of the agreement, on or before the 15th of each calendar month for the immediately preceding calendar month.

In an effort to seek compliance with the agreement and to ensure conformity of the required supporting information specified in section 5 of the agreement to be provided with your payment, the City has prepared a *Required Supporting Information Form* to be completed and remitted with each monthly payment of fees. The completed forms will be reviewed each month, and if necessary, the City will request further documentation or conduct an audit as allowed in section 5 of the agreement.

If you have any questions pertaining to the completion of the form, you may contact me or John Nelson, Operations Management Accounting Coordinator, jnelson@ci.fayetteville.ar.us. Thank you for your cooperation.

Vicki Deaton, CISA
City of Fayetteville Internal Auditor
vdeaton@ci.fayetteville.ar.us

Rev. 07/09

Required Supporting Information For Monthly Payment of Fees

Due on or before the 15th of each calendar month for the immediately preceding calendar month. Payments of the fees received after the due date shall be assessed a 2% penalty per month.

Hauler: _____

Month: _____

1. Please give the number of permanent customer accounts you have within the corporate limits of the City of Fayetteville for the month reported.

2. Please give the number of temporary customer accounts you have within the corporate limits of the City of Fayetteville for the month reported.

3. Please give the total number of containers placed with all your designer accounts within the corporate limits of the City of Fayetteville for the month reported.

4. For each account identified above, please complete the attached form showing your unique account identifier which is blind to the City, the account type, the total number of containers with that account, the total number of pulls with that account, and the monthly revenues collected by container for that account. (A form is required for each customer account identified in item #1 and item #2. The container total from all the forms should equal the container total specified in item #3.)

5. The forms completed for item #4 above should include all normal billing charges for free, donated, or discounted services. These normal billing charges should include but not be limited to delivery, pull charges, disposal charges, transportation charges, final pull charges, and return charges. Only donated or discounted services to non-profit organizations may be excluded from fees but are to be reported.

6. Total fee remitted to the City of Fayetteville for the month reported.
(This should equal the total of all the account fees calculated on the attached forms.)

\$ _____

Submitted by: _____ Phone # _____

Customer Account Identifier

(use your unique identifier that is blind to the City)

Customer Account Type

(permanent or temporary)

Total containers with account

Total number of pulls with account

Container #	Monthly Revenues
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
Total:	
Donated or Discounted Containers	
Normal Billing Charge	
1	
2	
3	
4	
5	
Total:	
Grand Total:	
10% of Grand Total:	

Fee to be remitted to City
for this account



VIOLATION NOTICE

January 9, 2007

Tom Smith
Roll-Off Service Inc
PO Box 1700
Lowell AR 72745

Dear Mr. Smith:

This letter is a reminder that your payment is past due.

The last payment received was \$2,256.60 on August 7, 2006 for July 2006 franchise fees. We have not received franchise fee payments for the months of August 2006, September 2006, October 2006, November 2006, or December 2006. Penalties will continue to accrue at 2% per month. Please remit your payment promptly.

Roll-Off Service, Inc. is in breach of its contract with the City of Fayetteville for not remitting appropriate fees.

This letter is your Final Notice To Cure such breach.

As per the contract paragraph 17, you have 15 days to remit the total due including all late payment fees due the City.

Failure to remit the total amount due will result in the termination of this contract on January 31, 2006.

Effective February 1, 2007 the City will use any right or remedy to which it may be entitled by law to enforce the provisions of the contract and collect any amounts owed the City.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Dumas", written over a large, diagonal "FILE COPY" watermark.

Gary Dumas
Director of Operations

Lindsey Management Co., Inc.

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

RECEIVED

MAR 27 2007

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

March 27, 2007

City of Fayetteville
ATTN: City Clerk
113 W. Mountain Street
Fayetteville, AR 72701

RE: Links at Fayetteville
R-PZD 07-2452

Dear City Clerk:

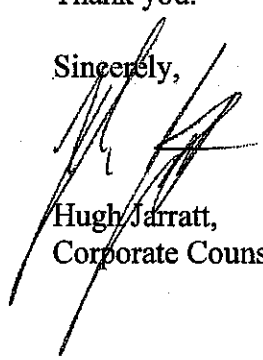
Please treat this letter as a formal request on behalf of The Links at Fayetteville, a Limited Partnership to appeal the Fayetteville Planning Commission decision regarding R-PZD 07-2452, The Links at Fayetteville.

Please place R-PZD 07-2452 The Links at Fayetteville on the agenda for consideration by the Fayetteville City Council. The next available meeting, I believe, is April 17, 2007.

If there are any additional materials or information which you require, please let me know.

Thank you.

Sincerely,



Hugh Jarratt,
Corporate Counsel

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 27, 2007

Subject: Residential Planned Zoning District for Links at Fayetteville (R-PZD 07-2452)

RECOMMENDATION

The Planning Commission voted to deny the subject Residential Planned Zoning District request, R-PZD 07-2452 Links at Fayetteville. A motion to approve failed with a vote of 3-3-2 (Commissioners Myres, Anthes, Oster voting 'No', commissioners Harris and Clark recusing). The applicant has appealed the Planning Commission decision to the City Council.

Planning Staff also recommends denial for an ordinance to create a Residential Planned Zoning District for Links at Fayetteville. If this ordinance is approved, the action would establish a unique zoning district for a residential development with a maximum of 1,258 dwelling units and 120,888 square feet of nonresidential space on a 152.33-acre tract located at the northeast corner of Wedington Drive and Ruppel Road, a proposed density of 8.26 dwelling units per acre.

BACKGROUND

The subject property consists of approximately 152.23 acres located on the north side of Wedington Drive and east of Ruppel Road with frontage on both of these streets. The site is zoned R-PZD 05-1636 Wellspring. The existing zoning allows for a total of 1,175 dwelling units and a maximum of 548,000 square feet of nonresidential space. The property is undeveloped, primarily agricultural pasture. Surrounding land uses consist of developing subdivisions and single family homes to the west, agricultural uses to the north, commercial strip center and mini-storage to the south, and single and multi-family homes to the east. 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 March 26, 2007, the Planning Commission voted 3-3-2 on a motion to approve this request with commissioners Myres, Anthes, and Ostner voting 'No', commissioners Trumbo, Lack and Bryant voting 'Yes', commissioners Harris and Clark recusing, and commissioner Graves was absent. The motion to approve failed and the applicant has appealed this request to the City Council. The main issues of Planning Commission concern centered on this R-PZD not complying with the purpose and intent of the R-PZD ordinance and the City's land use planning objectives, principles, and policies, in particular the City Plan 2025 and Future Land Use Plan that have been adopted by City Council in the past year.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2452, THE LINKS AT FAYETTEVILLE, LOCATED AT THE NORTHEAST CORNER OF WEDINGTON AND RUPPLE ROAD; CONTAINING APPROXIMATELY 152.23 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-PZD 05-1636, Residential Planned Zoning District, WellSpring to R-PZD 07-2452 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

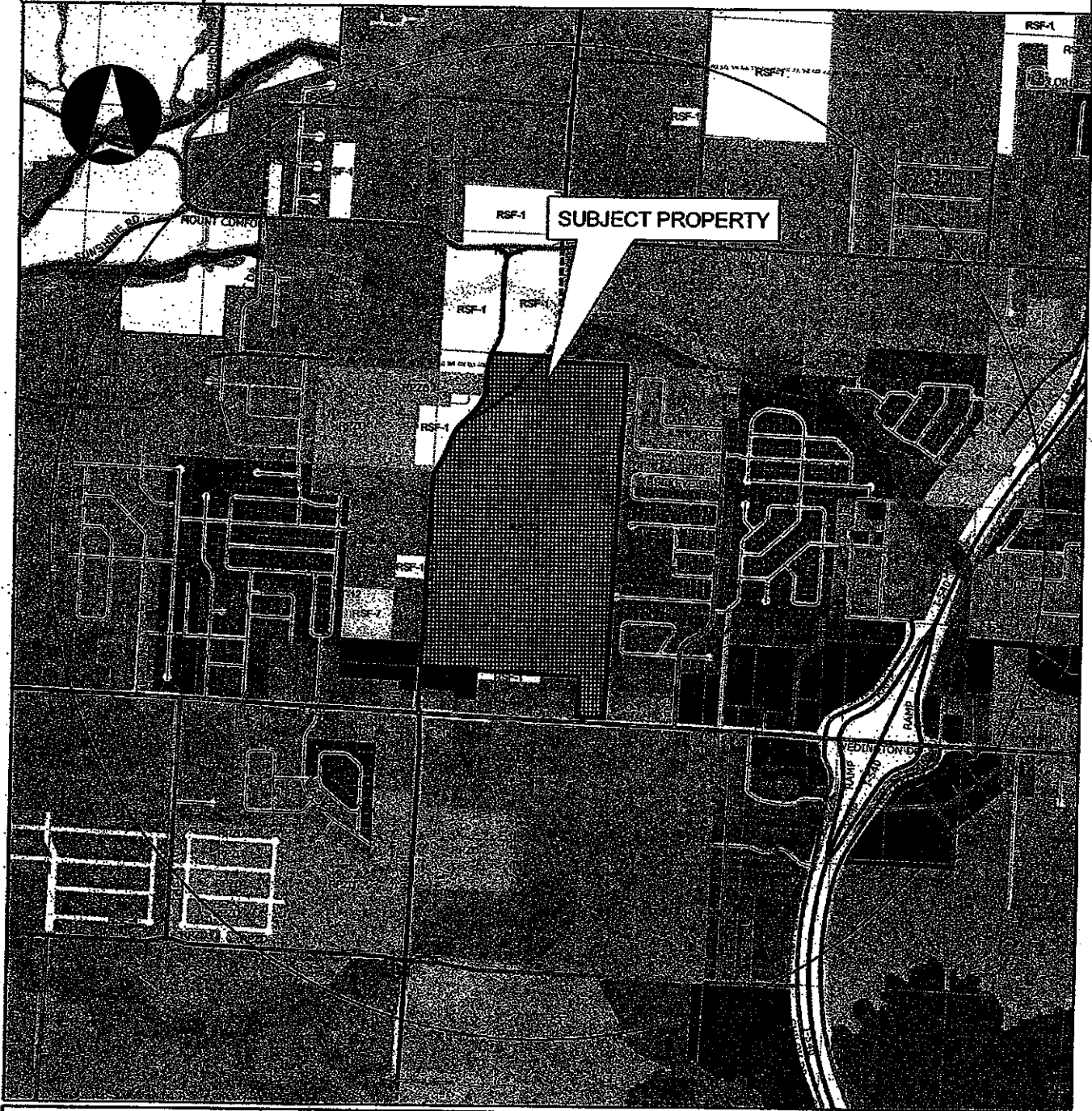
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

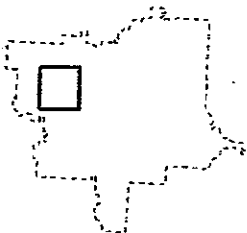
RPZD07-2452

One Mile View

THE LINKS AT FAYETTEVILLE



Overview



Legend

Subject Property

RPZD07-2452

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
Miles

EXHIBIT "B"
R-PZD 07-2452

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 16 NORTH, RANGE 31 WEST, AND A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, AND A PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, ALL IN WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°42'05"E 617.60' AND N03°03'08"E 102.59' FROM THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7 AND RUNNING THENCE S87°03'27"E 93.41' TO A SET IRON PIN, THENCE N02°40'05"E 1716.06' TO A FOUND IRON PIN, THENCE N02°40'00"E 2143.06' TO A FOUND IRON PIN, THENCE N87°46'42"W 715.35' TO A FOUND IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 7, THENCE N02°27'56"E 46.74' TO A FOUND IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, THENCE N86°58'50"W 751.69' TO THE CENTERLINE OF RUPPLE ROAD, THENCE ALONG SAID CENTERLINE S20°20'50"W 44.46', S14°10'34"W 65.18', S09°16'42"W 44.03', S06°40'25"W 54.50', S05°18'51"W 54.60', S04°54'39"W 54.72', S04°57'12"W 59.85', S07°17'28"W 55.76', S13°38'10"W 52.31', S23°24'21"W 49.39', S32°18'04"W 47.75', S36°38'10"W 37.75', S40°31'21"W 59.19', S44°51'16"W 60.06', S46°48'24"W 67.32', S44°39'19"W 56.83', S39°09'37"W 55.03', S30°55'13"W 66.99', S24°56'32"W 57.82', S22°38'12"W 58.87', S22°23'40"W 54.61', S22°23'30"W 58.25', S23°21'56"W 55.44', S27°27'36"W 58.17', S31°39'13"W 58.36', S31°28'21"W 57.48', S21°21'38"W 54.39', S09°23'27"W 60.29', S02°47'11"W 51.61', S01°55'43"W 51.38', S02°08'41"W 57.15', S02°26'03"W 49.97', S02°30'26"W 51.03', S02°49'34"W 51.91', S02°57'05"W 54.52', S02°54'57"W 52.46', S02°50'56"W 55.16', S02°43'15"W 48.89', S02°33'25"W 54.35', S02°31'07"W 51.57', S02°25'23"W 56.41', S02°19'43"W 50.93', S02°27'09"W 38.77', S02°34'15"W 44.03', S03°12'55"W 52.16', S02°57'10"W 49.78', S02°33'54"W 51.59', S02°57'20"W 63.38', S03°10'04"W 52.97', S02°59'07"W 52.35', S02°31'09"W 51.19', S03°12'19"W 54.91', S02°13'15"W 33.15', S02°14'57"W 49.48', S02°42'49"W 48.61', S02°37'18"W 50.94', S02°42'26"W 49.47', S02°18'12"W 48.56', S02°45'16"W 52.85', S02°38'45"W 52.94', S02°54'55"W 41.80', S02°54'55"W 360.64', THENCE LEAVING SAID CENTERLINE S87°30'27"E 629.81' TO A CORNER POST, THENCE S03°09'47"W 7.60' TO A SET IRON PIN, THENCE S86°50'13"E 1088.84', THENCE S03°03'08"W 434.54', THENCE ALONG SAID RIGHT-OF-WAY S87°02'59"E 209.22' TO THE POINT OF BEGINNING, CONTAINING 152.23 ACRES MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2452

Page 1 of 5

The Planning Commission and Staff recommend the following conditions of approval associated with R-PZD 07-2452 (Links at Fayetteville).

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. A traffic study shall be prepared based on the proposed development. Staff will recommend street improvements warranted with development of the subject property. *Based on the traffic study for the Wellspring PZD on the property which is close in residential trips generated, staff will likely recommend the following street improvements:*
 - a. *Installation of new traffic signals on Ruppel Road and on Wedington, as determined through development review;*
 - b. *Constructing the eastern half of Ruppel Road to its Master Street Plan designation along the project frontage (two travel lanes and half of a boulevard);*
 - c. *Construction of street improvements south of Ruppel to Wedington with appropriate transition lanes and relocation of existing signal to accommodate additional lanes.*
2. Planning Commission determination of adequate connectivity. Four points of access are provided to the west on Ruppel Road. The existing street stub-out in the subdivision to the east will be connect to this development and pedestrian and park connection to the east. The property would access Wedington Drive in the southeast corner of the property. No access to the north is provided due to the location of the golf course.
3. Planning Commission determination of a waiver of minimum street design standards. The applicant requests a waiver to allow a different street cross section than are required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes a 60' public right-of-way for the three public streets. This street section would provide for two traffic lanes and parallel parking on either side of the street. This street section is currently not included in the City's Master Street Plan and would require a waiver of the street design standards. *Staff is in support of the requested 60' street section finding that parallel parking along either side of the street and two travel lanes would provide for safe ingress/egress through the development. Additional design review and recommendations regarding the Town Center "square" will occur at the time of development, and may require revision after a detailed evaluation.*
4. This project is required to go through Large Scale Development and/or subdivision review and approval prior to construction.
5. The applicant shall dedicate right-of-way a minimum of 55' from centerline of Ruppel Road and Wedington Drive. Right-of-way width for the internal public streets would be 60' to accommodate the on-street parallel parking. Right-of-way shall be dedicated by easement plat for Ruppel Road and the internal public streets, and by separate document for Wedington Drive (State Highway 16).
6. The project is subject to the project phasing listed in the project booklet and noted below. All permits required for development within these phases are required to be obtained within

CONDITIONS OF APPROVAL:

R-PZD 07-2452

Page 2 of 5

the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

<u>Phase No.</u>	<u>Year</u>
Phase 1	2008
Phase 2	2014
Phase 3	2018

7. All trash enclosure locations and dimensions shall be fully reviewed and approved by the Solid Waste Division at the time of development.
8. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
9. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of large scale development and building permit.
10. The Park and Recreation Advisory Board (PRAB) recommended on January 8, 2007 to accept a combination of land and money in lieu of land for this project. The developer has agreed to the following:
 - a. The developer shall dedicate approximately 17.32 acres of land adjacent to Bryce Davis Park. In addition, the developer would pay the City \$138,000 money in lieu for the remaining 3.45 acres of required land dedication (20.77 acres required – 17.32 acres dedicated) = 3.45 acres short/0.017 acres = 202.94 units X \$680.00 = \$138,000.00).
 - b. The developer shall construct a 6' high wrought iron fence between the proposed golf course and the proposed park area.
 - c. The existing lake located within the proposed park land area shall remain with the following conditions:
 - a) Overflow from said lake shall flow to a second lake to be constructed off park land from which the developer will draw irrigation waters.
 - b) A well shall be constructed off park land and maintained by the developer from which water will be deposited into the existing lake to maintain an elevation to be agreed upon by the developer and Parks Board. Said well will also provide water to the "lower" irrigation lake via a second line.
 - c) The existing lake shall be altered only to the degree necessary to provide storm water detention for the drainage area it now serves.
 - d) If requested by the City, a "shelf" shall be constructed in the existing lake that is 1' below the established water level indicated in above and extends 3' – 5' from the existing shoreline at the developer's expense.
 - d. An agreement will be necessary to provide the flow of water from the pond on the park property to the irrigation pond.
 - e. On-street parking shall be constructed by the developer along a section of public street bordering the proposed park land. A minimum of eight spaces shall be

CONDITIONS OF APPROVAL:

R-PZD 07-2452

Page 3 of 5

provided.

11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code.
12. Depending on the time of development, the developer may be responsible for contributing to the interim solution for wastewater capacity issues in the Hamestring basin, as determined by Engineering staff and Planning Commission at the time of development.
13. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
14. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development.
15. Street trees shall be provided along public streets pursuant to city codes at the time of development.
16. The booklet and plats should be revised globally for consistency throughout, prior to City Council submittal. For example the booklet on page 4 states that the total amount of residential units is 1,220, however sheet C1.03 lists the total amount of non-residential units at 1,258.
17. Single family residences and townhouses on Ruppel Road shall have front façade facing Ruppel Road. Single family residences on the northern public street shall have the front façade facing the public street, with the attached garages along the rear of the houses away from the street.
18. The attached garages on the single family dwellings shall be one-car garages, and shall be setback a minimum of 20' from the required front façade of the structure.
19. There shall be a maximum of three single family dwellings connected in a row with attached garages.
20. Driveways for the single family homes that are not shared shall be a maximum of 16' wide per City codes. Driveways for the single family homes that are shared shall be a maximum of 24' wide per City codes.
21. Evaluate the southern private street/drive aisle at the time of development for potential public street connection.
22. In order to ensure compatibility and transition between the townhouses and the existing large lot single family residences to the west, the architectural design of the townhouses shall be

CONDITIONS OF APPROVAL:

R-PZD 07-2452

Page 4 of 5

subject to the following guidelines:

- (a) The townhouses shall be limited to a maximum of 6 units connected in a group without a substantial break.
 - (b) The townhouses units shall utilize a variety of front facades, and shall be articulated through the incorporation of two or more of the following on each connected group/structure of townhouses:
 - (1) Balconies;
 - (2) Bay or box windows;
 - (3) Insets or other relief in the wall place;
 - (4) Porches;
 - (5) Dormers;
 - (6) Variations in materials; or
 - (7) Variations in roof forms
 - (c) Roof form and roof height of the townhouses should be varied to complement the building's mass and articulation.
23. Expand the proposed park land dedication in the northeast corner of the project an additional 150' along the existing east edge of Planning Area IV with a line narrowing to meet where the north property makes a jog near the creek as shown on the original Parks Board submittal.
24. Include a raised trail crossing at the crossing of the Public Street going east. The trail crossing should be continuous across the street at the level of the top curb. Similar to a speed table with the trail crossing over.

Standard Conditions of Approval:

25. 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).
26. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
27. 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.
28. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

CONDITIONS OF APPROVAL:

R-PZD 07-2452

Page 5 of 5

29. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
30. 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.
31. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area.
 - d. Project Disk with all final revisions
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



THE CITY OF FAYETTEVILLE, ARKANSAS

Planning Commission Meeting
March 26, 2007

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Director of Current Planning
DATE: ~~March 20, 2007~~ Updated March 28, 2007

R-PZD 07-2452: Planned Zoning District (THE LINKS AT FAYETTEVILLE, 400.401.361.362): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NORTHEAST CORNER OF WEDINGTON AND RUPPLE ROAD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 05-1636 (WELLSPRING) and contains approximately 152.23 acres. The request is for zoning and land use approval only for a new R-PZD. The proposed R-PZD would allow 1,258 residential dwelling units, 120,888 square feet of non-residential/commercial space, and 16,388 square feet of recreational buildings. The non-residential and recreational portions of the development would contain a golf course, a commercial 'market' area, green space, park, and associated parking.

Property Owner: Lindsey Management Company, Inc.
Planner: Andrew Garner

The staff report that was presented to the Planning Commission on March 12, 2007 has been attached to this memorandum (Attachment A). The following memorandum summarizes the changes to the proposed R-PZD since the March 12, 2007 Planning Commission, and provides staff's recommendation to the Planning Commission based upon the revised plans.

March 12, 2007 Planning Commission Meeting: This item was tabled by the Planning Commission on March 12, 2007. The main issues of concern to be addressed in the next submittal included: breaking up the long rows of townhouses along Rupple Road into smaller blocks and a greater variety of facades, providing increased connectivity in the commercial area, providing meaningful detached single family residences, and providing more variety in the facades throughout the site.

Revised Plans for March 26, 2007 Planning Commission Meeting:

The applicant revised the proposed Master Development Plan with the following items:

1. Added 74 single family residences in the northern portion of the site along the public street and on the western portion of the site along Rupple Road. These residences will be single family structures attached together by a garage at the rear of the house (see elevations provided in PZD booklet).
2. The addition of the single family residences resulted in the removal of two apartment

- buildings (there were previously 69 apartment buildings now there are 67), and the removal of 91 townhouses (there were previously 166 townhouses, now there are 75).
3. The townhouses along Ruppel Road are described in the PZD booklet as being connected in groups of up to 12 units, which is the same as previously proposed, although the footprint of the townhouses on the plat appears to show the footprints as broken up in smaller groups.
 4. The zoning criteria for Planning Areas I and II (Market District) were combined into one, as these areas are essentially the same.
 5. The number of units in the apartment buildings and zoning criteria has changed somewhat resulting in the addition of 38 more multi-family dwellings in the apartment planning area.
 6. Increased the amount of non-residential square feet allowed in the commercial planning areas by 8,200 square feet.
 7. These overall changes increased the number of residential units from 1,220 to 1,258, and increased the number of non-residential square feet from 112,888 to 120,888. *Attachment B* provides an overall development summary.

Staff Discussion and Recommendation:

The applicant has made numerous changes to the plans throughout the review process in response to comments from Planning staff and the Planning Commission. However the plans before the Planning Commission must be reviewed on their own merits and not compared with other plans in making the decision to approve or deny the rezoning request, based on the established criteria for Planned Zoning District and rezoning applications.

Staff recommended denial of this R-PZD at the two previous Planning Commission meetings based on the findings that this project did not comply with the requirements of the UDC and the City Plan 2025. The R-PZD findings listed in the UDC are based largely upon the determination of whether or not a project is consistent with the land use policies and goals of the City's General Plan – City Plan 2025 and the R-PZD ordinance, as a policy decision to rezone the project with the Master Development Plan as presented.

Staff's previous findings discuss that this project does not meet many of the City's primary land use planning objectives, principles, and policies. Although the introduction of 74 single family residences starts to provide some variety in the residential units in this project, staff's primary concerns as stated in the March 12, 2007 still exist, with the exception of surrounding land use compatibility as discussed below.

Compatibility with Surrounding Land Use. Staff had concerns with this project being compatible with the large lot single/family residences on the west side of Ruppel Road. The revisions to the Master Development Plan show the footprints of the townhouses as being broken up to reduce the scale of these buildings, and also provide single family residences along Ruppel Road. These changes have changed the use, and reduced the scale and mass of the development along this frontage considerably. Staff finds that the project now provides adequate compatibility along the west and with all surrounding land uses.

Traditional Neighborhood Form. As adopted by the City Council, Goal 3 of the City Plan

2025 is to *"Make traditional town form the standard."* The location of neighborhoods should *"...contain not just houses, but a mix of uses that are adaptable for change over time;...a range of housing types that occur on a variety of lot sizes, creating the ability to live, work, shop and having daily needs and services within walking distance."* New growth should be required to result in compact, complete and connected neighborhoods. The form of this project is not a traditional neighborhood development in contrast to one of the primary goals of City Plan 2025. Due to the large scale of this site (152 acres), it is reasonable and feasible to develop in more of a traditional neighborhood form. A golf course community as proposed with a mix of multi-family, single-family, townhouses, and commercial and civic space is possible in a traditional neighborhood form. There are several elements of a traditional neighborhood that are lacking in this development and should be provided when a PZD is proposed on a site of this scale. The impact of a zoning and subsequent development of 152 acres will greatly exceed that of smaller projects the Planning Commission typically reviews. These smaller projects are held to the same standard of detail and review through the PZD process. Some of these elements are discussed in the following two paragraphs about the vehicular circulation system and the purpose and intent of the R-PZD ordinance.

Vehicular Circulation System. The proposed vehicle circulation system is composed of four three very long streets and long blocks. The revised PZD provides an additional private alley/street (approximately 500' long) for rear access between single family residences along Ruppel Road. This alley/street provides more of a public vehicular connection than the previous parking lot drive aisle between two rows of townhouses. The overall vehicular circulation system still lacks adequate connectivity and the 1,258 residential units are still primarily accessed and connected by parking lot drive aisles.

City Neighborhood Areas. The subject proposal is found within the Future Land Use designation of "City Neighborhood Area". These areas are denser and primarily residential, with non-residential uses at corner locations to serve surrounding residents. There is a wide range of building types associated with these areas: single family detached, sideyard, rowhouses, and apartments. Streets typically define medium-sized blocks with a higher level of connectivity; development is encouraged to utilize a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.

It is staff's finding that the subject property could more readily meet the goals associated with City Neighborhood Areas, while retaining the primary uses residential and a golf course environment. This would include small to medium-sized blocks with a higher level of connectivity than currently proposed; a wider, more diverse range of building types than proposed; a block and street layout that promotes adaptable reuse of the structures over time, and slow road design speeds.

Purpose and Intent of R-PZD Ordinance. Staff's previous findings had concerns that this project did not provide variety and flexibility, and was not consistent with the City Plan 2025 as referenced in UDC Section 161.29 (C)(1)(a). The project provides 1,108 apartment units in 67 apartment buildings and four mixed use buildings (88% of the units), provides 75 townhouses in various attached footprints (6% of the units), and provides 74 single family dwellings (6% of the units). The single family residences included in this latest submittal help add to the variety and

flexibility of the residential units. However the bulk and scale of the 67 apartment buildings without integration of other residential dwelling types or non-residential uses throughout a majority of this property does not meet the intent of the R-PZD ordinance to achieve variety and flexibility, or to provide for a complete, compacted, and connected community as indicated in the City Plan 2025. In addition UDC Section 161.29 (C)(1)(b) specifies that an R-PZD should provide an "...*effective relationship of different land uses and activities within a single development...*". The proposal of primarily apartment buildings on a scale of this magnitude without adequate street connectivity, and without meaningful greenspace for the residents to utilize is a concern on a scale of this magnitude. There is a large amount of greenspace provided, but a majority of it is in a golf course and will not be able to be enjoyed for activity other than by paying a fee to play golf. Staff does acknowledge the aesthetic and recreational value of a public golf course for the general public, and the fact that this land will be 'green, though to a different degree. This project also provides a large amount of onsite parkland, however this area is cut-off from the this development by the golf course, and is not integrated into the neighborhood or readily accessible to the residents.

Request: The request is for Planning Commission to forward the R-PZD to the City Council with a recommendation for approval of the submitted Master Development Plan and zoning criteria for zoning and land use approval only.

Recommendation: Finding that pursuant to Fayetteville Unified Development Code Section 166.29, the proposed R-PZD does not meet the purpose and intent of the R-PZD ordinance, and does not meet some of the primary goals and policies of City Plan 2025 as referenced in that ordinance; staff recommends denial of R-PZD 07-2452 Links at Fayetteville. It is the charge of the Planning Commission to determine if the project meets with current ordinance requirements and the goals and policies of City Plan 2025 for this R-PZD proposal. Staff's rationale for this finding is discussed in this memorandum and the attached staff report dated March 12, 2007.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
	☐ Approved	☒ Denied
Date: <u>March 26, 2007</u>		
Motion: <u>Lack (motion to approve)</u>		
Second: <u>Trumbo</u>		
Vote: <u>3-3-2 (Myres, Anthes, Ostner voted 'No'; Harris, Clark abstained; Graves was absent)</u>		
CITY COUNCIL ACTION:	Required	<u>YES</u>
	☐ Approved	☐ Denied
Date: <u>April 17, 2007 (1st reading if recommended)</u>		

Should the Planning Commission choose to recommend in favor of this project to City Council, staff would recommend the following conditions of approval be added to the conditions of approval already listed in the previous staff report:

Additional Conditions of Approval:

1. The booklet and plats should be revised globally for consistency throughout, prior to City Council submittal. For example the booklet on page 4 states that the total amount of residential units is 1,220, however sheet C1.03 lists the total amount of non-residential units at 1,258.
2. Single family residences and townhouses on Ruppel Road shall have front façade facing Ruppel Road. Single family residences on the northern public street shall have the front façade facing the public street, with the attached garages along the rear of the houses away from the street.
3. The attached garages on the single family dwellings shall be one-car garages, and shall be setback a minimum of 20' from the required front façade of the structure.
4. There shall be a maximum of three single family dwellings connected in a row with attached garages.
5. Driveways for the single family homes that are not shared shall be a maximum of 16' wide per City codes. Driveways for the single family homes that are shared shall be a maximum of 24' wide per City codes.
6. Evaluate the southern private street/drive aisle at the time of development for potential public street connection.
7. In order to ensure compatibility and transition between the townhouses and the existing large lot single family residences to the west, the architectural design of the townhouses shall be subject to the following guidelines:
 - a. The townhouses shall be limited to a maximum of 6 units connected in a group without a substantial break.
 - b. The townhouses units shall utilize a variety of front facades, and shall be articulated through the incorporation of two or more of the following on each connected group/structure of townhouses:
 - (1) Balconies;
 - (2) Bay or box windows;
 - (3) Insets or other relief in the wall place;
 - (4) Porches;
 - (5) Dormers;
 - (6) Variations in materials; or
 - (7) Variations in roof forms
 - c. Roof form and roof height of the townhouses should be varied to complement the building's mass and articulation.
8. Expand the proposed park land dedication in the northeast corner of the project an additional 150' along the existing east edge of Planning Area IV with a line narrowing to meet where the north property makes a jog near the creek as shown on the original Parks Board submittal.
9. Include a raised trail crossing at the crossing of the Public Street going east. The trail crossing should be continuous across the street at the level of the top curb. Similar to a speed table with the trail crossing over.

ATTACHMENT A

**STAFF REPORT
MARCH 12, 2007 PLANNING COMMISSION**



Planning Commission Meeting
March 12, 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: ~~March 7, 2007~~ *Conditions of Approval Updated March 28, 2007*

R-PZD 07-2452: Planned Zoning District (THE LINKS AT FAYETTEVILLE, 400.401.361.362): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NORTHEAST CORNER OF WEDINGTON AND RUPPLE ROAD. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT 05-1636 (WELLSPRING) and contains approximately 152.23 acres. The request is for zoning and land use approval only for a new R-PZD. The proposed R-PZD would allow 1,221 residential dwelling units, 91,800 square feet of non-residential/commercial space, and 16,388 square feet of recreational buildings. The non-residential and recreational portions of the development would contain a golf course, a commercial 'market' area, green space, park, and associated parking.

Property Owner: Lindsey Management Company, Inc.
Planner: Andrew Garner

Findings:

February 26, 2007 Planning Commission Meeting: This item was tabled by the Planning Commission on February 26, 2007. The main issues of concern to be addressed in the next submittal included: additional public street connections in the northwest and southwest corners of the site; address how the retail/commercial interacts with surrounding and proposed onsite residences; scale, mass, buildings, and unit types should be more varied; and commercial out-lots on the southern end of Ruppel Road would be encouraged.

March 12, 2007 Planning Commission Revisions: The applicant has revised the proposed Master Development Plan with the following items:

1. Eliminated the mixed use and apartment buildings along Ruppel Road and provided 166 townhouses/rowhouses, and three commercial/retail buildings.
2. Introduced a 4-story version of the "Churchill Building" to provide alternative massing throughout the development with the 3-story "Churchill Building".
3. Thirty percent of the multi-family units will be offered for sale as condominiums for each phase of the development.

4. Revised the layout of the tennis court and clubhouse area to provide additional tree preservation.
5. Added a public street connection from the northern portion of the public street, west to Ruppel Road.
6. Added a private street connection between the two private parking lots in the southern portion of the site. These parking lots connect the public street with Ruppel Road.
7. These changes reduced the number of dwelling units from 1,420 to 1,221 and reduced the amount of non-residential square feet from 140,013 to 108,188.

Background: This property was rezoned from RSF-1, Single-Family One Units Per Acre and R-A, Residential-Agricultural to Residential Planned Zoning District (R-PZD) 05-1636, Wellspring on March 7, 2006. The approved R-PZD zoning criteria allows for a mixed use residential development in seven Planning Areas, each with its own unique permitted and conditional uses, building setbacks, lot width and area, density, intensity of nonresidential space, maximum number of dwelling units, phasing density, intensity of nonresidential space, maximum number of dwelling units, and phasing for construction. The approved zoning allows for a total of 1,175 dwelling units for the site, a maximum of 548,000 square feet of nonresidential space. Approximately 40 acres (26% of the site) has been designated for city parks, community greenspace, trail systems and/or tree preservation and undisturbed areas. The approved Master Development Plan is centered on a pedestrian-friendly, traditional urban design approach utilizing a mixture of uses in the same area, while providing for a variety of home styles and types. The applicant for this project proposes an entirely new R-PZD Master Development Plan and zoning criteria.

Property: The subject property contains 152.23 acres. The property is located on the north side of Wedington Drive and east of Ruppel Road, with frontage on both of those streets. The property is undeveloped, with primarily agricultural pasture land. There are large groupings of high priority/significant trees located in areas on the site, but a majority of the property exists in pasture, with a few remaining single family homes. A creek enters the property from the east and travels north to Hamestring Creek. Bryce Davis Park is located directly adjacent to the east, as well as some single family subdivisions and multi-family development. To the north is undeveloped farmland. Surrounding land use and zoning are listed in *Table 1*.

**Table 1
Surrounding Land Use and Zoning**

Direction	Land Use	Zoning
North	Largely agricultural	RSF-1, RSF-4, R-A
South	Commercial strip center, mini-storage	C-2, R-A
East	Single family, multi-family homes	RSF-4, R-O, C-1
West	Developing subdivisions and single family homes	RSF-4, RSF-1

Proposal: The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 1,221 attached dwellings as well as 91,800 square feet of non-residential/commercial space, and 16,388 square feet of recreational buildings. If the PZD be approved as proposed the project would be required to go through Large Scale Development and/or subdivision approval prior to development.

Master Development Plan: The proposed uses over the site are listed in *Table 2*.

Table 2
Master Development Plan

TYPE OF USE	PLANNING AREA	RESIDENTIAL DENSITY (UNITS/ACRE)	RESIDENTIAL UNITS	NON-RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON-RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Multi-family/Golf Course	PA-4	9.12	978	NA	9 hole golf course (49.18 acres)	107.27	70.47%
Dedicated parks	PA-6	NA	NA	NA	NA	17.32	11.38%
Club House	PA-3	0.19	1	3,170	16,388	5.17	3.40%
Mixed Use	PA-5	25.00	76	8,651	26,300	3.04	2.00%
Commercial	PA-1, 2	N/A	N/A	8,260	65,500	7.93	5.21%
Town Homes	PA-7	15.00	166	NA	NA	11.5	7.55%
TOTAL		8.02	1,221	711	108,188	152.23	100.00%

The mixture of uses on the project provides for multi-family buildings, mixed use buildings with commercial/retail space at the street level and residences in the upper levels, townhouses, and solely commercial buildings. The project also proposes a nine-hole golf course, a swimming pool, a tennis court, and a club house. Additional amenities include lakes, playgrounds, and picnic areas.

The Master Development Plan generally clusters the development along Ruppel Road and interior to the site, with the nine-hole golf course and park area around the perimeter. Zoning Criteria for each Planning Area is provided in duplicate on the PZD booklets and plats submitted. The structures are generally located facing either onto the three main public streets or the golf course around the perimeter of the development.

Adjacent Master Street Plan Streets: Ruppel Road (Principal Arterial), Wedington Drive (Principal Arterial).

Access: Access to the site is provided from Ruppel Road and Wedington Drive (State Highway 16). There is also a stub-out to the property from a subdivision to the northeast that would be connected with this R-PZD. Primary access points are to be by way of public streets into the development, which will become primary entrances in two locations, one on Wedington Drive and one on Ruppel Road. There are also three other proposed entrances onto Ruppel Road in the 0.7 miles of frontage, with the potential for traffic signalization on Ruppel Road, and at the project's entrance onto Wedington Drive, subject to city approval. The developer will be responsible for significant improvements to Ruppel Road and signalization as permitted to be at the cost of the developer, based on the traffic generated by this development. A detailed,

updated traffic study will be required at the time of development.

A Master Street Plan Amendment to re-align Ruppel Road at the north end of the site was approved by City Council as part of the Wellspring project. The approved re-alignment is consistent with the configuration of Ruppel Road as indicated on the proposed plats.

Interior to the project, three primary public streets are proposed, one off of Wedington Drive and one off of Ruppel Road, and a third connecting to an existing stub-out in the neighborhood to the northeast. These three streets connect around a traffic circle in the central portion of the site. Parking lot drive aisles provide access to a majority of the multi-family buildings, as well as interior connectivity throughout the development. Since the previous submittal, a public street connection from the northern portion of main north-south street west to Ruppel Road has been added. There is also a private street connection between two private parking lots in the southwestern portion of the site

Right-of-way to be dedicated: 55' from centerline right-of-way along the project's Ruppel Road and Wedington Drive frontages. Dedication by warranty deed is required along Wedington Drive as it is a State Highway (Hwy. 16), dedication of right-of-way for interior streets.

Connectivity: Four points of access are provided to the west on Ruppel Road. The existing street stub-out in the subdivision to the east will be connected to this development and pedestrian and park connection will be provided to the east. The property would access Wedington Drive in the southeast corner of the property. No connection is currently being provided to the north, due to the design of the golf course.

Parking: Parallel parking for the mixed use, residential, and commercial areas is proposed along the public streets interior to the project. In addition, parking lots are located interior to the project. The majority of off-street parking lots are located behind the buildings so that they are screened from public view.

Phasing: Three phases are planned for Links at Fayetteville over the next several years as listed below and 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.

<u>Phase No.</u>	<u>Year</u>
Phase 1	2008
Phase 2	2014
Phase 3	2018

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

Parks: The Park and Recreation Advisory Board (PRAB) recommended on January 8, 2007 to accept a combination of land and money in lieu of land for this project. The developer has agreed to the following:

- The developer shall dedicate approximately 17.32 acres of land adjacent to Bryce Davis

Park. In addition, the developer would pay the City \$138,000 money in lieu for the remaining 3.45 acres of required land dedication (20.77 acres required – 17.32 acres dedicated = 3.45 acres short/0.017 acres = 202.94 units X \$680.00 = \$138,000.00).

- The developer shall construct a 6' high wrought iron fence between the proposed golf course and the proposed park area.
- The existing lake located within the proposed park land area shall remain with the following conditions:
 - Overflow from said lake shall flow to a second lake to be constructed off park land from which the developer will draw irrigation waters.
 - A well shall be constructed off park land and maintained by the developer from which water will be deposited into the existing lake to maintain an elevation to be agreed upon by the developer and Parks Board. Said well will also provide water to the "lower" irrigation lake via a second line.
 - The existing lake shall be altered only to the degree necessary to provide storm water detention for the drainage area it now serves.
 - If requested by the City, a "shelf" shall be constructed in the existing lake that is 1' below the established water level indicated in above and extends 3' – 5' from the existing shoreline at the developer's expense.
- An agreement will be necessary to provide the flow of water from the pond on the park property to the irrigation pond.
- On-street parking shall be constructed by the developer along a section of public street bordering the proposed park land. A minimum of eight spaces shall be provided.

Solid Waste Service: In its review of this R-PZD, the Solid Waste Division recommended considering compactor service, and also stated that if dumpsters are used they must all be angled in the same way on each street.

Tree Preservation: The R-PZD indicates the general location of several tree preservation areas throughout the site. This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development.

Public Comment: City staff has not received public comment on this R-PZD.

Recommendation: Finding that the proposed rezoning and development approval does not meet some of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, staff recommends denial of **R-PZD 07-2452**.

Should the Planning Commission forward this project to the City Council with a recommendation for approval, staff recommends the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. A traffic study shall be prepared

based on the proposed development. Staff will recommend street improvements warranted with development of the subject property. *Based on the traffic study for the Wellspring PZD on the property which is close in residential trips generated, staff will likely recommend the following street improvements:*

- a. *Installation of new traffic signals on Ruppel Road and on Wedington, as determined through development review;*
 - b. *Constructing the eastern half of Ruppel Road to its Master Street Plan designation along the project frontage (two travel lanes and half of a boulevard);*
 - c. *Construction of street improvements south of Ruppel to Wedington with appropriate transition lanes and relocation of existing signal to accommodate additional lanes.*
2. Planning Commission determination of adequate connectivity. Four points of access are provided to the west on Ruppel Road. The existing street stub-out in the subdivision to the east will be connect to this development and pedestrian and park connection to the east. The property would access Wedington Drive in the southeast corner of the property. No access to the north is provided due to the location of the golf course.
 3. Planning Commission determination of a waiver of minimum street design standards. The applicant requests a waiver to allow a different street cross section than are required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes a 60' public right-of-way for the three public streets. This street section would provide for two traffic lanes and parallel parking on either side of the street. This street section is currently not included in the City's Master Street Plan and would require a waiver of the street design standards. *Staff is in support of the requested 60' street section finding that parallel parking along either side of the street and two travel lanes would provide for safe ingress/egress through the development. Additional design review and recommendations regarding the Town Center "square" will occur at the time of development, and may require revision after a detailed evaluation.*
 4. This project is required to go through Large Scale Development and/or subdivision review and approval prior to construction.
 5. The applicant shall dedicate right-of-way a minimum of 55' from centerline of Ruppel Road and Wedington Drive. Right-of-way width for the internal public streets would be 60' to accommodate the on-street parallel parking. Right-of-way shall be dedicated by easement plat for Ruppel Road and the internal public streets, and by separate document for Wedington Drive (State Highway 16).
 6. The project is subject to the project phasing listed in the project booklet and noted below. 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	2008
Phase 2	2014
Phase 3	2018

7. All trash enclosure locations and dimensions shall be fully reviewed and approved by the Solid Waste Division at the time of development.
8. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
9. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of large scale development and building permit.
10. The Park and Recreation Advisory Board (PRAB) recommended on January 8, 2007 to accept a combination of land and money in lieu of land for this project. The developer has agreed to the following:
 - a. The developer shall dedicate approximately 17.32 acres of land adjacent to Bryce Davis Park. In addition, the developer would pay the City \$138,000 money in lieu for the remaining 3.45 acres of required land dedication (20.77 acres required – 17.32 acres dedicated = 3.45 acres short/0.017 acres = 202.94 units X \$680.00 = \$138,000.00).
 - b. The developer shall construct a 6' high wrought iron fence between the proposed golf course and the proposed park area.
 - c. The existing lake located within the proposed park land area shall remain with the following conditions:
 - i. Overflow from said lake shall flow to a second lake to be constructed off park land from which the developer will draw irrigation waters.
 - ii. A well shall be constructed off park land and maintained by the developer from which water will be deposited into the existing lake to maintain an elevation to be agreed upon by the developer and Parks Board. Said well will also provide water to the "lower" irrigation lake via a second line.
 - iii. The existing lake shall be altered only to the degree necessary to provide storm water detention for the drainage area it now serves.
 - iv. If requested by the City, a "shelf" shall be constructed in the existing lake that is 1' below the established water level indicated in above and extends 3' – 5' from the existing shoreline at the developer's expense.
 - d. An agreement will be necessary to provide the flow of water from the pond on the park property to the irrigation pond.
 - e. On-street parking shall be constructed by the developer along a section of public street bordering the proposed park land. A minimum of eight spaces shall be provided.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified

Development Code.

12. Depending on the time of development, the developer may be responsible for contributing to the interim solution for wastewater capacity issues in the Hamstring basin, as determined by Engineering staff and Planning Commission at the time of development.
13. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.
14. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development.
15. Street trees shall be provided along public streets pursuant to city codes at the time of development.
16. ~~Plat/booklet revisions:~~
 - a. ~~Add Use Unit No. 4 to PA III~~
 - b. ~~Reconcile build to zone in PA IV with stated minimum building setbacks. One solution may be to change the front setback to a build to zone.~~
 - c. ~~Booklet: Page 24 revise reference to General Plan 2020 to City Plan 2025
Page 25 No private solid waste in City of Fayetteville remove reference.
Page 6 Delete the comma at the end of the first paragraph.
Page 20 Permitted Uses. Delete Use Units 8, 9, and 10 and single family, two family, and three family dwellings are not proposed. Incorporate this change on the zoning criteria provided on the plat as well.
Cover Change the date to reflect the current date of revision.~~
 - d. ~~Can PA I and II be combined? What is the difference?~~
 - e. ~~Plat and booklet: change the total number of residential units, non-residential square footage, intensity, density, etc. to reflect the Table 2 in the staff report, based on the numbers provided in the zoning criteria information. It appears that the land use table on sheet C1.03 has some addition errors, which are reflected elsewhere in the application.~~
 - f. ~~Revise tree preservation canopy percentage reference to a minimum of 25% canopy requirement.~~

The items in this condition have been addressed in the revised plats and booklets.

Standard Conditions of Approval:

17. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
18. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
19. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
20. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
21. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
22. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.
23. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area.
 - d. Project Disk with all final revisions
 - e. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action:

☒ Tabled Forwarded to C.C. (recommendation for approval) Denied

Motion: Anthes

Second: Ostner

Vote: 4-3 (Graves, Trumbo, Lack voted 'No')

Meeting Date: March 12, 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 07-2452 (Links at Fayetteville)

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 portions of the application to be in compliance with the Planned Zoning District criteria and City Plan 2025 policies established by the City Council, but finds that some aspects of the application to be in conflict with these criterion and policies. The application for this development was thoroughly completed and PZD booklets and plats were submitted consistent with the format required by ordinance and the PZD application. The applicant conducted pre-application meetings with City Planning staff, who advised the applicant against some aspects of this development. Some of the primary staff concerns included a development in a traditional town form, based on the City's adopted policies and the size and impact of this 152-acre site. Some of the issues discussed with the applicant in pre-application meetings included the need for a wider variety of residential dwellings, uses, and building types, and a larger number of public streets and parking lot drive aisles connecting the multi-family buildings.

The project meets several of the City Plan 2025 Goals. The project site is designated as a City Neighborhood Area on the Future Land Use Plan map. This project provides 1,221 multi-family units and 108,188 square feet of non-residential uses (commercial, retail, office, recreation, etc.) over the 152.23 acres. The residential density would be 8.02 units per acre, and the non-residential intensity would be 711 square feet of non-residential use per acre. These general uses and density proposed are consistent with a more intense and urban development indicated in the City Neighborhood designation. However the form of the Master Development Plan proposed is not consistent with a traditional town form pattern that is adopted as part of City Plan 2025. A traditional town form pattern would have a wider range of residential building types: single, sideyard, and rowhouses, along with multi-family residences. The current plan proposed 100% multi-family residences, with the vast majority being an apartment style development. Nonresidential uses are usually confined to corner locations, as opposed to generally segregating the non-residential uses along Ruppel Road as proposed. The proposed development proposes one type of residential dwelling in a fairly homogenous footprint and building elevation generally repeated throughout the site with slight variations. A traditional town form generally has streets that are divided into small to medium-sized blocks with a high level of connectivity between neighborhoods. The proposed development has very long linear blocks, although there is a town center around a traditional town square. The streets are not well connected with other streets, but are rather accessed by private parking lot drive aisles.

Rezoning this property to R-PZD 07-2452 for apartment/townhouse types of residential structures, a mixed-use structure, commercial buildings, and a building footprint repeated numerous times over the 152-acre site is not completely consistent with the six major goals of the City Plan 2025 as discussed in Table 4.

Table 4
Links at Fayetteville – City Plan 2025 Compliance

City Plan 2025 Goals	Links at Fayetteville Compliance With City Plan 2025
Goal 1: We will make appropriate infill and revitalization our highest priorities.	This project is somewhat an infill project in a developing area of Fayetteville. The largely under-developed property is generally surrounded by both developing or existing development and infrastructure, and is located along two designated principal arterial streets. However, it was just annexed in 2005, and much of the surrounding property is greenfield and open pasture.
Goal 2: We will discourage suburban sprawl.	By being in close proximity to existing arterials, the project is able to take advantage of proximity to a larger existing pool of potential employees, transit, and utility infrastructures.
Goal 3: We will make traditional town form the standard.	This project is not designed in a traditional town form as discussed in Finding No. 1.
Goal 4: We will grow a livable transportation network.	This project concentrates development near the intersections of two principal arterials. The density and intensity of this development would help define a node, or concentration of development in this vicinity of the City, helping towards the goal of public transit. However, the lack of public streets and lack of block-and-street layout does not encourage a well-connected and livable transportation network that supports multiple types of vehicular and pedestrian movement, especially those identified within a neighborhood development pattern.
Goal 5: We will assemble an enduring green network.	This project provides a nine-hole golf course (49.18 acres), parkland dedication (17.17 acres), and other greenspace throughout the development (39.12 acres) for a total of 103.50 acres of greenspace. Assuming the golf course counts toward greenspace, the total amount of greenspace would be 68% of the property. This project would be consistent with the intent of this policy to protect the natural landscape, increase parks and trails, and preserve long views across open green spaces.
Goal 6: We will create attainable housing.	The multi-family apartment buildings and townhouses proposed are a relatively affordable housing product. However, the lack of variety of lot sizes and residential uses provided by this development misses the opportunity for a more mixed-income neighborhood/community, with a majority of the residences not available for home ownership. Inconsistent with the intent of this goal, this project provides primarily two types of housing products (apartment/townhouse), and does not reflect a traditional urban neighborhood with households of varying economic means, including the single family detached or small lot single family attached housing typology.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be inconsistent with several of the applicable City policies.

- (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 zoning criteria in the western portion of the site would provide for large rows of townhouses and commercial buildings along Ruppel Road. Staff finds that while the uses and footprints of the buildings indicated in the Master Development Plan and PZD booklet help to vary the typology found in the 152-acre site, it does not incorporate a sense of compatibility and scale with surrounding properties. Staff finds that the scale, volume, and uses of the buildings proposed along Ruppel Road would not be compatible with the existing uses to the west. Reducing the size of the buildings, the number of combined units, and providing for more lot/block-style development patterns with single family detached units would provide more compatibility with surrounding land uses. This project provides large undeveloped areas of greenspace and/or golf course adjacent to the north and eastern boundaries and would not pose land use conflicts with the adjacent single family residences in those directions. The southern boundary abuts the Wedington Drive corridor and the proposed commercial buildings would be compatible with the mix of commercial and residential uses along Wedington.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is remnant farm land that has been mostly cleared. There are areas, especially along the on-site creek, that contain considerably-sized trees. Approximately 68% of the site is proposed to remain in either developed or undeveloped greenspace, and the proposal attempts to respect the natural environment where possible.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: A traffic study was completed for the approved Wellspring project on this site.

The proposed development is different in intensity, uses, and density than the Wellspring project. Prior to development of the Links at Fayetteville, the traffic study would be required to be revised to reflect actual traffic generation and resulting impacts to the surrounding street system from the proposed development.

Based on the traffic study completed for the previously approved Wellspring project on this site, there would be considerable traffic increase generated by the development, and considerable street improvements were mandated. As noted by the Police and Fire Department in their comments for the approved Wellspring project, leaving Ruppel Road in situ is not an option. As with the Wellspring project, the developer for the Links at Fayetteville will be expected to make significant improvements to Ruppel Road in order to alleviate and mitigate any burdens placed upon the street infrastructure. These will likely include new traffic signals, construction of at least half of Ruppel Road (28-foot width, ½ boulevard, curb and gutter, storm drainage, sidewalks, streetlights, etc.), as well as other improvements to ensure safe and adequate vehicular and pedestrian movement. The applicant has indicated that these improvements are anticipated, and agrees to meet the requirements placed upon the project by the City of Fayetteville in order to develop this project. Improvements will likely need to extend beyond the frontage of the subject property, to allow for safe and adequate access to the property.

- (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 Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will not achieve a high level of compatibility with adjacent properties to the west. Staff finds that the overall density is appropriate, however the site layout, building mass and footprints, vehicular circulation system, and overall development pattern is not the form that is outlined and encouraged in the City Plan 2025 for a traditional neighborhood. The site planning incorporates environmental design features such as the golf course, tree preservation areas, park and trail areas. The public streets are generally developed with buildings close to the street and parking areas behind the buildings, screening the parking from the street and helping establish a more pedestrian friendly environment. However, the lack of a lot-and-block layout and utilization of principles of traditional residential urban design to create compatible, livable and accessible neighborhoods, wherein a variety of socioeconomic conditions co-exist, is a departure from the development form directed by City Council in the City Plan 2025. While other uses existing surrounding this property, a tenant of a rezoning request is providing compatibility to adjacent properties within the property being requested for a rezoning. Staff finds this proposal does not meet that test and does not preserve and enhance the neighborhood to further the health, safety, amenity 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: No additional screening is proposed from the public streets, as there are not large surface parking areas facing streets. Many structures are oriented toward the streets hiding the parking. However a majority of the structures are not oriented toward public streets but towards private parking lot drive aisles and parking lots, which is generally inconsistent with traditional urban forms of development. The development proposes several tree preservation areas throughout the site, in addition to a 17.17 acre parkland dedication area in the northeast portion of the site. The project also incorporates a 49.18 acre golf course which provides large contiguous blocks of greenspace along the north, east, and central portions of the site. A landscape plan will be required at the time of large scale development.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a system of three main public streets leading into the town center in the central portion of the project, and private parking lot drive aisles providing access off of those streets to a majority of the multi-family dwellings. There is also a public street connecting Ruppel Road to the interior public street in the northern portion of the site. The mixed use and commercial buildings face onto the public streets, and the multi-family dwellings face onto either public streets or the golf course, and are generally accessed off of internal parking lot drive aisles. As stated under Finding No. 1, staff does not recommend in favor of the orientation of a large majority of the multi-family dwellings off of public streets, and forcing a large majority of the circulation through private parking lots. Due to the amount of dwellings proposed and vehicle trips generated there-from, staff finds that additional public streets are necessary to adequately handle the capacity of traffic. This would include a public street in the southwest corner of the site, as well as interior to the project.

- (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: Standard parking ratios for the proposed uses shall apply. All parking areas shall conform to City of Fayetteville standard specifications, unless approved otherwise by the Planning Commission.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The development provides a great deal of open space to be retained for community and recreation use. Open spaces are indicated to be met with development of each Planning Area, and all buffering, screening and landscaping required by city code will be applicable.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of development to ensure compliance. In general the Master Development Plan provides for sidewalks along public streets, and interior along the parking lot drive aisles and multi-family units.

(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 will be provided to the project site, pursuant to city code.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code. The developer may be responsible for contributing to the interim solution for wastewater capacity issues in the Hamstring basin, as determined by Engineering staff and Planning Commission at the time of development.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is

intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The Planned Zoning District process allows an applicant to propose alternative street cross-sections, sidewalk width and location, etc., with the approval of the Planning Commission. Public and Private streets shall not be gated, unless permitted by express approval from the City Council. The Master Development Plan for the Links at Fayetteville indicates a 60' public right-of-way for the three public streets. This street section would provide for two traffic lanes and parallel parking on either side of the street. This street section is currently not included in the City's Master Street Plan and would require a waiver of the street design standards. Staff is in support of the requested 60' street section. A more detailed review of the Town Center "square" will be necessary at the time of development and may require revisions. Also proposed is a 50' public right-of-way for the newly proposed street to the northeast.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development. It is anticipated that a large tree preservation/undisturbed area will be protected. The Master Development Plan indicates several areas for tree preservation. Canopy calculations shall be based upon minimum 25% canopy preservation required.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in

§166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: All commercial structures shall be evaluated as set forth in the code, at the time of development. Though strict adherence is not essential, submitted concept drawings will be utilized as templates for the future buildings.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(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 does not meet the intent of some of the parameters of the City Plan 2025, as discussed in Staff Finding No. 1. The project does not meet the

intent of some of the parameters of some of the above ten criteria, including flexibility in density, compatibility and transition of land use, and provision of a variety of housing types. The following guiding policies within City Neighborhood Areas are applicable to this development, and help to achieve the six primary goals of the City Plan 2025:

City Neighborhood Areas:

- a. *Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values.*
- b. *Provide non-residential uses that are accessible for the convenience of individuals living in residential districts and where compatibility with existing desirable development patterns occurs.*
- c. *Reduce the length and number of vehicle trips generated by residential development by enhancing the accessibility to these areas; encourage walkability as part of the street function. Neighborhood shopping should be within walking distance of residential use, or approximately one-quarter mile.*
- d. *Encourage developers to designate and plan for mixed-use corners at the time of approval to properly plan for accessibility to these areas.*
- e. *Encourage pedestrian-friendly, mixed-use buildings through the use of transparent glass for commercial uses at street level and building entrances that address the street.*

(B) **Rezoning.** Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The subject described real property is proposed to be rezoned to R-PZD 07-2452, with seven (7) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(C) ***R – PZD, Residential Planned Zoning District.***

- (1) ***Purpose and intent.*** The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's 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 denial of this application, finding the proposed PZD does not meet the intent of the PZD ordinance as noted above. As discussed in Findings No. 1 and 4, the project does not encourage variety and flexibility, does not provide a framework for an effective relationship of different land uses, and is not compatible with existing land uses to the west. It is staff's finding that the scale of the project demands a greater variety of land uses, most notable the inclusion of single family detached and attached units.

(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 generally single family with rural residential-type density to the west, more standard suburban subdivision density to the east, with a mix of commercial and residential uses along the Wedington Drive corridor to the south. As discussed in Findings No. 1 and No. 4, staff finds that the lack of variety in the density proposed, and repetitious building footprint and building type throughout the 152-acre site are not compatible with existing surrounding land uses to the west, and do not create a complete neighborhood over this 152-acre site. Staff does not take issue with the overall density of 8 units per acre; the city's development goals and infrastructure for this area supports a higher density is designed appropriately. However, the lack of variety and transition in density throughout the site is not consistent with city planning policies. The immensity of the development proposed (152 acres, 1,221-unit residential development) eclipses most projects within and surrounding Fayetteville, without much change in the building type over the property. In that regard, the proposal of a primarily rental apartment dwelling is of concern on a scale on this magnitude. 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 not varied on this project. This project would leave the entire 152-acre site under one lot (unless out-lots are created in the future), and would not provide for a great variety in the size or mass of structures. The structures are located either oriented to the street with minimal front setbacks, or oriented to the golf course on the perimeter of the development. Due to the unique nature of this development desiring to create a pedestrian-friendly streetscape along the public streets, 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 range from 1-4 stories, and are typical of commercial and multi-family development. These heights are consistent with the height requirements of the surrounding zoning.

- (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 over the entire 152-acre site is relatively low, given the density and mix of commercial uses. The lot coverages are appropriate given the more urban environment proposed.

***Required Findings for Rezoning Request.**

Land Use Plan: *The City Plan 2025 Future Land Use Plan designates this site as a City Neighborhood Area. Rezoning this property to R-PZD 07-2452, with the associated Master Development Plan, is not consistent with the land use plan as the proposed development proposes two types of residential dwellings in a fairly homogenous footprint and building elevation generally repeated throughout the site with slight variations. This development pattern is not consistent with the City Neighborhood Area guiding policies to create a complete, compact and connected neighborhood. The proposed plan may result in an incompatible development with surrounding land uses in the general vicinity, and fails to meet 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 not highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for City Neighborhood Areas this proposal does not meet, and the six major goals of City Plan 2025 as discussed in Staff Finding No. (E)(1). Staff would recommend a similar density and intensity, finding it appropriate and compatible, but with a greater variety of housing types, lot sizes, etc. It is staff's finding that the size and impact of development of this property as it relates to compatibility are undeniably great, and demand transition and compatibility within the bounds of the property itself, and should not solely rely upon surrounding properties for that compatibility.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The developer desires to create a unique development on the property, different than the previously approved R-PZD for the Wellspring project. A re-zoning is needed for any development that does not conform to the approved Wellspring project, which has been indicated by the applicant as not possible to develop.

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. Without significant improvements staff would recommend denial of this project.

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.

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: As discussed in the findings throughout this report, staff recommends denial of the requested R-PZD 07-2452, finding the proposal inconsistent with several adopted goals and policies of the City Plan 2025; finding the primarily single-use multi-family product that utilizes a similar footprint in approximately 70 buildings does not promote or encourage a variety of housing type, attainable home ownership, or a complete neighborhood on this very large tract of land.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

TO: Andrew Garner, Associate Planner
FROM: Alison Jumper, Park Planner
DATE: March 7, 2007
SUBJECT: Planning Commission Comments

Meeting Date: March 12, 2007
Item: R-PZD 07-2532 The Links at Fayetteville, 400,401,361,362
Park District: NW
Zoned: RPZD
Billing Name & Address: The Links at Fayetteville, 1165 Joyce Blvd. Fayetteville, AR
72703

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$960 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$680 per unit = \$ _____

COMMENTS:

- PRAB recommended accepting a combination of land and money in lieu of land for this project on January 8th, 2007. Additionally the developer has agreed to the following terms:

1) The Developer shall dedicate approximately 17.32 acres of land adjacent Bryce Davis Park. In addition, the Developer shall pay the City \$138,000.00 money in lieu for the remaining 3.45 acres of required land dedication not provided in this proposal. (20.77 acres required - 17.32 acres dedicated = 3.45 short/0.017 acres = 202.94 units X \$680.00 = \$138,000.00).

2) The Developer shall construct a 6' high wrought iron fence between the proposed golf course and the proposed park area.

3) The existing lake located within the proposed park land area shall remain with the following conditions:

- a) Overflow from said lake shall flow to a second lake to be constructed off park land from which the Developer will draw irrigation waters.
 - b) A well shall be constructed off park land and maintained by the Developer from which water will be deposited into the existing lake to maintain an elevation to be agreed upon by the Developer and Parks Board. Said well will also provide water to the "lower" irrigation lake via a second line.
 - c) The existing lake shall be altered only to the degree necessary to provide storm water detention for the drainage area it now serves.
 - d) If requested by the city, a "shelf" shall be constructed in the existing lake that is 1' below the established water level indicated in 3 (b) and extends 3'-5' from the existing shoreline at the Developer's expense.
- 4) On-street parking shall be constructed by the Developer along a section of public street bordering the proposed park land. A minimum of eight spaces shall be provided.
- An agreement will be necessary to provide the flow of water from the pond on the park property to the irrigation pond.
 - Coordinate with the Trails Coordinator for trail connection to the north. The park boundary may need to be adjusted to accommodate an accessible trail due to the steep topography.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

ENGINEERING DIVISION - TRAILS CORRESPONDENCE

To: Crafton, Tull, Sparks & Associates
From: Matt Mihalevich, Trails Coordinator
Date: March 12, 2007
Subject: Planning Commission Comments

ITEM #: R-PZD 07-2452: Planned Zoning District (The Links at Fayetteville)

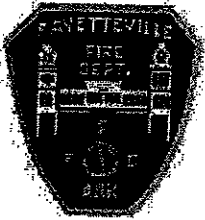
TRAIL COMMENTS

Background:

1. Bryce Davis Trail is identified on the Fayetteville Alternative Transportation and Trails Master Plan to be located along the north and east edge of this property as shown on the plat. The trail will be 8' wide and will provide a connection from the future Hamestring Creek Trail to Bryce Davis Park.
2. The park land dedication area has been modified since the submittal to Parks Board on January 8th, 2007. The modification has narrowed the proposed park land in northeast and is now insufficient for trail construction. In order for the trail to meet the guidelines of the Americans with Disabilities, switchbacks will be necessary and additional width is necessary to accommodate these switchbacks.

Recommendation:

1. Expand the proposed park land dedication in the northeast corner of the project an additional 150' along the existing east edge of area IV with a line narrowing to meet where the north property makes a jog near corner near the creek as shown on the original Parks Board submittal.
2. Include a raised trail crossing at the crossing of the Public Street going east. The trail crossing should be continuous across the street at the level of the top curb. Similar to a speed table with the trail crossing over.



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Chief Bud Thompson
From: Captain Dale Riggins
Date: February 21, 2007
Re: February 21, 2007 Zoning Review – Fire Department Comments

RZN 07-2464 (Fowler)

These 1.5 acres are covered by Engine 6 located at 900 S Hollywood. It is .7 miles from the station with an anticipated response time of 2 minutes. The Fire Department does not figure calls for service on properties being re-zone to C-1, Neighborhood Commercial, but typically this type of development will not increase our call volumes or response times.

R-PZD 07-2452 (The Links at Fayetteville)

These 152 acres are currently covered by Station 7 on Ruppel Road. The property is 0.8 miles from the station with an anticipated response time of 1.5 minutes to the beginning of this subdivision and 2.5 minutes after the maximum build out is completed. We project this development to produce 326 calls for service per year at maximum build out (128 fire/other and 198 EMS). This accounts for the residential properties only. Typically, commercial properties do not greatly affect our call volume with-in a fire district. The service impact of this development will typically take eighteen months, after the development is started, to occur. Since Ruppel Road is narrow and curvy, the widening of this road with greatly help getting our apparatus to the scene of this development along with any calls north of that area.

If you have any questions concerning these comments please don't hesitate to call me

Captain Dale Riggins
Fayetteville Fire Department



Fayetteville Fire Department





FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

C. 7
The Links at Fayetteville Appeal
Page 49 of 60

POLICE DEPARTMENT

RECEIVED

JUL 25 2005

PLANNING DIV.

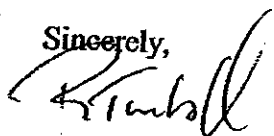
July 25, 2005

Jeremy Pate
Director of Current Planning
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate:

This document is in response to your request for estimated implications/expectations the Wellspring Community PZD would place on the Fayetteville Police Department. Based on historical data of similar demographic and geographic commercial and residential areas, estimations can be made regarding an increase in police calls for service. Upon completion of the build out of this PZD, the Fayetteville Police Department can realize an estimated three percent increase in total calls for service. Given the current traffic environment in this area, a development of this size would have an obvious impact on traffic congestion. The Engineering Department may provide more specific information regarding questions about the traffic impact for the Wellspring Community PZD.

Sincerely,


Rob Turberville
Fayetteville Police

Police Department commented that these comments are also applicable to the Links at Fayetteville R-PZD 07-2452. (02/21/07)



PC Meeting of February 26, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: February 21, 2007

ITEM #: MDP 07-2452: Master Development Plan (Links @ Fayetteville)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required once this development comes through the planning process. This should include but not be limited to:
 - A full tree inventory of all significant trees
 - Canopy calculations including existing canopy, preserved canopy, removed canopy
 - A site analysis report
 - Survey the location of significant trees and those directly affected by the development.
2. At the time of development, staff will assess the plans with a minimum canopy cover of at least 25%. The original rezoning request for this parcel utilized the 25% minimum and it is staff's determination that this project should as well.

LANDSCAPE REGULATIONS

1. At the time of development this project will be assessed for all landscape requirements as defined in Chapter 177 Landscape Regulations. This will include but not be limited to street trees, stormwater plantings, etc.

From: "TRACY HOSKINS" <tkhoskins@paradigmnwa.com>
To: "Jeremy Pate" <jpate@ci.fayetteville.ar.us>, <AGARNER@CI.FAYETTEVILLE.AR.US>
Date: 2/26/07 9:51AM
Subject: RPZD 07-2452 THE LINKS AT FAYETTEVILLE

JEREMY/ANDREW,

GOOD MORNING;

HERE'S THE NEXT ONE; SORRY TO BE A PAIN. I READ THIS WEEKEND THAT LINDSEY IS PUTTING THROUGH A NEW PZD ON RUPPLE ROAD WHERE WELLSPRINGS WAS ONCE TO BE CONSTRUCTED AND THE SAME WAS TO BE REVIEWED BY THE PLANNING COMMISSION TONIGHT.

IT MAY BE THAT I'M BRAIN DEAD, BUT THE APPLICANT IS REQUIRED TO NOTIFY THE ADJACENT/SURROUNDING PROPERTY OWNERS, IS HE NOT? IS THERE ANY WAY OF VERIFYING THAT HE DID INDEED NOTIFY EVERYONE HE WAS REQUIRED TO NOTIFY AND WHETHER OR NOT THAT NOTIFICATION WAS ISSUED APPROPRIATELY? I GUESS IT'S POSSIBLE THAT ONE OF MY STAFF PICKED UP THE CERTIFIED LETTER AND DIDN'T TELL ME ABOUT IT; BUT IT'S NOT LIKELY. I WOULD HAVE LIKED THE OPPORTUNITY TO REVIEW THIS SUBMITTAL.

IN THE EVENT THAT I DID RECEIVE MY NOTIFICATION (AND I'M SURE I DID NOT) AND THE PROJECT WILL BE HEARD THIS EVENING BY THE COMMISSION, I WOULD LIKE TO VOICE MY GENUINE CONCERN WITH THIS SUBMITTAL.

AS YOU ARE AWARE, I HAVE NEVER SPOKE AGAINST ANOTHER DEVELOPER'S PROJECT KNOWING THAT STAFF IS VERY CAPABLE AND I MOST GENERALLY AGREE WITH STAFF'S FINDINGS. I AM PARTICULARLY CONCERNED ABOUT THIS PROJECT BECAUSE OF THE LONG TERM EFFECT IT WILL HAVE ON THE VIABILITY OF OAKBROOKE AND THE NEW DEVELOPMENT TO MY SOUTH BY MARK FOSTER.

I'M AWARE OF THE GOALS OF THE NEW CITYPLAN 2025 REGARDING INFILL, DENSITY, AND THE INTEGRATION OF MIXED USES. AS YOU'LL REMEMBER, I WAS VERY INVOLVED IN THE PROCESS OF CREATING THE POLICY. WHAT CONCERNS ME MOST ABOUT THIS PARTICULAR PROJECT IS THAT I SUSPECT (THOUGH SOMEWHAT DIFFERENT THAN MANY OTHER PROJECTS HE'S DONE IN OUR AREA) THE DEVELOPER HAS GIVEN LITTLE, IF ANY, CONSIDERATION TO TRANSITION OF DENSITY. I'M SURE HE IS LINING RUPPLE ROAD WITH WHAT HE REFERS TO AS "MIXED USE" BUILDINGS, WHICH WILL ONLY BE RETAIL AND OFFICE BUILDINGS LABELED AS SUCH. I'M SURE THE DENSITY OF THE PROJECT HAS NOT TAKEN INTO CONSIDERATION THE DENSITY OF NEIGHBORING DEVELOPMENTS, AND THAT IT REMAINS CONTINUOUS THROUGHOUT THE ENTIRE 152 ACRES. I'M SURE THAT THE "SAME OL' SAME OL' "LINDSEY" "MOTEL-STYLE APARTMENT BUILDINGS" WILL BE SOLD TO THE PUBLIC UNDER THE CONSIDERATION OF "ALL THE

GREENSPACE AND BUFFERING" THE PSEUDO GOLF COURSE WILL PROVIDE. IN A TRUE MIXED-USE ENVIRONMENT, THERE SHOULD BE MULTIPLE BUILDINGS, OF VARIOUS SIZES, SHAPES, AND MATERIALS. THERE SHOULD ALSO BE CONSIDERATION OF TRANSECT ZONING WHICH IMPLEMENTS TRANSITION OF DENSITY.

FURTHER, IF YOU'LL REVISIT THE DAYS WHEN OAKBROOKE WAS TRUDGING ITS WAY THROUGH THE SYSTEM, THE NEIGHBORS WERE VERY VOCAL IN THEIR OPINIONS OF HIGH DENSITY IN THIS AREA. THE NEIGHBORS WERE CONCERNED ABOUT AN OVER ABUNDANCE OF "RENTAL PROPERTIES" IN THEIR NEIGHBORHOOD AS WELL. THOUGH I HAVEN'T RECEIVED NOTICE OF THIS PROJECT BEING PLACED ON THE COMMISSIONS AGENDA FOR THIS EVENING, I AM NOT OPPOSED TO IT BEING HEARD BY THE COMMISSION TONIGHT IF MY CONCERNS OUTLINED IN THIS LETTER COULD BE PUBLICLY ADDRESSED TONIGHT IN MY ABSENCE.

PLEASE LET ME KNOW IF THE PROJECT WILL BE HEARD AND IF SO, THAT YOU WILL MAKE MY CONCERNS KNOWN TO THE COMMISSION.

THANKS YOU,

TKHOSKINS - PRESIDENT

THE PARADIGM COMPANIES

P.S. DOES THE PZD ZONING OF A PROPERTY REVERT BACK TO ITS ORIGINAL ZONING IF CONSTRUCTION DOES NOT BEGIN WITHIN A SET PERIOD OF TIME?

No virus found in this outgoing message.

Checked by AVG Free Edition.

Version: 7.5.441 / Virus Database: 268.18.4/702 - Release Date: 2/25/2007

3:16 PM

CC:

<JGAMBILL@CI.FAYETTEVILLE.AR.US>



**PETERS & ASSOCIATES
ENGINEERS, INC.**

February 26, 2007

Mr. Jerry Kelso
Crafton, Tull, Sparks & Associates, Inc.
10825 Financial Center Pkwy.
Suite 300
Little Rock, AR 72211

RE: P1258
Trip-Generation Comparison
The Links at Fayetteville vs. Well Springs
Wedington Drive and Ruppel Road
Fayetteville, Arkansas

Dear Mr. Kelso:

As you requested, Peters & Associates Engineers, Inc. has done a comparison of projected traffic volumes relating to the proposed development of The Links at Fayetteville development (as described in a traffic study report dated February 21, 2007 by this consultant) compared to the Well Springs development at the same location, north of Wedington Drive and east of Ruppel Road in Fayetteville, Arkansas.

The Trip Generation, an Informational Report (7th Edition), 2004, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed land-uses in this comparison. These are reliable sources for this information and are universally used in the traffic engineering profession.

Using the selected trip-generation rates, calculations were made as a part of this comparison to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed for The Links at Fayetteville and for Well Springs. The following table, "Trip-Generation Comparison," summarizes the trip-generation for the difference in size of land-uses for the AM peak hour, PM peak hour and 24-hour projected traffic volumes expected to be generated by the proposed uses.

THE LINKS AT FAYETTEVILLE			24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE		ENTER	EXIT	ENTER	EXIT
Retail Market*	25,000 Sq. Ft.	850	2,045	40	26	106	102
Residential Apartments	204 Units	220	1,371	20	84	82	45
Retail*	19,725 Sq. Ft.	820	678	10	6	29	30
General Office	19,725 Sq. Ft.	710	217	27	4	5	24
Residential Apartments	1008 Units	220	6,774	101	413	403	222
Golf Course	9 Holes	430	322	16	4	11	14
Residential Apartments	76 Units	220	511	8	31	30	17
Retail*	13,150 Sq. Ft.	820	452	6	4	19	21
General Office	13,150 Sq. Ft.	710	145	18	2	3	16
Residential Apartments	131 Units	220	880	13	54	52	29
Retail*	16,438 Sq. Ft.	820	565	8	6	24	26
General Office	16,438 Sq. Ft.	710	181	22	3	4	20
*These volumes adjusted to reflect 20% internal capture.			TOTALS:	289	637	768	566
			TOTAL ENTERING + EXITING	926		1,334	

WELLS SPRINGS			24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE		ENTER	EXIT	ENTER	EXIT
Residential Apartments	150 Units	220	1,008	15	61	60	33
Residential Townhomes	300 Units	230	1,758	21	111	105	51
Residential Condominiums	500 Units	230	2,930	35	185	175	85
Residential Apartments	225 Units	220	1,512	23	92	90	50
Retail*	230,500 Sq. Ft.	820	7,918	116	74	332	359
General Office	230,500 Sq. Ft.	710	2,538	313	44	58	286
Retail Market*	25,000 Sq. Ft.	850	2,045	40	26	106	102
*These volumes adjusted to reflect 20% internal capture.			TOTALS:	563	593	926	966
			TOTAL ENTERING + EXITING	1,156		1,892	

Trip-Generation Comparison

It was found that trip-generation corresponding to the difference in the sizes and land uses of the developments as follows:

- 24-Hour: Development of The Links at Fayetteville is expected to generate, on a 24-hour basis, 5,568 fewer vehicle trips (combined in and out) than development of Wells Springs. This equates to 28 percent fewer vehicle trips.
- AM Peak Hour: Development of The Links at Fayetteville is expected to generate 230 fewer vehicle trips (combined in and out) than development of Wells Springs during the AM peak hour. This equates to 20 percent fewer vehicle trips.

- **PM Peak Hour:** Development of The Links at Fayetteville is expected to generate 558 fewer vehicle trips (combined in and out) than development of Well Springs during the PM peak hour. This equates to 29 percent fewer vehicle trips.

Please call if you have further questions or require additional information.

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.



Ernest J. Peters, P.E.
President

RECOMMENDED
SCHEMATIC LANE GEOMETRY

THE LINKS AT FAYETTEVILLE

TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

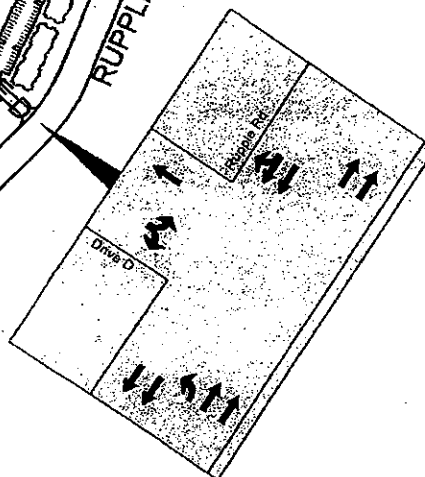
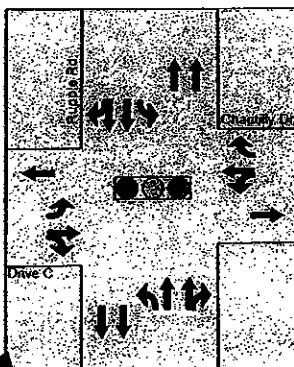
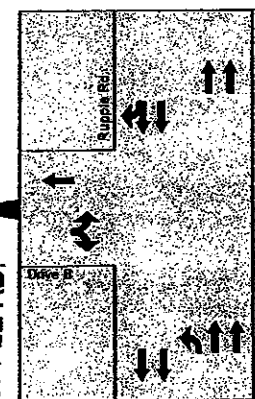
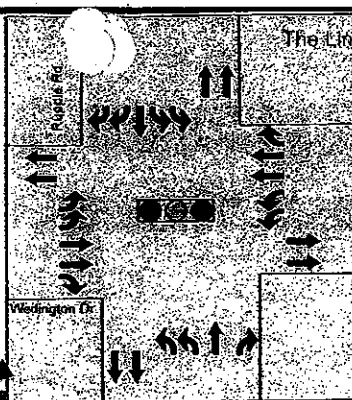
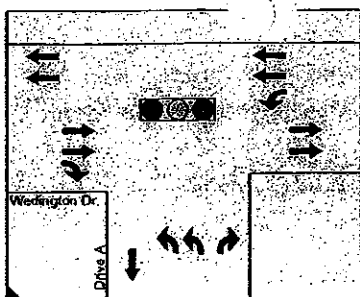
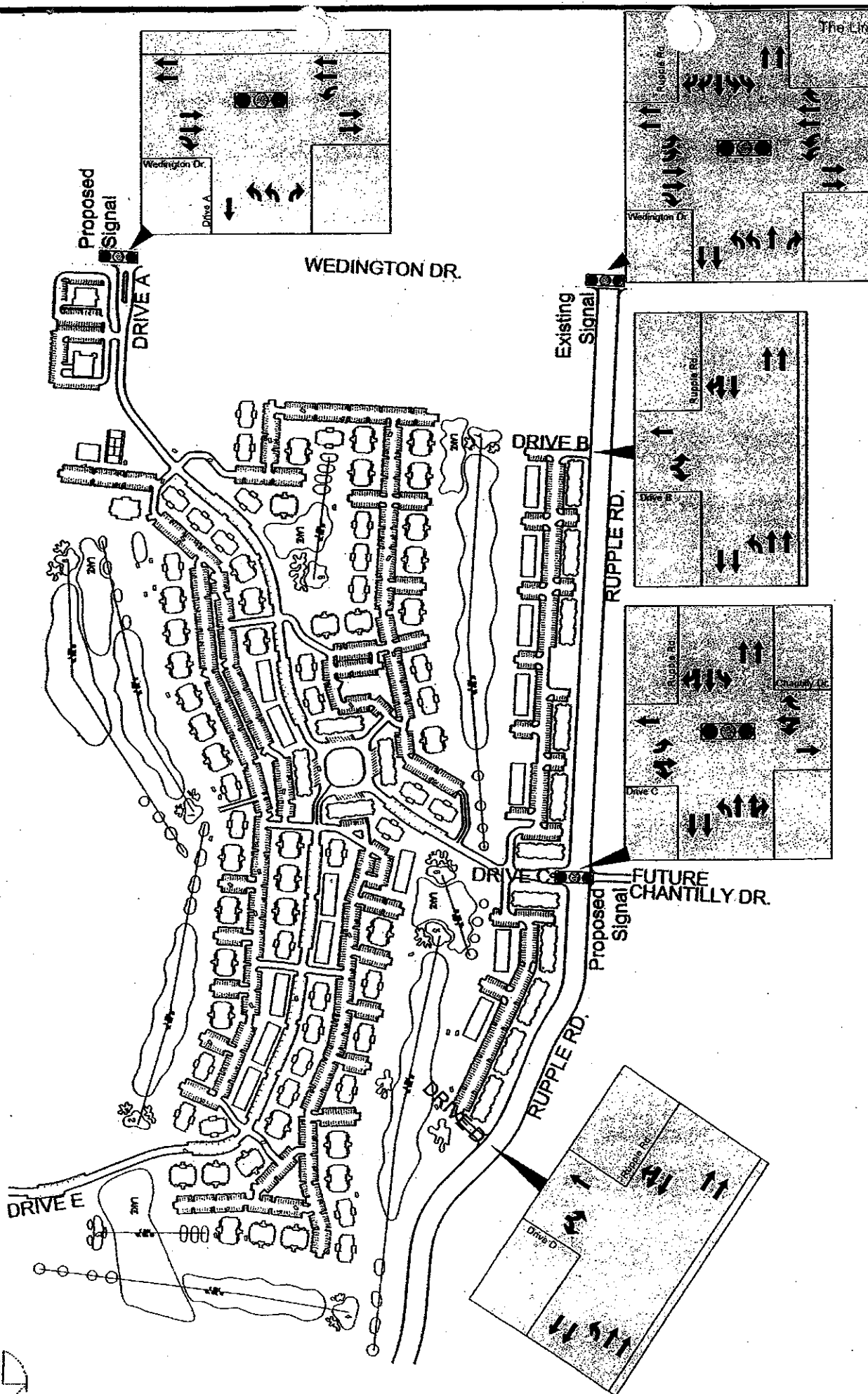
PROJECT No. P-1258
DATE: 2-14-2007

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING



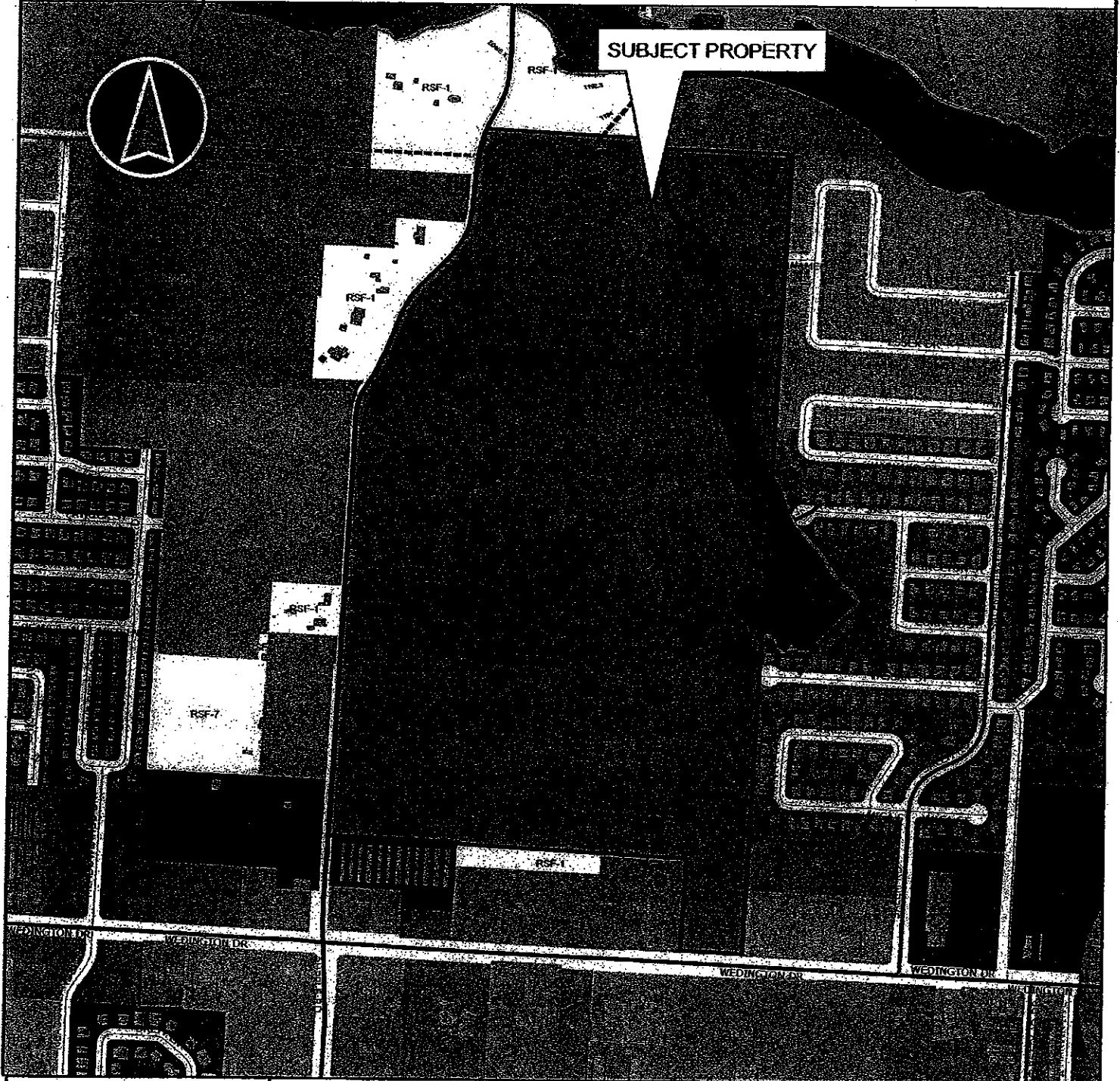
FIGURE 10



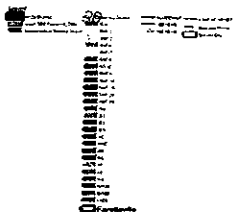
RPZD07-2452

Close Up View

THE LINKS AT FAYETTEVILLE



Overview



0 250 500 1,000 1,500 2,000
Feet

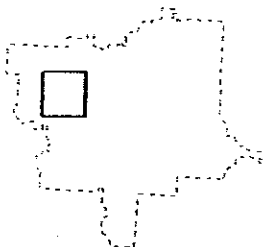
RPZD07-2452

One Mile View

THE LINKS AT FAYETTEVILLE



Overview



Legend

Subject Property

RPZD07-2452

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

ATTACHMENT B

LINKS AT FAYETTEVILLE R-PZD

PROJECT SUMMARY TABLE
MARCH 26, 2007 SUBMITTAL

**Links at Fayetteville
Master Development Plan
March 26, 2007 Planning Commission**

TYPE OF USE	PLANNING AREA	RESIDENTIAL DENSITY (UNITS/ACRE)	RESIDENTIAL UNITS	NON-RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON-RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Multi-family/Golf	PA-3	12.71	1,000	NA	9 hole golf course	78.66	51.67%
Dedicated parks	PA-5	NA	NA	NA	NA	17.32	11.38%
Club House	PA-2	0.19	1	3,170	16,388	5.17	3.40%
Mixed Use	PA-4	35.53	108	8,651	26,300	3.04	2.00%
Commercial	PA-1	N/A	N/A	10,000	78,200	7.82	5.14%
Town Homes	PA-6	15.00	75	NA	NA	5.28	3.47%
Single Family/Golf Course	PA-6	15.00	74	NA	9 hole golf course	34.94	22.95%
TOTAL		8.26	1,258	794	120,888	152.23	100.00%

Agenda Session
4-10-07

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
April 17, 2007**

A meeting of the Fayetteville City Council will be held on April 17, 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**

~~Presentation on Ozark Regional Transit: Five to Ten Year Vision given by Phil Pumphrey~~
~~Agenda Session Only~~

A. CONSENT:

- ✓ 1. **Approval of the March 20, 2007 City Council meeting minutes and the March 27, 2007 Special City Council meeting minutes.**
- ✓ 2. **Ford Escape Hybrid Purchase:** A resolution approving the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.
- ✓ 3. **Bid #07-26 Scott Construction Equipment:** A resolution awarding Bid #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division; and approving a budget adjustment in the amount of \$1,020.00.
- ✓ 4. **Bid #07-27 Diamond International:** A resolution awarding Bid #07-27 to Diamond International for the purchase of one (1) asphalt distributor truck (chassis only) in the amount of \$59,988.54 for use by the Transportation Division.

5. **Bid #07-28 Clark Machinery Company:** A resolution awarding Bid #07-28 to Clark Machinery Company of Fort Smith for the purchase of one (1) chassis-mounted asphalt distributor in the amount of \$76,356.00 for use by the Transportation Division.
6. **Bid #07-31 Williams Tractor of Fayetteville and Hugg & Hall Equipment:** A resolution awarding a portion of Bid #07-31 to Williams Tractor of Fayetteville for the purchase of one (1) compact track loader in the amount of \$39,504.38 and to Hugg & Hall Equipment for the purchase of one (1) trailer to haul the track loader in the amount of \$6,924.61, both for use by the Water & Sewer Division; and approving a budget adjustment in the amount of \$46,429.00.
7. **Bid #07-32 United Rental of Fayetteville and Hertz Rental:** A resolution awarding a portion of Bid #07-32 to United Rental of Fayetteville for the purchase of one (1) trench roller in the amount of \$30,202.18 and to Hertz Equipment for the purchase of one (1) trailer to haul the trench roller in the amount of \$3,835.96 both for use by the Water and Sewer Division; and approving a budget adjustment in the amount of \$34,400.00.
8. **Bid #06-36 Downing Sales & Service:** A resolution awarding an additional purchase from Bid #06-36 to Downing Sales & Service for the purchase of three (3) additional recycling trucks in the amount of \$442,314.00 for use by the Solid Waste & Recycling Division.
9. **Boston Mountain Solid Waste District Recycling Grant:** A resolution authorizing the Solid Waste & Recycling Division to accept a recycling grant from the Boston Mountain Solid Waste District in the amount of \$81,605.00 to partially fund the purchase of a new baler for the recycling center.
10. **Sugar Creek Rolloff, LLC:** A resolution authorizing the mayor to execute a contract with Sugar Creek Rolloff, LLC to haul and dispose of solid waste within the city limits of Fayetteville.

B. UNFINISHED BUSINESS:

1. **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 resolution was Tabled at the March 20, 2007 City Council meeting to the April 3, 2007 City Council meeting. This resolution was Tabled at the April 3, 2007 City Council meeting to the April 17, 2007 City Council meeting.*
2. **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 ordinance was left on the First Reading at the March 20, 2007 City Council meeting. This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.*
3. **Amend Chapter 177, Landscape Regulations:** An ordinance amending Chapter 177, Landscape Regulations, of the Unified Development Code to require minimum eight-foot wide sidewalks when utilized in conjunction with Urban Tree Wells. *This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.*

C. NEW BUSINESS:

- ✓ 1. **Fayetteville E911 House Numbering:** A resolution to change the names of several streets or roads within Fayetteville because of duplicate or confusing street names within annexed areas.
- ✓ 2. **Solar Splash International Boating Competition:** An ordinance to waive various provisions of § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2007 and each June through 2011; and approving the agreement with Solar Splash International.
- ✓ 3. **RZN 07-2504 (Sloan/Cobblestone):** An ordinance rezoning that property described in rezoning petition RZN 07-2504, for approximately 17.22 acres, located south of Salem Road and east of Crystal Springs Subdivision in the interior of the Cobblestone Subdivision from RSF-4, Residential Single-Family, 4 units per acre, to RSF-8, Residential Single-Family, 8 units per acre.
- ✓ 4. **ANX 07-2507 (Spencer):** An ordinance annexing that property described in annexation petition ANX 07-2507, for property located at 835 South Lewis Woods Lane, west of Lake Sequoyah, containing approximately 13.22 acres.
- ✓ 5. **Amend Chapter 155, Appeals:** An ordinance repealing and replacing Chapter 155, Appeals, of the Unified Development Code to amend and clarify the appeals process for decisions made under the authority of the Unified Development Code.
- ✓ 6. **Roll Off Service, Inc:** A resolution denying renewal of the contract with Roll Off Service, Inc. to haul and dispose of solid waste within the city limits of Fayetteville.
- ✓ 7. **The Links at Fayetteville Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2452, The Links at Fayetteville, located at the northeast corner of Wedington and Ruppel Road; containing approximately 152.23 acres; amending the official zoning map of the city of Fayetteville; and adopting the Associated Master Development Plan.

D. INFORMATIONAL:

City Council Tour: April 16, 2007

Add:

(#1 NB)

Fayetteville Municipal Property Owner's
Improvement District #19 - Oakbrooke

(#2 NB)

Waive Building Permit Fees - Mount Sequoyah
Methodist Assembly Center

(#3 NB)

JAC 07-2549 - Spencer

(Last NB)

113 West Mountain 72701 (479) 521-7700 (479) 575-8257 (Fax)

JAC 07-2484 - Rhoads

*Pre-Agenda Meeting
4/4/07*

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
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Pledge of Allegiance**

**Presentation on Ozark Regional Transit: Five to Ten Year Vision given by Phil Pumphrey
– Agenda Session Only**

A. CONSENT:

- And the March 27, 2007
Special City Council
Meeting Minutes*
- ✓ 1. **Approval of the March 20, 2007 City Council meeting minutes:**
 - ✓ 2. **Ford Escape Hybrid Purchase:** A resolution approving the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.
 - ✓ 3. **Bid #07-26 Scott Construction Equipment:** A resolution awarding Bid #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division; and approving a budget adjustment in the amount of \$1,020.00.
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- ✓ 3. **Amend Chapter 177, Landscape Regulations:** An ordinance amending Chapter 177, Landscape Regulations, of the Unified Development Code to require minimum eight-foot wide sidewalks when utilized in conjunction with Urban Tree Wells. *This ordinance was left on the Second Reading at the April 3, 2007 City Council meeting.*

C. NEW BUSINESS:

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D. INFORMATIONAL:

City Council Tour: April 16, 2007

Jim McCord will be bringing in an Improvement District. We will have to add it to the Final Agenda.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

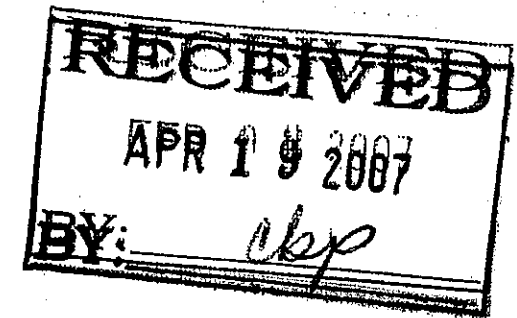
LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **April 18, 2007**



RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of April 17, 2007**

1. **Ford Escape Hybrid Purchase:** Resolution approving purchase of one Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by Police Division, Parks Patrol;
2. **Bid #07-26 – Scott Const. Equipment:** Resolution awarding Bid #07-26 to Scott Construction Equipment for purchase of one single-axle truck mounted excavator in amount of \$206,019.70 for use by Transportation Division and approving budget adjustment in amount of \$1,020.00;
3. **Bid #07-27 – Diamond Int'l.:** Resolution awarding Bid #07-27 to Diamond Int'l. for purchase of one asphalt distributor truck (chassis only) in amount of \$59,988.54 for use by Transportation Division;
4. **Bid #07-28 – Clark Machinery Co.:** Resolution awarding Bid #07-28 to Clark Machinery Co. of Fort Smith for purchase of one chassis-mounted asphalt distributor in amount of \$76,356.00 for use by Transportation Division;
5. **Bid #07-31 – Williams Tractor & Hugg & Hall Equipment:** Resolution awarding portion of Bid #07-31 to Williams Tractor of Fayetteville for purchase of one compact track loader in amount of \$39,504.38 and to Hugg & Hall Equipment for purchase of one trailer to haul the track loader in amount of \$6,924.61, both for use by Water & Sewer Division and approving budget adjustment in amount of \$46,429.00;

6. **Bid #07-32 – United Rental & Hertz Equipment:** Resolution awarding portion of Bid #07-32 to United Rental of Fayetteville for purchase of one trench roller in amount of \$30,202.18 and to Hertz Equipment for purchase of one trailer to haul the trench roller in amount of \$3,835.96, both for use by Water & Sewer Division and approving budget adjustment in amount of \$34,400.00;
7. **Bid #06-36 – Downing Sales & Service:** Resolution an additional purchase from Bid #06-36 to Downing Sales & Service for purchase of three additional recycling trucks in amount of \$442,314.00 for use by Solid Waste & Recycling Division;
8. **Boston Mountain Solid Waste District Recycling Grant:** Resolution authorizing Solid Waste & Recycling Division to accept a recycling grant form Boston Mountain Solid Waste District in amount of \$81,605.00 to partially fund purchase of new baler for Recycling Center;
9. **Sugar Creek Rolloff:** Resolution authorizing mayor to execute contract with Sugar Creek Rolloff, LLC to haul and dispose of solid waste within city limits of Fayetteville;
10. **ADM 07-2477 – BioBased:** Resolution approving change in building elevations and materials previously approved by City Council as required in its contract with BioBased Realty, LLC;
11. **Amend Chapter 92 – Animal Ordinance:** Ordinance amending Chapter 92, Animals, Code of Fayetteville, to improve treatment of animals and ensure safety of citizens of Fayetteville;
12. **Temporary Continuation of Medical Insurance:** Resolution authorizing temporary continuation of medical insurance for permanently disabled employees who would otherwise lose access to medical care while awaiting approval of long-term disability insurance or Social Security Disability benefits;
13. **Waiver of Building Permit Fees for Mount Sequoyah Methodist:** Resolution waiving building permit fees for the remodeling of a building owned by the nonprofit Mount Sequoyah Methodist Assembly Center;
14. **Solar Splash Int'l Boating Competition:** Ordinance waiving various provisions of §97.070 Recreational Activities At Lakes Fayetteville, Sequoyah & Wilson to allow Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2007 and each June through 2011 and approve agreement with Solar Splash International.

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 read "Kit Williams", written over a horizontal line.

DATE: **April 19, 2007**

RE: **Omitted Ordinance from memo – passed at Council meeting of 4-17-07**

1. **Chapter 177 Landscape Regulations:** Ordinance amending Chapter 177, Landscape Regulations, of the Unified Development Code to require minimum eight-foot wide sidewalks when utilized in conjunction with urban tree wells.

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

P. O. BOX 1607
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:

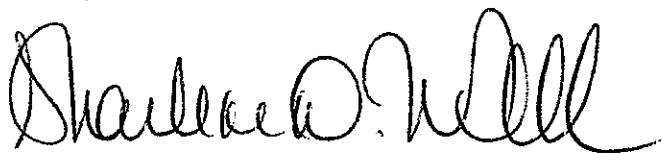
April 16, 2007

Publication Charge: \$205.73

Subscribed and sworn to before me

This 16 day of April, 2007.

Notary Public



My Commission Expires:

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

attached

RECEIVED

APR 19 2007

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

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
APRIL 17, 2007**



A meeting of the Fayetteville City Council will be held on April 17, 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**

A. CONSENT:

1. Approval of the March 20, 2007 City Council meeting minutes and the March 27, 2007 Special City Council meeting minutes.

2. Ford Escape Hybrid Purchase: A resolution approving the purchase of one (1) Ford Escape Hybrid from Landers Ford through the State Vehicle Purchase Contract in the amount of \$26,066.00 for use by the Police Division, Parks Patrol.

3. Bid #07-26 Scott Construction Equipment: A resolution awarding Bid #07-26 to Scott Construction Equipment for the purchase of one (1) single-axle truck mounted excavator in the amount of \$206,019.70 for use by the Transportation Division; and approving a budget adjustment in the amount of \$1,020.00.

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C. NEW BUSINESS:

1. Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 19 Oakbrooke Subdivision Infrastructure Project.

2. Mount Sequoyah Methodist Assembly Center - Waive of Building Permit Fees: An ordinance to waive the building permit fees for the remodeling of a building owned by the non-profit Mount Sequoyah Methodist Assembly Center.

3. VAC 07-2549 (Spencer): An ordinance approving VAC 07-2549 submitted by Darryl Spencer for property located at 1791 N. Trillium Lane vacating a 25' sewer easement on the subject property.

4. Fayetteville E911 House Numbering: A resolution to change the names of several streets or roads within Fayetteville because of duplicate or confusing street names within annexed areas.

5. Solar Splash International Boating Competition: An ordinance to waive various provisions of § 97.070 Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson to allow the Solar Splash International Boating Competition to be held on Lake Fayetteville in June 2007 and each June through 2011; and approving the agreement with Solar Splash International.

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11. VAC 07-2484 (Rhoads): An ordinance approving VAC 07-2484 submitted by Jorgensen and Associates for property located at 2791 North Shadybrook Cove to vacate 12.5' of a 25' utility easement, a total of 1,277 square feet.

D. INFORMATIONAL:

City Council Tour: None

RECEIVED

APR 19 2007

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