

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
May 15, 2007**

A meeting of the Fayetteville City Council will be held on May 15, 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**

Botanical Garden Annual Report - Catherine Bass.

A. CONSENT:

- 1. Approval of the April 17, 2007 and May 1, 2007 City Council meeting minutes.**

THE CITY COUNCIL APPROVED THE MINUTES FOR APRIL 17, 2007 AND MAY 1, 2007.

- 2. McClelland Consulting Engineers, Inc. Engineering Contract:** A resolution awarding an engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design, bidding, and construction services associated with five (5) trail bridges for Scull Creek Trail.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 85-07.

- 3. Wilson Brothers Construction:** A resolution approving a contract with Wilson Brothers Construction in the amount of \$1,327,793.62 for improvements to the Noland Wastewater Treatment Plant Primary Pond, WSIP Subproject EP-1; and approving a 5% project contingency in the amount of \$65,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 86-07.

4. **Bid # 07-36 Glover's Truck Parts & Equipment:** A resolution awarding Bid # 07-36 to Glover's Truck Parts & Equipment for the purchase of one (1) Low Boy Semi Trailer in the amount of \$55,719.00 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 87-07.

5. **Bid # 07-39 Williams Tractor:** A resolution awarding Bid # 07-39 to Williams Tractor for the purchase of two (2) Compact Track Excavators in the amount of \$99,377.00, one for use by the Water & Sewer Division and the other for use by the Transportation Division; and approving budget adjustments in the amount of \$41,627.00 and \$750.00 respectively.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 88-07.

6. **Bid # 07-40 Riggs Power Solutions, Three Backup Power Generators:** A resolution awarding Bid #07-40 to Riggs Power Solutions for the purchase of three (3) backup power generators in the amount of \$74,268.72 for WSIP Subproject EL-4, East Side Lift Station Upgrades.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 89-07.

7. **Bid # 07-40 Riggs Power Solutions, One Emergency Generator:** A resolution awarding Bid # 07-40 to Riggs Power Solutions for the purchase of one (1) additional backup power Generator in the amount of \$28,066.00 to provide power for the new fuel facility and the Fleet Operations/Transportation Building.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 90-07.

B. UNFINISHED BUSINESS:

1. **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 ordinance was left on the Third Reading at the May 1, 2007 City Council meeting and Tabled to the May 15, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5015.

2. **The Links at Fayetteville Bill of Assurance and Contract:** A resolution to approve the Bill of Assurance and contract with the Links at Fayetteville and the City of Fayetteville

THE CITY COUNCIL ADDED THIS ITEM TO THE AGENDA. THIS ITEM PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 91-07.

C. PUBLIC HEARING:

1. **Farmington Annexation Public Hearing Date:** A public hearing regarding the City of Farmington's desire to annex 25.44 acres currently in the city limits of Fayetteville.

D. NEW BUSINESS:

- 1. Fayetteville Economic Development Corridor Project:** A resolution to approve the three recommended options for transportation improvements in the Fayetteville Expressway Economic Development Corridor Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 92-07.

- 2. RZN 07-2520 (Karas):** An ordinance rezoning that property described in rezoning petition RZN 07-2520, for approximately 1.50 acres, located at 4041 West Wedington Drive from R-A, Residential Agricultural to R-O, Residential Office.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5016.

- 3. VAC 07-2519 (Milver Investments):** An ordinance approving VAC 07-2519 submitted by Milver Investments, LLC for property located at 500 West Prairie Street, vacating an un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5017.

- 4. VAC 07-2573 (Chestnut I Apartments):** An ordinance approving VAC 07-2573 submitted for property located at Chestnut I Apartments at Chestnut Avenue and Poplar Street, vacating a 4,676 square foot multi-use trail easement and replacing it with a realigned 2,558 square foot multi-use trail easement as described and depicted herein.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5018.

- 5. Amend Chapter 173 and 155, Public Nuisance:** An ordinance to amend Chapter 173 and Chapter 155 of the Unified Development Code to regulate unfinished houses as property nuisances and allow an appeal to the City Council.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5019.

- 6. Nock-Broyles Land Development, LLC:** An ordinance waiving the requirements of formal competitive bidding; approving a cost-share agreement with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road at the intersection with Salem Road; and approving a budget adjustment in the amount of \$13,100.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5020.

E. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 7:25 p.m.

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

8-0

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Cook			
<u>Minutes passed</u> <u>passed</u> Res. 85-07 to 90-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: The Links at Jayeteville Appeal.					
Motion To:		Amend to Add Bill of Assurance & Condition of Approval.			
Motion By:		Jordan			
Seconded:		Ferrell			
B.I. Unfinished Business Amendment	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: The Links of Jayeteville Appeal					
Motion To:		Add to Agenda	Resolution Kit prepared regarding the Links to approve		
Motion By:		Jordan		the Bill of Assurance	
Seconded:		Lucas		and the Contract	
B.I. Unfinished Resolution Kit presented add to the agenda	Thiel	✓		between the Links &	
	Cook	✓		the city.	
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: The Link at Jayctheville Appeal					
Motion To:	Ordinance	Pass			
Motion By:					
Seconded:					
B.I. Unfinished <u>Passed</u> 5015	Thiel	✓			
	Cook	N			
	Allen	N			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

6-2

Subject: Links Resolution					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Gray			
Added to the Agenda <u>Passed</u> 91-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: Farmington Annexation Public Hearing Date:					
Motion To:					
Motion By:		Mayor Coody			
Seconded:		Opened the Public Hearing			
C. I. Public Hearing	Thiel				
	Cook	After Comments			
	Allen				
	Rhoads				
	Ferrell	Mayor Coody			
	Lucas	Closed the Public	Hearing		
	Jordan				
	Gray				
	Mayor Coody				

Subject: Jayeteville Economic Development Corridor					
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Thiel			
D. I. New Business <u>Passed</u> 92-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

Subject: RZN 07-2520 (Karas)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
D. 2, New Business <u>passed</u> 5016	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: VAC 07-2519 (Milver Investments)					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Gray		
Seconded:		Lucas	Thiel		
D. 3, New Business <u>passed</u> 5017	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: VAC 07-2573 (Chestnut I Apartments)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Cook	Cook		
Seconded:		Lucas	Jordan		
D.4. New Business <u>Passed</u> 5018	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: Amend Chapter 173 § 155, Public Nuisance					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Jordan		
Seconded:		Ferrell	Lucas		
D.5. New Business <u>Passed</u> 5019	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: Nock - Brayles Land Development LLC.					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Lucas		
D. 6, New Business <u>Passed</u> 5020	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

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

Aldermen

Mayor Dan Coody

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E. INFORMATIONAL:

City Council Tour: None

AREA TO BE VACATED FOR TRAIL PURPOSES:

A part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block 4 (being the point of intersection of the East right-of-way of Chestnut Avenue and the North right-of-way of Poplar Street), thence with the East right-of-way of Chestnut Avenue North 03° 07' 22" East 36.55 feet, thence leaving said East right-of-way South 86° 52' 38" East 15.00 feet to the Point of Beginning; thence North 03° 07' 22" East 25.00 feet; thence South 87° 55' 05" East 110.02 feet; thence North 51° 08' 18" East 106.24 feet; thence South 26° 17' 52" West 38.16 feet; thence South 35° 35' 52" West 14.84 feet; thence South 43° 45' 25" West 11.02 feet; thence South 52° 39' 36" West 28.73 feet; thence South 25° 01' 50" West 9.86 feet; thence South 51° 08' 18" West 18.14 feet; thence North 87° 55' 05" West 119.80 feet, to the Point of Beginning and containing 4,778 square feet (0.110 acres), more or less. The above described property having been surveyed by Daryl V. Doyal, being recorded in Doc. Ref. _____ on file in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Aldermen

Ward 1 Position 1 – Adella Gray
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Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
April 17, 2007**

A meeting of the Fayetteville City Council was 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.

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

CONSENT:

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

March 20, 2007 Minutes were removed.

March 27, 2007 Minutes were approved.

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.

Resolution 63-07 as Recorded in the office of the City Clerk.

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.

Resolution 64-07 as Recorded in the office of the City Clerk.

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.

Resolution 65-07 as Recorded in the office of the City Clerk.

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.

Resolution 66-07 as Recorded in the office of the City Clerk.

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.

Resolution 67-07 as Recorded in the office of the City Clerk.

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.

Resolution 68-07 as Recorded in the office of the City Clerk.

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.

Resolution 69-07 as Recorded in the office of the City Clerk.

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.

Resolution 70-07 as Recorded in the office of the City Clerk.

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.

Resolution 71-07 as Recorded in the office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. **Alderman Lucas** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Rhoads** was absent during the vote.

UNFINISHED BUSINESS:

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.*

Alderman Jordan: I went through the neighborhood last week and showed them pictures of what was being proposed and they did not have a problem with this. I did not feel it was necessary to have a neighborhood meeting because I had met a lot of the folks door to door. They seemed to be okay with it and if they are okay with it, I am relatively okay with it.

Alderman Thiel: When the city sold this property our biggest concern was that we were leaving it industrially zoned and that was a concern of the neighborhood. The owner said that with these new plans they have omitted the mixing feature and anything that was considered industrial; they have decided that they probably will not use it there. Are we going to consider at all rezoning this property to commercial because that is what it sounds like it is going to be used as.

Alderman Jordan: I would not have a problem with that. I agree with Alderman Thiel if you want to look at that in the future.

Alderman Thiel: What is before us is fine.

Alderman Ferrell: I think they have tried to accommodate some of the concerns that were voiced early on. I am glad they were able to do that.

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

Resolution 72-07 as Recorded in the office of the City Clerk.

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.*

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: The City Attorney just handed me something tonight to clarify the definitions of kennel and or pet shop. The City Attorney thinks kennel and pet shop should be separated. He states kennel should be defined as *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.*

I think this is alright because kennels are only allowed in zones R-A and I-2. By eliminating the kennel and or pet show definition that we have herein and changing it to this definition, not mentioning the zoning because of the definition, I suppose that it automatically falls over to the zoning issue. Although the problem with not mentioning that the zoning is only allowed is because for several years both Animal Services and the Planning Division had forgotten that concept. That is one reason we decided we wanted it in the ordinance specifically that these were only allowed in districts so designated by the zoning codes. I would still like to add that to the end of a kennel. The definition of a pet shop would now be *a commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and or fish to the general public.* I would also want that a pet shop is only allowed in those districts and we can designate those districts.

City Attorney Kit Williams: Districts are designated in the memo.

Alderman Thiel: But that needs to be part of the definition.

City Attorney Kit Williams: Mainly commercial if you look on page 2 you can see that pet shops are allowed in most commercial districts and by conditional use in R-O.

Alderman Thiel: The reason I think the zoning needs to be in the animal ordinance is because people that are interested in the animal ordinance then it is easily ascertainable to them. I see nothing wrong with adding specifically what zones those are allowed in in those definitions.

Mayor Coody: Since these changes have been brought forward just this evening and we are looking at them for the first time do you want to move and try to read this for the third and final time tonight or do you want some more time?

Alderman Thiel: It has already been read for the third time.

Mayor Coody: I realize that but I didn't know if you wanted to wait until the next meeting to actually finalize this and get this approved or if you wanted to go ahead and do that tonight.

Alderman Thiel: Yes I am because all this does is separate it and define it.

Alderman Thiel moved to amend the ordinance to separate kennel and pet shop and add that kennels are only allowed in R-A and I-2 and pet shops are allowed as right in C-1, C-2, C-3, Downtown Core, Main Street Center, Downtown General and by Conditional Use in R-O. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams: In my memo I also talk about the definition of hobbyist. The basic difference between that and what we have now is that a kennel would be defined as someone that has two or more litters, someone that is regularly having litters not just one a year. A hobbyist would not only be someone that is affiliated with some national group or a hunter but would have not more than one litter a year. I think we need some differentiation between those two groups. This legislation gives an advantage to a hobbyist by lowering their license fee. I thought that we needed something that would be pretty clear and easy for Animal Services to be able to see beyond just the fact "do you have a hunting license or a dog or cat that is registered in some organization." I could not come up with a short definition. It was a lot more difficult to try to nail this down without being too restrictive and yet make it as clear as I could. I would ask that you consider whether you want to do this or go with the original definition you have that does not speak to the number of litters that someone might have.

Alderman Thiel read the new hobbyist definition for the public.

I personally think this is probably an improved version of a hobbyist although we compromised on this with a lot of people. I personally prefer this over the one we had.

Alderman Thiel moved to amend the ordinance to change the definition of hobbyist. **Alderman Lucas** seconded the motion.

Emily Williams: On the definition of kennel or pet shop I asked specifically for a clarification of that over a month ago. I also asked at the last meeting what that meant and for a clarification of the definition. Apparently no one addressed it so that is why it is just now getting to you.

The problem with the definition of a hobbyist as it is in the ordinance now the organizations that are listed as needing to have a membership in them are actually organizations in which most individuals don't hold a membership. I think the definition the City Attorney has given is a little cumbersome and doesn't address that same issue. I typed something up if you are interested in seeing it. Because the organizations listed are not organizations individuals who hold memberships in, they are registry organizations primarily, my suggestion was that it be changed to something along the lines of *is a member of a club or group affiliated with recognized animal organizations, animal sports club or hunting groups or holds a license with the Arkansas Game and Fish Commission, examples of recognized organizations would include but not be limited to the American Kennel Club, The United Kennel Club, Cat Fanciers Associated, Therapy Dogs, Inc., etc. Individuals who are not members of affiliate clubs or groups would be allowed to register as a hobbyist if they offer proof of entry, participation in events put on by recognized organizations for dogs or cats. Any hobbyist who breeds more than one litter in a twelve month period would lose their status as a hobbyist for a period of one year.*

The reason I prefer this definition is the intent of being a hobbyist is to compete with your dog, to participate with your dog and maybe breed a litter for the betterment of that breed if you are doing a specific breed. I think this definition addresses all those things, differentiates from a kennel but doesn't make it too difficult to actually do things with your animal and keep them unaltered if you have to for that sport or what you are doing with them.

Alderman Thiel: The only reason we brought up the hobbyist idea was for people that showed animals and wanted to keep a lineage going. We felt that would justify reducing the rate to \$25. That is all we are doing with the hobbyist definition is reducing the rate if you want to keep your animal in tact. We felt like if you were a hobbyist and you were raising your animals to show or you wanted to raise a registered breed per year that you could afford the \$75. The hobbyist idea was a major concession. I feel like what we have here is fine. I do not see that we need to tweak that any more.

Emily Williams: Because you can't be a member of those organizations that you list. The original definition was what I was addressing.

Alderman Thiel: We are talking about the amendment.

Emily Williams: I misunderstood you I apologize.

Judy Bond, owner of pure breed dogs: At our last meeting I applauded the way you had it written. I think it is very important that if you are going to put a better dog on the ground you need to belong to a professional organization regardless of how many breeds I have. I am required by each of these organizations to provide certain things when I sell a dog. The way you have it written is wonderful. We need to put better dogs on the ground. Showing a dog is expensive. Paying \$75 per dog to license is a drop in the bucket and if you are a true show person you don't think a thing about paying that. Belonging to these organizations keep you up to date on things that are going on with the breeds and the DNA studies that are being done. If you are not going to belong to it then you really don't care about your breed. I think we need to keep it where you have to belong to some organization affiliated with your breed.

Jeremy Pate: Is the intent of the definition from a zoning perspective to allow hobbyist activity within single family residential zones?

Alderman Thiel: No.

City Attorney Kit Williams: That was not my intent on doing that. I was differentiating between a hobbyist and a kennel. If you are going to say any one that raises any animal must be in a kennel then certainly that is a decision you can make but that was not what I understood your difference of what you wanted for the hobbyist and for the kennel.

Alderman Thiel: The hobbyist definition was only so we could have a different rate for unsterilized animals. That is why we had a hobbyist definition.

City Attorney Kit Williams: But a hobbyist would not raise in a kennel because a kennel is two or more litters a year.

Alderman Thiel: That's right. You are tying it together, this didn't.

City Attorney Kit Williams: Jeremy's question was that if someone gets a hobbyist permit they can't do it in residential single family or any kind of residential zones. I did not think that was what your intent was.

Alderman Thiel: Is that your question Jeremy?

Jeremy Pate: Yes, in a single family residential zone could you be a hobbyist?

Alderman Thiel: Yes.

Jeremy Pate: We often get calls on code compliance request and in working with Animal Services we go out and try to ascertain whether it is a pet owner with a lot of pets or is there an actual kennel. This would differentiate a little more clearly if there is one litter per year and we can ascertain that it would be allowed as long as they had a hobbyist license. That makes that a lot easier.

Upon roll call the motion passed 6-2. Alderman Jordan and Lucas voting no.

Delford Taylor, Arrowhead Street: I have lived on this street for over 17 years. During that time we have called repeatedly to have stray dogs picked up and have something done with them and nothing has been done. They are still there. The opinion that I got was some people didn't know we had a problem with cats. I can show you 100 cats tonight running loose. Some of them are within walking distance of my house. I am opposed to this ordinance the way it is written. You can't go around the outside of the problem to solve it you have to go to the core of the problem. The problem has never been addressed about the stray animals we have all over town. What good is a city ordinance if you can't enforce it or won't enforce it?

Mayor Coody: We do enforce our ordinances. A lot of time when Animal Services is called out to collect a loose dog it is gone before they get there.

Delford Taylor: I have heard that excuse and one of the other excuses I have heard is the kennel is too full or we don't have enough people. You approved all these other towns to use our kennel how did you think that was going to work if they are that over crowded?

Mayor Coody: That is a program that we signed on with other cities for many years.

Delford Taylor: One of the other problems that I have is if I keep my dog in the back yard where it belongs and my neighbor does the same thing what difference does it make if they are spayed or neutered. We have a city ordinance that says you are to keep your dog on your property if you do that what difference does it make if they are spayed or neutered.

Mayor Coody: That would be true but a lot of folks don't keep them on their property. I think that is the problem.

Delford Taylor: These people just turn their dogs out and there is no control of them. We have stray dogs all over town with no collars and no identification. Arkansas still ranks way up there in cases of reported rabies every year. What better way is there to spread rabies but to have a bunch of stray dogs running our neighborhoods?

A ten by ten pen is 100 square feet but a ten foot chain covers 314 square feet. Someone brought up they saw a dog on a chain with no water what makes you think for a second that dog would be any better off in a pen than he was on that chain because if the owner neglected him on that chain he is going to neglect him in that pen. I have a hard time thinking there is any difference between

a thirsty dog in a pen and a thirsty dog on a chain. You are saying one guy neglected his dog so we are going to make everyone take them off a chain.

He also voiced his concern about the number of deer in the city.

Jill Hatfield, Animal Services Director: There is a difference in the City of Fayetteville between the Human Society of the Ozarks and the Fayetteville Animal Services. Fayetteville Animal Services is animal control, sheltering and the clinic program. We have a problem with stray dogs and cats and we are trying to work on that. That is one of the reasons why we are coming forward with the new proposed ordinance, to try to work on the fact that dogs and cats need to have collars, tags and identification. That is the whole point to the ordinance of licensing your animals. We don't have enough officers to patrol everyone's neighborhoods all the time. We respond on complaints. It is a compliant based response. We have five officers. When we get a call on a dog or a cat a lot of times they are gone. We ask for help from the community to contain the dog or cat until we get there. A lot of the issues are I am a responsible owner and my dog stays in the back yard and never gets out. That may not be the case with your neighbor who lets the dog or cat out. We try to educate folks. It is unfortunate that we do not have some mechanism that magnetizes animals to us when we go to catch them. We need help from the community. This proposed ordinance will help us better identify these dogs and cats. The reason for spay and neutering is animals get out and those that get out are reproducing. The shelter is full, it is not from the county or other cities it is Fayetteville animals. We offer sheltering contracts with cities that do not have a shelter. That helps us to produce revenue to shelter everyone else's animals and the animals of Fayetteville. When we get complaints about chaining it is animals that are living on chains and do not have shelter, food or water. We can ask them to give the animal's food, water and shelter but we can not ask them to take them off the chain. The chaining situation is breeding un-socialized aggressive animals. Until we address the chaining issue we are not going to be able to take care of some of those aggressive or dangerous dogs that are out there that may chew up a child, cat or something else. I am not saying that chaining is less humane than a pen. A pen is protection from a child wandering into a yard where an aggressive dog is. It is a safety issue.

Jennifer Shreve: I urge the Council to vote for these changes to the animal ordinance.

Ms. Shreve handed out photographs of animals. She also gave a brief history of the Humane Society of the Ozarks, the prices they charge and the services they offer. She feels their program and other programs will eventually lead to fewer animals going into the city shelter and fewer euthanizes.

She stated she feels chaining should be banned in our community due to the safety of citizens and it is a humane issue for the dog. I would propose a Habitat for Humanity for Dogs. This would be organizing volunteers and funds to help owners replace the chains with proper enclosures for dogs. I would like to educate people about what might be a better situation for dogs. This would help people on limited incomes and people with physical challenges provide enclosures. I urge the Council to institute these changes for our city's safety and for the humane care of its animals.

Joann Southern: I have a cat that I adopted from the shelter and had no idea until a few days ago that I was a criminal because I did not have my cat on a leash when she was outside.

She said if cats are dumped are they the home owner's cat that they are dumped at because that person is feeding and watering them. She asked at what point does it go from kindness to being responsible for the cat.

I have been turned away from the shelter because it was full. I think we need to rethink the cat part of the ordinance.

Joe Alexander: I found that about 70% to 80% of the people that I talked to where opposed to this ordinance. I would ask that the City Council not be in a rush to enact this ordinance but please give adequate time to consider these suggestions. I don't think people should judge for the cat what is best for the cat. I think the kindest thing is to let them follow their natural instinct and live the kind of free live they want to.

Eva Madison: The Humane Society of the Ozarks is a private nonprofit. We do not have a shelter. There are certainly issues to be addressed with cats but those cat provisions have been city ordinance for 16 years. I think it is certainly fair that citizens are questioning city ordinance but I hope that the City Council will not let current ordinance interfere with these important revisions that are before the Council tonight. With respect to the 10x10 pen and the issue of chaining, is the 10x10 pen ideal, certainly not. We want dogs to have a lot of space to run. We would like for them to be inside or be in a fenced yard. The committee that looked at that said that is not realistic for the City of Fayetteville. We modified the recommendations to go with 10x10 not because it is the best but because it is the easiest for the citizens of Fayetteville to accomplish based on what is generally available. The cost of a pen is an investment but pets are an investment and if you are not willing to pay for the costs that goes along with a pet you need to think about whether to have one or not. A pen is far better than chaining. Dogs on chains become incredibly aggressive. It is a form of physiological abuse to a dog. With a pen you do not encounter a child wondering into the yard and with a trolley system the owner is to be present. I hope the City Council approves the ordinance as proposed by the Ordinance Review Committee.

Alderman Ferrell: You were in on the recommendations of this ordinance?

Eva Madison: Yes

Alderman Ferrell: Was there a reason when you looked at the existing cat laws that you didn't recommend revision to that?

Eva Madison: I don't know that we gave the cat provisions a hard look. The committee got together for other reasons. We were brought together because of concerns about aggressive dog behavior in the city. I know the Humane Society has really struggled with the city ordinance because we have people calling us about cat colonies that they want to help and we are not in the position to advocate violating a city ordinance. It is certainly an issue that I would welcome discussion on.

Dita, a resident asked the council to approve this ordinance. She voiced her concern about chaining a dog. She stated chained dogs are 2.8 times more likely to bite. She also stated that un-sterilized animals often display more behavior problems than those that are altered. She said

six out of ten un-neutered male dogs will bite versus two out of ten neutered male dogs. She stated if people can not afford to spay or neuter their pet perhaps they shouldn't have a pet. She stated it is a very small amount compared to the cost to house litters from a pet at the shelter.

One day I would like to see the animal shelter be a no kill facility. The only way to do this is to keep down the pet population. I would like to applaud Fayetteville Animal Services and staff for what they are doing and all the hard work that they have put into these proposed amendments. We are the animal shelter in Northwest Arkansas and we need to lead by example and show the surrounding cities and counties a progressive forward humane thinking that will lead to a positive outcome in keeping animals safe from abuse, exploitation and homelessness.

Judy Bond: I agree with the no chaining. Dogs are loving animals. She stated she thinks dogs need to be kept inside. For the safety of our city and our children we need to pass this ordinance. I have heard that hunting dogs don't hunt if they are spayed or neutered but I have talked to several trainers and they said that most dogs are spay or neutered that go on the fields. Only breeding pairs are not spayed or neutered. Service dogs are also spayed or neutered. I encourage the passage of the ordinance because it will protect our city and our pets.

Carmen Nelson told the Council about animals in Tontitown that she had to attend to due to the owners not taking care of the dog. In the city if this happens we have an ordinance in place where officers can rescue animals. She stated the city shelter does a fabulous job on animal adoption counseling. She stated animals need to be integrated as part of your family.

Nan Lawler voiced her concern on chaining animals. She thinks this ordinance is wonderful and she is very proud of our animal ordinance. She is also proud of our animal shelter. She thinks these changes will improve the shelter.

Alderman Thiel: I continue to hear from people concerning the cats and the no kill shelter possibility. These proposed revisions were brought forward as a way to deal with some of the dog issues we have in Fayetteville in the most humane way possible. The intention of that committee was not to make it impossible for someone to own a pet their intention was to help pet owners be more responsible. I don't believe that this committee believed that the ordinance would increase the euthanizing rate but just the opposite. The more animals that are sterilized the less animals will end up in the shelter. I think the people at the animal shelter are very compassionate and will work very hard to ensure that none of these revisions make it impossible to own a pet. I think these revisions will ensure that pets are being taken care of humanely for their sakes and for the safety of citizens who are around those pets. Many of us would like to see a no kill shelter and find a humane way to deal with the feral cat population. I think that conversation needs to happen soon in another committee formed specifically with those goals in mind. I have asked the Mayor to consider that if this ordinance gets passed. It will take time to figure out what is best for Fayetteville.

I would like to amend Section 92.20 under the animal license and tags at the end of subsection one, with exceptions for any animal under six months of age the amendment would read *if an actively licensed and practicing veterinarian believes it would be unwise to subject the animal to the sterilization procedure for medical reasons a medical exception will be granted. In this case the veterinarian who makes this determination must provide a signed statement which describes the medical condition that provides grounds for the medical exemption, including his or her*

opinion as to whether the medical condition is temporary or permanent and if the condition is temporary it includes a prognosis of the date on which the sterilization can be preformed safely.

Alderman Jordan: That just basically means if there is a medical condition they just...

Alderman Thiel: That would exempt them.

Alderman Thiel moved to amend the ordinance to add a medical exception. Alderman Allen seconded the motion. Upon roll call the motion passed unanimously.

Alderman Ferrell: There are a lot of people that spent a lot of time on this ad hoc committee. I am an animal lover. I think it is a pretty good measure of a person when they are willing to work to try to get an ordinance that they think is going in the right direction. Unfortunately this one kind of headed south for me in certain areas.

I think Mr. Gibson asked some pretty good questions and drew some pretty good conclusions that deal with common sense. This ordinance in my opinion if implemented would require a significant investment in man power if it was going to be enforced the way the amendments and every thing require. There are some good parts and I think there was some good intent in this but as written I will not be able to support it.

Alderman Allen: How much additional man power are we talking about in order to be able to enforce this ordinance?

Alderman Thiel: I think Animal Services has indicated and I have indicated during our last budget discussion that we definitely need to improve our rate of having animals licensed. Any city with the population that we have requires animals to be licensed. This is not something new.

Alderman Ferrell: Just 3% of them are licensed.

Alderman Thiel: And that is an issue regardless of the \$60.00 increase over what is charged now for intact animals. We need to do a better job. I mentioned at the last budget meeting based on our current level if we had another officer that was pretty much dedicated to making sure most animals were in compliance, it would more than pay for that position and a vehicle. I think it is very important that people are in compliance because then the animals that are out there we know they are vaccinated and we know they are being taken care of properly and they are a less danger to the citizens. I think it is critical that animals that live in the City of Fayetteville are licensed.

Alderman Ferrell: I don't believe it is going to end up being one person. Who is going to check that they are having one litter per year, who regulates that?

Jill Hatfield: The Animal Control officers with the day to day operations of Animal Services and knowing our neighborhoods and our community, there's not a substantial amount of breeders in our city, definitely in the county but the city does not have a large percentage of anyone who breeds or competes or has a large number of hunting dogs that the hobbyist permit is going to affect. I don't see a huge amount of man power going to patrolling or enforcing the hobbyist permit.

Alderman Ferrell: There are not as many people now.

Alderman Thiel: The purpose for increasing the fee for intact animals was to reduce the over all population of animals in this city. Jill has proven the potential cost saving projections of reducing the population that we have that comes into the shelter. I could almost assure you that if we had another officer and we enforced and made a difference through enforcement and get more people to get their animals spayed and neutered it would in the long run reduce the overall cost to the city to run this shelter. Now bear in mind our population is increasing too.

Jill Hatfield: Tacoma, Washington has a low cost spay and neuter program like we do they reduced their population in one year by 20,000 animals. We are smaller we take in an average of 5,000 animals a year. Once we started this low cost spay and neuter program in 2003 we saw a reduction by about 500 animals by 2005. That saved us about \$12,000. The cycle that we are on and that we will continue to be on will be to shelter and euthanize. I think what we tried to do was to be as humane as we can in this situation but still make everyone happy those people who love animals and want to be responsible owners and those people who do not want strays and want us to pick them up and get them out of sight. That's what we have tried to do. It is a difficult task to try and make everyone happy.

Alderman Jordan: Mr. Taylor brought up some really good points tonight. I have lived in that neighborhood for over 30 years. When I first moved into that neighborhood we did not have any dog laws. The dogs would run in packs. We tightened it up and it got better. Unfortunately I think in the area that we live in we are having problems. I will probably support this tonight but I want to see an improvement. If I don't see an improvement I will bring this back to the Council myself because we have a problem on the south end of town and it has to be addressed. I call in two or three dogs a week. Brenda, I think you brought up some very good points tonight and as they say you don't know if it will work unless you try it.

Mayor Coody: I think all of us want to see improvement or this ordinance would not be in front of us. We have dog problems all over town, there is no doubt about that we just don't have enough folks to go catch them all. If we did we wouldn't be sitting here arguing about this.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-1. Alderman Ferrell voting no.

Ordinance 5002 as Recorded in the Office of the City Clerk.

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.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This item went before the Sidewalk and Trails Committee and I believe it was received favorably. I did not hear any concerns about this request.

Alderman Cook thanked Jeremy for coming to the Sidewalk and Trails Committee. As usual our concerns are pedestrian access and making sure pedestrians have full right of way. This is a minor change that deals with the already developed urban part of the city, some of the newer development. This will be a minimum standard most likely we will see larger than this. Overall I think it is a fair change.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 5-0. **Alderman Thiel, Allen and Lucas** were absent during the vote.

Ordinance 5003 as Recorded in the Office of the City Clerk.

The following item was added to the agenda.

Mayor Coody: Missy with our HR Department asked to get this on the agenda. This is concerning the continuation of medical insurance for permanently disabled employees who otherwise would lose access to medical care while waiting approval of long term disability insurance or social security disability.

Alderman Cook moved to add the following item to the agenda. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Thiel and Ferrell** were absent during the vote.

Medical Insurance Temporary Continuation for Permanently Disabled Employees: 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 the Long-Term Disability Insurance or Social Security Disability Benefits.

Missy Leflar, Human Resource Division Manager: Thank you for having me here this evening. This is a benefit we would like to add to our benefit package that will not need to be utilized except in rare circumstances. When it is utilized it will be utilized for someone who is permanently disabled and in dire need. We have worked in some stringent requirements where it would only apply to employees who through illness, injury, disease or other events have become permanently disabled and are still awaiting receipt of their long term disability benefits or social security disability benefits and due to circumstances beyond their control would lose their access to medical care and prescriptions. The city would provide access to that by way of paying the employees part of the medical premium for them until the employee is approved for social security disability benefits or long term disability benefits, whichever ever comes first. There is a built in cap on it in the unlikely event the employee would be denied both then at some point when they had exhausted their administrative appeals the benefit would stop and they would be offered coverage. That is just so the city would not be in avertedly put in a position of offering free medical benefits for life time. It is intended to make sure that somebody does not lose their access to medical care. We presently have an employee in this situation and payroll asked me

for a policy. I met with payroll and HR and we came up with this formula. It was very carefully thought out. By our guesstimate it will be utilized once every ten years but when it is needed it could be the difference between somebody having access to medical care in those months while awaiting receipt of their long term disability benefits. Since the city is so good about offering a competitive benefits package to its employees which has reduced our turn over we would like to add this one benefit.

Mayor Coody: Thank you for bringing this forward Missy, we appreciate it very much.

Alderman Rhoads: Historically it happens once every ten years or so or there about?

Missy Leflar: It has happened by institutional memory twice ever.

Alderman Rhoads: When it happens it is the maximum of about \$4,600 cost?

Missy Leflar: That would be a worse care scenario, \$4,600 over a twelve month period.

Alderman Jordan: I have seen that happen to an employee once before and what occurred was they can no longer work but the decision hasn't been made that they would be disabled so all the medical expenses fell on them. It was devastating to them and their family. I am fully supportive of this. It is really the right thing to do.

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

Resolution 73-07 as Recorded in the office of the City Clerk.

NEW BUSINESS:

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.

City Attorney Kit Williams: Mayor the petitioner has requested that this be pulled. We can't really pull it but we can indefinitely table it. I would recommend before we read it that we indefinitely table it.

Alderman Jordan moved to table the ordinance indefinitely. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was Tabled indefinitely.

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.

City Attorney Kit Williams read the ordinance.

Jim Twiggs, representing Mount Sequoyah: I am here to answer questions if you have any.

Mayor Coody: This is primarily based on remodeling part of the facility that was used for the Katrina relief if I understand correctly.

Jim Twiggs: We have a building that is called Sequoyah that has ten rooms that is in dire need of repair. Traditionally we get volunteer teams to do this work. We bring in skilled electricians and plumbers to work and volunteers to put the buildings back together, sheetrock and paint them and so forth.

Mayor Coody: We really appreciate your efforts in the Katrina relief response. The city worked hard and well with Mount Sequoyah in that effort. We appreciate your efforts there.

Alderman Thiel: I brought this forward because the fees we are referring to amount to \$476 and it is not waiving future building fees it was just for this one particular project. This was used to shelter and I think our policy has been to help and assist attainable, affordable, emergency and transitional housing and I felt this fell in line with the other waivers that we have done for Habitat for Humanity and Seven Hills Shelter. I felt like this was definitely worth our consideration.

Alderman Allen: I am going to vote for this. I thought this was the sort of thing that churches in the Methodist Assembly ground, that this was part of their purpose.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5004 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: The Planning Commission voted 8-0 and staff recommends approval of this ordinance. The sewer line that was installed by the developer was not located within the easement that was platted. The applicant would like to construct a pool in the back yard however most of the yard is covered with utility easements. In this area the sewer easement was not necessary. The sewer line was not actually within the sewer easement so this request is to vacate that easement.

Alderman Lucas: I brought this forward, I generally am not in favor of vacating easements but he is going to dedicate an easement where the sewer line actually is so it just seemed like something we should do.

Mayor Coody: Thanks for bringing this forward.

Darryl Spencer, property owner: The other utility lines are also outside the easement; they would be within the 15 feet that we would dedicate. It is really not an ideal location where we would put the swimming pool but in consideration of that I would ask your consideration to pass this tonight.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5005 as Recorded in the Office of the City Clerk.

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.

Tim Conklin, Planning & Development Management Director: Last fall we annexed areas west of Fayetteville into the City of Fayetteville. Since then we have been working on our addressing system. We have discovered that we do have two systems currently in place. One is a five digit system which is a county system and a four digit system which is a city system. We have seven street names that are duplicate that staff is making recommendations to change.

West Hillside Drive was changed to West Scarborough Drive; the residents on that street have requested that be changed to Stonehenge Drive. That is one suggestion that has been approved by the City of Fayetteville. An amendment to the resolution would need to be made to change that street name.

Staff sent out postcards to all the affected people in this area. If this passes we intend to send out additional information about when the change will occur and also a packet of numbers for their mailboxes and houses.

Alderman Ferrell: Was there a question on Timber Ridge Lane?

John Goddard, IT Department: There are two Timber Ridge Lanes. One has a space in it and the other one does not.

Alderman Ferrell: Was there any citizen concern on that?

John Goddard: I don't know of any particular citizen concerns about that. I think there are some 911 concerns about having two Timber Ridge roads in town and the possible confusion for 911.

John went over the proposed changes.

Alderman Lucas moved to amend West Scarborough Drive, to Stonehenge Drive. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

Ed Cast, Forest Hills Subdivision presented a petition opposing the renaming and renumbering of their addresses. He voiced his concern about the numbers that are embedded in concrete in the houses and some of them also have brass plates. As far as duplicate street names we have those all over this country and if you can't keep them straight I don't know what to tell you. 911 has no problem finding you. As far as changing five digits to four digits that would be more confusing. These addresses and streets have been out there for seven years. Three weeks ago 911 was called and within minutes they arrived. I think it is ridiculous. It is like moving without packing and it is a headache.

Mayor Coody: We understand that and we hate to have to go through this. Are there any viable alternatives to this renumbering and renaming? Our main issue here is public safety if 911 were called and they went to the wrong Timber Ridge that could mean the matter of life and death for some folks.

John Goddard explained the difference in our addressing scheme and the one that currently exists out there. He stated it is his belief that we will have a better 911 system if this changes.

Aaron Patton, resident of West Ridge Subdivision: I am affected by the five digit issue and not a name change. I would like to see a study of what the alternatives could be as far as going from a four to a five digit system. I am not quite sure why that would be necessary. I have house numbers that are built into my house.

Mayor Coody: Has anybody on staff looked at other alternatives and looked into if there is any easier way to do this to not so dramatically inconvenience all the neighbors out there.

John Goddard: The only alternative I would see is to leave it as it is. I am really most concerned about a system that has been with the city for a long time and helping the police and fire get to the location.

John explained the problems the city would face in leaving the numbering system as it is. He stated he thinks you would be introducing a potential for problems. I would prefer it to change. I know that is an expense on the individual property owners but I think in the long run it is going to provide more safety.

Chief Tabor, Police Chief: I'm sympathetic with these people possibly having to change these numbers. It is not an issue of the computer system knowing where you are at the issue is the officer in the car or the fire truck knowing where you are at. I think it is very important from a public safety standpoint that each street have a very specific name.

Chief Tabor gave examples of street name problems.

Alderman Ferrell: When a person calls 911 does that have the number and the location.

Chief Tabor: Yes it does.

Alderman Lucas: If we changed just the street name but left the house numbers the same would that be a big issue.

Chief Tabor: I don't think that is as big of an issue, with time the officers could learn the difference. It is that big jump in numbers that makes it difficult because we don't jump equal amounts. It makes it more difficult to find that address quickly, it can be done but seconds count.

Chief Johnson, Fire Chief: I concur with Chief Tabor. I believe it is important for the city to keep with this logic of numbering streets north, south, east and west. A lot of times there are similarity's in names but a lot of times the block number in itself will jog the memory of an emergency service responder as to where they are going depending upon the name of the streets. The larger issue here is to stay with our philosophy in numbering and naming streets and not grant exceptions. When you grant an exception for the numbering then we are also opening the door if there are other annexations for other exceptions and therefore emergency service responders will have to memorize the exceptions to the logic that we have for numbering. I feel that it is important to stick with the sequence of numbers that we have. We have formed a committee to review all street names to make sure that we don't have a duplication of the names. I can understand the newly annexed residents of the city and their concerns. I am speaking purely from emergency response and reducing that time in getting from the stations.

Kathy Stocker, Dispatch Manager: In the past when you called 911 you were making the call from your regular telephone and we got the exact location because it was in the name of your address and the name you had your phone bill in. Now we receive 76% of our calls from cell phones and depending on the technology of the cell and the technology in the dispatch center that call may not apply to the exact location. It may apply to a tower site and it might give us a two mile radius from the location so we still have to talk to the people and try to get the information from them.

We have a lot of training in our dispatch center about these tricky street names. When people have an emergency they are not as calm as they should be and they are not talking clearly. When you have these duplicate names there is an issue. The longer it takes us to get that information from the caller the longer it takes the officer or the firemen to get there. It really is important to clear up not only the street names but the addressing. If they are not calling from their land line we may not have their exact address.

She went on to explain their process.

Alderman Ferrell: Did you say 76% of your calls are cell phone calls?

Kathy Stocker: Yes.

John Goddard: We are sitting at the easiest point to fix this right now. In ten years we may not have 389 addresses it may be 700 to 800 addresses to change. Now is the easiest and best time to change this.

Alderman Lucas: How will the numbers be in a new development around Forest Hills?

John Goddard: That is a good question, if we follow the scheme that we have used with the rest of the city then it will not match what is there if we leave it the way it is.

Alderman Lucas: So you would go with the grid of the city?

John Goddard: If we try to follow the grid that is there, then we are just adding to the complexity of the numbering system within the city. My judgment right now would be that we would want to closely follow the system that is there. I would leave that to our committee.

Ashley Cory, West Ridge Subdivision: I am a new home owner and just got finished changing my address and really do not want to do it again. I feel there should be some other option that should be looked at before the decision is made. I am not affected by the street name change just the address change.

Mrs. Gribbs, Harmon Road South: How come before you annexed me the county always knew where I was and Wedington Fire Department knew where I was. Does that mean they have a better system than our police and fire department have now?

Mayor Coody: I appreciate your perspective but I really believe that the county has a system and the city has a system and that is the problem. The county is a five digit system and the city is a four digit system on a completely different grid and if we were hybrid somehow then that would cause confusion between county and city services. It is not that our system is better or worse than the county, I am sure both systems are fine but finding the address when they are in areas where they should be in the other area I think that is the fundamental problem. If it was not for that we would not be having this discussion.

Mrs. Gribbs: I hope you don't do this but I am well aware that you are probably going to do whatever it is that you like.

Perry Franklin: After 38 years of working in the city I am finally a citizen of this fair city and proud to be. In this world that we live in with computers today a number is a number. I agree that street names need to be changed if they are duplicated. The officers are going to have to learn where we live whether we change this or not, most of us that are affected by this live on Harmon Road. I just don't see changing the numbers just for the sake of being a Fayetteville number instead of a county number.

Mayor Coody: So your suggestion would be that we leave the house numbers alone and change the street names.

Perry Franklin: Yes.

Mayor Coody: Then as the land develops around there stay with the city grid?

Perry Franklin: 25 years from now when that happens maybe that can be addressed. There is so much land in there that is not going to be developed for years.

Mayor Coody: How many houses are being impacted by this?

Tim Conklin: Approximately 389.

A citizen: As far as changing the street names I don't think that will have to be done. You can change it to street, avenue, circle and any other name you can come up with. Leave the street name alone, just change the ending.

A discussion followed on how to change the street names.

Alderman Jordan: Is there any way we can do some sort of dividing line. If we had a city road that ran along side this and everything on the west side would be county numbers and everything on the east side would be city numbers. That way they could keep their numbers.

John Goddard: Just keep in mind as we annex the different area you are going to get a completely different numbering system. So you are still creating multiple numbering systems around the city.

Alderman Lucas: Does the county have a grid as to how they number?

John Goddard: Yes they do.

John Gibson, Washington County: Yes the county has a grid. He explained the location of the county grid. He stated it divides the county in half but it does not divide the city or anything else in half.

I live on Harmon South. I don't want to change my address but when I think about the pain a heart attack might bring on while waiting for an ambulance it is probably not too bad of a price to pay. All I would ask is that if you do this please send something to everybody that says the City of Fayetteville is changing my address. I have been in the 911 business since 1986 and I

understand the importance of grids and having even addresses on one side and odd addresses on the other side and having a consistent addressing grid. With that said I have no more neighbors now but I will change my address.

Mayor Coody: Can you answer the question between the five digit and four digit number and how that would work if we were to leave it as it is and what kind of issues that would that cause?

John Gibson: For instance if you are going out Wedington Drive to Double Springs, I think the 6,600 block is about the last block in Fayetteville then you are going to be in an 18,000 block in the county. There is a tremendous jump in numbers and it is no longer consistent inside the City of Fayetteville. Central EMS deals with two, three, four and five digit numbers and they have come to recognize that if it is a five digit address it is probably in the county. Cell phones are beginning to be a real problem because all the technology that the cell phone companies have promised us has not been delivered yet and we still have a lot of difficulty locating people. So carrying the street name and address is going to be more and more important.

A resident of the West Ridge Subdivision: I understand the issues on Wedington, Harmon and maybe even on Double Springs, but within subdivisions what does it matter. What does it matter if I have four or five numbers?

Alderman Lucas: What makes the difference on the house numbers?

John Goddard explained to the Council what the difference is.

Alderman Allen: I feel very sympathetic to the neighbors about the situation. I would not like to change my numbers but I would find it all worth wild if I was having a heart attack or a break in or my house was on fire and I knew that it could make a difference in the time that someone could get to my house to bring me help. With the growth that we are experiencing it just seems like if we leave this one pocket it is only going to be compounded as the city grows. As much as I know that is not a popular thing to say if you think about your own safety even though it may be very inconvenient in the long run it is a better thing to do.

Alderman Ferrell: You have a finite amount of addresses that are under consideration right now if we pass this resolution. It would only be the three hundred that would be the odd balls. Would other ones start coming into compliance if that was part of the resolution?

John Goddard: There is an outside boundary that is around the city it goes even beyond our planning area where we have an arrangement with the county to number based on our city grid right now. That goes out some distance. However with this annexation we went well into and beyond that area that we have arranged to number. We are good until we start getting out into those five digit numbers. All of our planning area is in the city grid and even beyond in some cases. As we move into these areas I think we should ask them to come into our grid system when it is lightly populated.

Alderman Ferrell: Ultimately if growth comes you will have to go into five digits within our city.

John Goddard: If we grow way west then we will eventually get into a five digit number but it is following the grid that we have not the grid that is there. We would not jump from 6,600 to 14,000.

Alderman Ferrell: Currently EMS dispatches whether it is two numbers or five.

Alderman Jordan: I would like to see some more discussion on it.

Alderman Ferrell: I would too.

Mayor Coody: This is not an easy situation at all. The balance is between the inconvenience of one time changing out addresses and public safety.

Alderman Jordan: We need to try to come up with some middle ground.

Alderman Lucas: Safety is an issue.

Mayor Coody: These people will not live at these addresses forever. There will be another resident in these houses one day because people move and people die. We have to look at the long term down the road and what is best for the whole city. Staff can see if they can come up with a way to make something work to where we can pretty much pacify 389 homeowners as best we can and that is also workable for our system for the future. If there is something out there we need to look for it if there is not then we need to come back and make the hard decision whether inconvenience should trump public safety.

Alderman Ferrell moved to table the resolution to the May 1, 2007 City Council meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

This resolution was Tabled to the May 1, 2007 City Council meeting.

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.

City Attorney Kit Williams read the ordinance.

David Wright, Parks & Recreation Department: We as a staff are honored that they have chosen Lake Fayetteville to host this competition. They have asked us if they could utilize our facility through 2011, a couple of things to keep in mind if you approve this, we will close the lake Thursday through Sunday. It will not be open for fishing activities however we do allow the fishermen who have boats in the rental slips to come in the morning take their boats and go to another one of our lakes and then we have slot at night where they can trailer their boats back in and put them in their slip. The lost revenue that we may have from daily fishing permits they compensate us for those fees. There is a \$1,600 fee that we will collect from Solar Splash on an annual basis. We will evaluate that fee on an annual basis.

Mayor Coody: This is a really good event. It was fun to go out there last year and see people from all over the world.

Doctor Alan Mantooth, U of A: This year it is going to be even more world wide.

Alderman Lucas: I think it is wonderful that you brought this to Fayetteville.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5006 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: Planning staff is recommending approval and the Planning Commission voted 8-0 in favor of the ordinance. Jeremy gave a brief update on the project. There was no public comment at Planning Commission.

Alderman Jordan: I think it is a real good development but I would like to hold it on the second reading.

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

City Attorney Kit Williams read the ordinance.

This ordinance was left on the Second Reading.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the annexation. He stated the Planning Commission voted 8-0 in favor. The owner is not requesting to rezone this property. They are already receiving city services. We had no public comment on this item. Staff is recommending approval.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-1. **Alderman Cook** voting no. **Alderman Thiel** was absent during the vote.

Ordinance 5007 as Recorded in the Office of the City Clerk.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an ongoing effort to cleanup our code. We forwarded copies of this to several staff members who made comments. Jeremy explained the changes to this section of the code.

Alderman Cook: I appreciate staff clarifying our ordinances.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5008 as Recorded in the Office of the City Clerk.

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.

Tom Smith, Owner of Roll Off Service: We have been working with your Solid Waste Division on an alternative agreement. It appears Roll Off Service made some late payments last year. I apologize for that. We have put together with Gary Dumas a very aggressive penalty in place in the event that we make a late payment again. I would appreciate the city's consideration in entering into an agreement so that we can continue to provide service in Fayetteville.

Gary Dumas: We have worked with Roll Off to put together an agreement that is extraordinarily aggressive in the penalty portion. I am not making a recommendation for or opposing the new agreement.

Alderman Ferrell: In reading this background information I discovered there was some inconsistency in the City of Fayetteville's ability to be able to audit. Are you agreeing if you continue to serve that you will fully cooperate in an audit if the city sees fit to have one?

Tom Smith: The city performed an audit at our office and we fully cooperated with the city and provided all information requested. I think what the finding was that it was a little difficult for all parties to perform an audit because of the software that we had in place at the time. Since then we have upgraded and we have a more user friendly software that will allow us to do an audit.

Alderman Ferrell: So your answer to me is yes you will be fully cooperative should they need an audit.

Tom Smith: Absolutely, we always have been and always will be.

Gary Dumas: I refer to the first page of the memo dated March 6, 2007. The auditor was not permitted by Roll Off Service to continue the review of the documents for September 17 through September 30, 2004. As a result of an incomplete audit Roll Off Service was accessed \$17,256.91 in under paid fees to the city.

Tom Smith: I was involved in the audit myself and as I recall the city was there for two days and the auditor concluded that it was difficult to continue. As far as my knowledge goes we did

not ask anyone to leave and we provided all the information that was asked. Let me clarify all that we were capable of retrieving from our software.

Alderman Ferrell: Gary, who provided that information that, said they were asked to leave.

Gary Dumas: The Management Accounting Coordinator at that time.

Alderman Ferrell: Do you have any reason to refute his word?

Gary Dumas: None at all.

Alderman Lucas: When we first set this up the idea was to have a consistent contract for all haulers, was it not?

Gary Dumas: Correct. All the haulers have the same contract except the one before you has that last addendum on the back.

Alderman Jordan: How many late payments did Roll Off have?

Gary Dumas: Most of them have not had a late pay. I think two or three have had a late pay. Roll Off has been fairly problematic as you can see from the memo.

City Attorney Kit Williams: The copy of the contract that we have is not signed. Do you have a signed copy?

Gary Dumas: We have a signed copy.

City Attorney Kit Williams: Mr. Smith you read this about the probationary term being for one year and the late payment assessed the first occurrence 25% penalty, second occurrence 50% penalty and third occurrence being a termination.

Tom Smith: Yes I read it and I acknowledge the language in the contract. Mr. Dumas sent two letters last year regarding late payment. Upon those reaching me we immediately responded and took care of those.

City Attorney Kit Williams: Can you assure the City Council that you are going to make all the payments on time for this calendar year if this is approved by the City Council?

Tom Smith: Absolutely.

Alderman Rhoads moved to amend the resolution to adopt the modified contract.
Alderman Ferrell seconded the motion.

Alderman Rhoads: A yes on this vote means they are in for the term of this contract.

City Attorney Kit Williams: That is correct.

Alderman Rhoads: I am making the motion to get it off dead center. I guess I would generally support giving them another chance. I think we have tough enough provisions to take care of it if he fails. I am not sure the city is going to be damaged much by giving him a second chance.

Mayor Coody: With this motion and second a yes vote will modify the contract and approve the contract and Roll Off will still be doing business in Fayetteville. Is that right?

City Attorney Kit Williams: Under the probationary term as shown in the modified contract.

Alderman Lucas: I can't support that. I don't feel like it is fair to the other haulers that have been abiding by the contract. I don't think we should be providing special conditions for someone that doesn't follow the contract.

Alderman Ferrell: I think with the side boards we have on this it is a go or show deal. I like to see people stay in business.

Mayor Coody: A yes vote supports Roll Off with the modifications and a no vote denies them the ability to do work in Fayetteville is that right?

City Attorney Kit Williams: A no vote will not approve it. You would still need to approve the original resolution that would be unchanged.

Upon roll call the motion failed 2-5. Alderman Rhoads and Ferrell voting yes. Alderman Jordan, Gray, Cook, Allen and Lucas voting no. Alderman Thiel was absent during the vote.

Alderman Gray moved to approve the resolution. Alderman Lucas seconded the motion. This motion was not voted on.

Tom Smith: The situation on this motion before you there is always another side to the story. The audit that was performed is invited at any time to see what Roll Off Service has done in the past. It is important for you to realize during the period of time since this agreement has been put forth you have had other haulers make late payments just like us that have not followed the agreement just like we missed. With that being said out of all the nine haulers that you have in your area there have only been two haulers audited. Roll Off Service being one and Ozark Disposal being the other. Ozark Disposal is a company that has two trucks. For us not to have this pass is devastating to our company because our main facility is located inside the city limits of Fayetteville. If this is not passed according to this resolution it would not grant us the right to do business in Fayetteville. Not only to haul trash in Fayetteville but the largest and the first C & D recycling facility permitted in the State of Arkansas is in your city. We recycle approximately 900 tons of C&D material in your city. If you do not pass this that leaves us to go to the next step which is argue, fight, kick and scream because basically I will be backed into a corner. I would appreciate your consideration. Look at all the facts and see if we are really as bad as the paper that you have read portrays us. I don't think so. I challenge you to do that. We have put forth and stepped beyond the call of duty to put very aggressive restraints in place to ensure that the City of Fayetteville gets paid on time because that is what it all boils down to. I would encourage you to table this tonight and let me provide you with the information you need to understand and know before making a large decision. Because it is a big one for us or

reconsider what I have asked and if I need to change the terms in the agreement we can do as such.

City Attorney Kit Williams: I would actually join with his request that you table this tonight. This is a very important long range decision. I know the city has had years of problems dealing with Roll Off and I share some of Mr. Dumas's frustration. He has tried for years to try to get them to fully comply with the contract that he has not had problems with other companies complying with. However I think that with the major decision that this will be we should give Roll Off every opportunity to rebut and provide any kind of other information they might have for your consideration at another meeting. This is a very important decision and I think we should go very slowly on it and make sure we have heard everything that could possibly be relevant to this decision.

Tom Smith: I chose to come forward tonight without legal council. My decision to do that was to deal directly with the City Council and to have a face to face and a one on one and to give you the information and to allow people to ask questions. My goal is to work with the city. Gary Dumas has worked well with me during this period of the new agreement and I appreciate that very much. I have opened our doors to work with the Solid Waste Division to see if there is anything in the future that we might be able to work jointly on. The first step is to get over the big step and that is to get rid of any animosity that may be there from the Solid Waste Division or the City Council. I think this animosity may have started years ago when I hired a person that use to work at the city and I apologize sincerely for that. I didn't know the politics that were involved. I definitely owe the Mayor an apology for anything that may have come from that. I think overall that has given me a black eye on how we do business and that's not who I am. We are real people we do stand up for what we believe in and we do not plan on going anywhere.

Gary Dumas: This agreement is to haul and dispose of solid waste picked up in Fayetteville so the operation of the transfer station that Roll Off operates, picking up materials outside the of the city, they would still have the ability to collect scrap metal.

Mayor Coody: So the recycling operation is unaffected.

Gary Dumas: Yes.

Tom Smith: I had our attorney look at it and he doesn't have the same opinion that Mr. Dumas has. His belief is that it would actually affect the hauling because we would be hauling solid waste in the city limits of Fayetteville and the language hauling is used in the agreement.

Alderman Ferrell moved to table the resolution to the May 1, 2007 City Council meeting. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Thiel was absent during the vote.

This resolution was Tabled to the May 1, 2007 City Council meeting

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an appeal by the applicant for this project which is a rezoning and development application. It is a concept master development plan. A motion to approve this at the Planning Commission failed 3-3-2 vote. One member was absent. It takes five votes to forward something to you in the affirmative from the Planning Commission.

Jeremy gave a brief summary of the project and its location. He stated staff recommended denial of this proposal as it is currently submitted. He stated staff denied due to traditional neighborhood form and this area is identified as a city neighborhood area within our Future Land Use Map. We feel this property could more readily meet the goals associated with city neighborhood areas including utilizing small to medium size blocks. I think the addition of public streets in this area would go a long way toward changing staff's recommendation in order to break up the block size and create more of a cohesive unit and disperse traffic in a better way.

We received a traffic study for this project today however we have not had time to review it. I would caution the Council in making your decision based on what the traffic study says. This is a zoning decision. We need to decide if this is the appropriate master development plan for these 152 acres.

Jeremy continued to go over the projects and the staff recommendations. He stated 14,000 vehicle trips per day you can liken that to College Avenue trips per day or some of the more heavily traveled arterials in the street system.

Mayor Coody: That would be interior to the development?

Jeremy Pate: That would be what traffic is generated from this development. Staff is recommending denial of this planned zoning district.

Alderman Jordan: And the Planning Commission denied it as well.

Jeremy Pate: That is correct.

Jerry Kelso, civil engineer for the project: We are prepared to give you a presentation however it is late in the evening and we would be happy to wait for the next meeting to do that. It will also give us a chance to give our presentation at the ward meeting.

Alderman Jordan: I talked to them about presenting this at the Ward 4 meeting. Do you want to see the presentation tonight and see it again in two weeks?

Mayor Coody: How long is the presentation?

Jerry Kelso: About 30 minutes.

Mayor Coody: How about at the next meeting if that is alright. It is late. We could discuss some of the issues that the Planning staff has brought up.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: In looking at the reference sheet you gave us. With the proposed Wellspring the estimate was it would generate \$19,709 today and the Links is \$14,141. What is the reason for the disparity?

Jeremy Pate: Mostly it is the difference in the nonresidential. The commercial in Wellspring was around 468,000 square feet of nonresidential and this is approximately 120,000. Commercial development doesn't typically generate as much as a lot of residential in some cases, especially single family residential. That is probably the biggest difference.

Alderman Jordan: You will have the new traffic study for us in two weeks and we can look that over too.

Alderman Lucas: This is a zoning.

Mayor Coody: I think the main sticking point of the Planning staff and frankly that some of us I suspect have is the idea of using the linear parking lots for the streets. The feeling I get is that is the number one hang up on this project, having 14,000 to 15,000 vehicle trips per day and all of them using the parking lots as the through streets.

Kim Fugitt: How far do you want to get into it tonight? That is a part of the presentation and a big part of what we would like to discuss when that time comes. It does take some time to develop the evolution of that and how that takes place. If you look at the linear dimensions of the parking lots that Jeremy spoke of that is true when you look at the north south dimension. When you look at the east west dimension that distance becomes about 100 to 150 feet which I believe that most prudent people would take that shorter route to a public street as opposed to taking a three quarter mile route through a parking lot to get to their destination. I have a little bit different perspective about that linear parking lot. That is something we can discuss at the full blown presentation.

Alderman Cook: When is the Ward 4 meeting?

Alderman Jordan: The Ward 4 meeting will be at 7:00 PM April 30, 2007 in Room 111.

This ordinance was left on the Second Reading.

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate: This is an existing platted utility easement on the north side of the property. On the north side of the property the utility easement is actually only 10 feet on the south side it is 25 feet. It has been determined in our field investigations that this entire utility easement is not necessary to serve the existing utilities and any planned utilities within this vicinity. The applicant is requesting to develop a pool and other equipment in this area to serve the back yard. Staff is recommending approval after reviewing this request of vacating one half of this 25 foot utility as requested. The adjoining property owners and all utilities have consented to that vacation. There are two conditions of approval. Staff recommends approval as did the Planning Commission.

Alderman Ferrell moved to suspend the rules and go to the second reading. **Alderman Jordan** seconded the motion. Upon roll call the motion passed 6-0. **Alderman Rhoads** recused. **Alderman Thiel** was absent during the vote.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

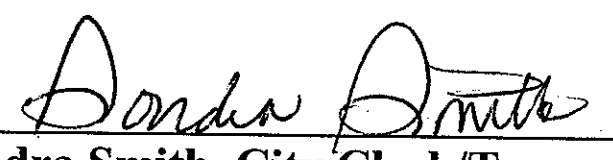
Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. **Alderman Rhoads** recused. **Alderman Thiel** was absent during the vote.

Ordinance 5009 as Recorded in the Office of the City Clerk.

Meeting adjourned at 9:45 PM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer

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
City Council Meeting Minutes
May 1, 2007**

A meeting of the Fayetteville City Council was held on May 1, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Vice Mayor Jordan called the meeting to order.

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

Mayor Coody was absent.

Pledge of Allegiance

Vice Mayor Jordan: Mayor Coody has gone to Washington D.C. to meet with representatives from several agencies, including the U.S. Environmental Protection Agency, the U.S. Department of Justice, the U.S. Department of Transportation and the U.S. Department of Housing and Urban Development. While he is there he will also meet with representative of the offices of Congressman Boozman and Senator Lincoln. The purpose of the trip is to make every effort to bring more federal dollars home to Fayetteville.

Vice Mayor Jordan: Item #9, the 2007 Citizen Survey has been pulled by Alderman Ferrell is that right?

Alderman Ferrell: Please.

City Attorney Kit Williams: So that is going to be placed on New Business then?

Vice Mayor Jordan: The Walker Park Cell Tower item has been pulled and has been set for June 5th.

City Attorney Kit Williams: We will have to officially table that when we get to it but it is good that the people know so they won't have to wait through the meeting because we are not going to discuss it.

Vice Mayor Jordan: If you are here to talk about that, we will probably table it.

CONSENT:

Approval of the March 20, 2007 and April 3, 2007 City Council meeting minutes.

Approved

Bid #07-30 Heckathorn Construction Co: A resolution approving a construction contract with Heckathorn Construction Co., Inc. in the amount of \$1,290,520.00 for construction of Fire Station #3; and approving a project contingency in the amount of \$170,000.00.

Resolution 74-07 as Recorded in the office of the City Clerk.

Don Spann Architects: A resolution approving Change Order #1 to the contract with Don Spann Architects in the amount of \$70,000.00 for Fire Station #3 Architecture Services.

Resolution 75-07 as Recorded in the office of the City Clerk.

2007 Department of Homeland Security Assistance to Firefighters Grant: A resolution authorizing the Fayetteville Fire Department to apply for a 2007 Department of Homeland Security Assistance to Firefighters Grant in the amount of \$330,770.00 to purchase a Live Fire Mobile Training Unit.

Resolution 76-07 as Recorded in the office of the City Clerk.

TM3, LLC: A resolution authorizing the Mayor to execute a contract with TM3, LLC to haul and dispose of solid waste within the city limits of Fayetteville.

Resolution 77-07 as Recorded in the office of the City Clerk.

TWM Waste Management: A resolution authorizing the Mayor to execute a contract with TWM Waste Management to haul and dispose of solid waste within the city limits of Fayetteville.

Resolution 78-07 as Recorded in the office of the City Clerk.

McClelland Consulting Engineers, Inc: A resolution awarding an engineering contract to McClelland Consulting Engineers, Inc. in the amount of \$71,302.00 to perform a drainage study within the Upper Scull Creek Watershed between College Avenue and Mission Boulevard.

Resolution 79-07 as Recorded in the office of the City Clerk.

Tomlinson Asphalt Company, Inc: A resolution awarding a contract to Tomlinson Asphalt Company, Inc. in the amount of \$187,760.00 for traffic calming construction in the Wilson Park and Washington/Willow Neighborhoods as part of the Transportation Improvement Bond Program; and approving a project contingency in the amount of \$18,776.00.

Resolution 80-07 as Recorded in the office of the City Clerk.

Bid #07-32 Scott Construction Equipment Trench Roller Purchase: A resolution rescinding Resolution 68-07; awarding a portion of bid #07-32 to Scott Construction Equipment 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.

Resolution 81-07 as Recorded in the office of the City Clerk.

Alderman Gray moved to approve the Consent Agenda as read with Item #9 Citizen Survey removed from the Consent Agenda and placed under New Business. **Alderman Lucas** seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

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 resolution was tabled at the April 17, 2007 City Council meeting to the May 1, 2007 City Council meeting.*

John Goddard, GIS Coordinator: A task force met last Monday to examine this issue and everyone who attended this meeting felt that there was simply no choice here in this matter as far as changing these addresses. They need to be changed.

John listed each person that attended the meeting. He stated there was total agreement that these addresses need to change. He called Becky Stuart with the ambulance service and she is in favor of having these addresses changed. There is a need for an amendment to change Harmon South to a different name. One of the names that were highly recommended is 85th Street. It is very important for emergency services. Harmon South is a name that could result in some confusion so the committee felt that it was better that that change.

Alderman Ferrell: On Harmon do you want to do both north and south Harmon and make them north 85th and south 85th?

John Goddard: Yes they will change at a certain point following an established line that goes east and west through the city. Harmon Road crosses that area. It's extended from Center Street out west and east. If it was left Harmon there could be some real confusion when somebody calls in.

Alderman Thiel: Harmon South and Harmon Road both need to be changed to 85th Avenue, is that correct?

John Goddard: That's correct. They both need to change.

Fire Chief Tony Johnson: I asked my on duty shift commander to come in to address the Council so you could hear first hand from the people that are responsible for getting to the call for services as quickly as possible. We also have a uniformed police officer as well as

representatives from Central EMS. I think you have to hear it from them as to how important it is to the City of Fayetteville in keeping with the logic that has been adopted so that we can find the right address. First I would like Battalion Chief Kyle Curry to come up and briefly address you.

Kyle Curry, Battalion Chief: It's not a matter of if; it's a matter of when these people will be faced with a mercy need. Right now we are talking about a short term inconvenience and it's important that we look at the long term. Right now we have to deal with two separate addressing systems and in turn it's going to slow us down on our responses. We have a set way that we do it inside the city that we are used to. I would like to speak on behalf of renumbering that area and bringing it up to the rest of the city to help the emergency needs of the citizens out there.

Dominic Swanfield, Police Sergeant: I am here to support the number change as well. We have been speaking amongst our officers as well and they feel the same. In our line of work, seconds count. Currently 40 plus square miles of the city is a four number system. The entire city needs to be that way. Traditionally when officers have been given a five digit number it is automatically reverted back to the County. In an emergency situation people fall back to what they are used to and what they are trained on. I hope you move forward and pass this tonight for our safety as well because in these situations it is critical for our officers to know where we're at.

Becky Stuart, EMS Chief with Central EMS: I'm here to speak on behalf of changing the newly annexed area of the City of Fayetteville to the City of Fayetteville's current addressing scheme. We have a little bit different perspective at Central EMS because we respond to the City of Fayetteville as well as out in the County. It is very important to us to know if it's a four or five digit number. It can take some time to make that determination. The citizens are accustomed to a certain standard of response because our 911 system is based on an addressing scheme that works. That is what we have in place. They don't see the inner workings of it but we depend on that for their sake to get to their home in a timely manner. I would like to encourage you to go ahead and pass this now. If we don't deal with this issue today it's going to come up again in the future.

Alderman Lucas: Would you talk about what we celebrated this morning?

Becky Stuart: Sure, this is related to the 911 emergency medical dispatch. Central EMS was awarded the 110th in the world accredited center through the National Academy's of Emergency Medical Dispatch. So we are #110 in the world and #1 in the State of Arkansas.

Police Chief Greg Tabor: Last week it was a big question with the Council of what do we do with the next subdivision that comes in or the next new house that is built. There is an easy answer to that question, you convert these numbers to our grid and make one system and then there is no question on what you do with a new subdivision or new houses being built in that area. I don't think we should be willing to take that risk that it's going to take long enough more that it's going to make a difference in somebody's safety or their well-being.

Paul Becker, Finance and Internal Services Director: One of the other issues we discussed at the last Council meeting was a question of the cost. This is a unique situation; certain residents have embedded numbers in their brick or concrete work. We looked for a potential solution and found that at Home Depot and a couple of places on line you can get plaques that could cover these embedded numbers. I have an amendment for your consideration which would allow us to

reimburse residents up to \$50 to help mitigate the costs to the area. We are also asking for a budget adjustment of \$8,000 which I feel should handle these costs.

Alderman Lucas: I appreciate you doing this. I think this is very important for us to change the names and numbers. I was down at Central EMS this morning and all the drivers were telling me how important it was that we get our grid and keep it the way that it is both in the city and the county. As other cities have annexed, they have changed the addresses and I think this is something that we need to do.

Alderman Lucas moved to amend the name of Harmon Road to 85th Avenue. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams: I made two other changes on this resolution. The original Section 2 said it would be effective on May 1st so this Section 2 says that it renumbers all the recently annexed addresses to conform with the established city grid. Section 3 is the one that talks about the cost. I thought it was \$8,500 but you want it to be \$8,000 now for the budget adjustment? That would need to be changed to \$8,000 instead of \$8,500.

Vice Mayor Jordan: So the second amendment would be Section 2 and 3 added to the resolution.

City Attorney Kit Williams: Correct. Repealing the original Section 2 and substituting the new Section 2 and 3.

Vice Mayor Jordan: And Section 3 would be the \$8,000?

City Attorney Kit Williams: Yes, and with reimbursement not to exceed \$50 per house.

John Goddard: I want to make one comment about the timing on this that we need to establish a date that this occurs.

City Attorney Kit Williams: That would be tonight unless you don't want it tonight.

John Goddard: No, I don't want it tonight. We need to communicate with the post office and the emergency services, telephone companies and there are other people we need to communicate with.

City Attorney Kit Williams: You need to give us a date.

John Goddard: May 21st.

Shirley Lucas: We don't need it sooner than that John?

John Goddard: Well, it's going to take a little time to make sure that happens. It's going to take a couple of weeks. The Post Office told me they needed at least two weeks.

Alderman Lucas moved to amend Section 2 and Section 3, and to change the effective date of the address changes to May 21, 2007 and approve a Budget Adjustment in the amount of \$80,000 for the purchase of address plaques.

Glynis Rare, resident of the new annexed area: It looks like we have no choice; we are going to have to change our address. If that is for the safety of our citizens then I'm not going to complain. I will say we have had excellent service and still our first response is from the Wedington Fire Department and not Fayetteville. I am concerned that if we change our address the first response is not going to know where we are. I spoke with them and they said they would figure it out. I say that \$50 is not enough. It's going to cost me \$50 in postage just to send out all the change of addresses. Not including the \$300 block that we have set in our homes or the mason's cost to come out and chip that out. If we don't make the proper notification to everybody, our insurance might say that we have a vacant house. It's not just a simple change. I have to change everything about my life. \$50 is not enough. I would ask you to reconsider the amount. Personally the plaque is fine for me. But for my neighbors who went to the expense of putting a \$1,000 block in their home or mailbox, \$50 isn't enough. Everything has changed for us and you are going to give us \$50? I just feel that is not acceptable. Could that be brought on an individual basis for my neighbors to change that?

Alderman Allen: I am very sympathetic to this neighborhood, but when you think about \$50 I don't think that anyone would think that their life was worth only \$50. This is something that I don't see we have any choice but to do.

Alderman Ferrell: I also am sympathetic to the people but I had some mixed feelings about this until I got a memo from John Gipson, who helped set up the 911 emergency system. John, don't you live out there?

John Gipson: I now live on 85th Avenue.

Alderman Ferrell: That made my mind up so I will certainly vote in favor of it.

City Attorney Kit Williams clarified the street names that were changed at the last meeting.

Upon roll call the motion to amend the resolution passed unanimously.

Alderman Ferrell moved to approve the resolution. Alderman Lucas seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 82-07 as Recorded in the office of the City Clerk.

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 ordinance was left on the Second Reading at the April 17, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning stated we have not had any public comment on this request. Staff is recommending approval of this rezoning.

Alderman Lucas: The way out of this development is right in the middle, is that it?

Jeremy Pate: They will have stub outs in all directions but the existing infrastructure that will serve is primarily to the west. The full cost to the traffic signal at Salem Road and Mt. Comfort was assessed to this development. At the time of final plat they will be contributing to the full cost of that signal. That was a part of their off-site street improvements for this project. Until the time that street is extended, that is when it will connect to Deane Solomon.

Alderman Lucas: I have not had any calls against it. It concerns me that eventually it will be put on Dean Solomon Road which is a very small road. This is a very good development for the area. I support it.

Alderman Thiel: I do support it however it is based on the alderman from that Ward supporting it after reviewing the concept of affordable housing on the smaller lots. To me RSF-8 is too dense this far out with the traffic issues you have there. I hope it does provide some affordable housing and it looks okay.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5010 as Recorded in the Office of the City Clerk.

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 resolution was tabled at the April 17, 2007 City Council meeting to the May 1, 2007 City Council meeting.*

Gary Dumas, Director of Operations: I believe you received some additional information from me last week. There were several past issues that we are dealing with but the objective was to get everyone in compliance with the contract or the agreement the city has with the various waste haulers in town. Some of the issues that were of concern were the continual late payments and a perception that there had been some underpayment. They invited us to do an audit from the last year from April 2006 to April 2007 to see if what had been paid during that time frame was consistent with what their records indicated. We conducted that audit last week and found no discrepancies and so I think there is some reasonable assurance that there is not a problem with under payment. In order to address the issue of the late payments, along with the rather severe penalties, Roll Off has agreed to this agreement. With this agreement I would recommend approval and we will come back to the Council in 90 days. If there have been no problems during that time we will consider a longer agreement.

Alderman Lucas: How is this going to affect the others that are hauling in Fayetteville and also there was a question about whether we had the right number of boxes in the city.

Gary Dumas: If you think there is an issue, we do audits on those. I don't think this affects the other haulers in any way. Perhaps it will make them more aware that they should be complying

with the requirements of the agreement. I don't think anyone wants to go through this. With the audit the city has a fairly good inventory of the containers that the other haulers have located around the community. We took that list and compared that with the inventory placements that Roll Off has in their database now and we found no discrepancies. I don't think that is an issue at this time.

Alderman Lucas: They have to give you the number each month?

Gary Dumas: Yes, they give a blind list of how many containers there are. They don't give us addresses because they probably think we might want to steal their account.

Alderman Lucas: Mr. Smith is going to do that for you now?

Gary Dumas: Yes that is one of the requirements of the current agreement.

Tom Smith a representative of Roll Off passed out copies of the audit report. He stated I highlighted an area that may address what was portrayed in the last couple of weeks and what was discussed. It was really the city's opinion to take the audit portion at hand and do a multiple on what we had mispaid.

Tom went on to discuss the audit report. He stated I thought we were friendly to the auditor and I did not ask him to leave last time. We gave the auditor this time, he was very cordial and we gave him all the information they asked for.

Alderman Allen: I am just curious as to how many complaints there had been about this company in the last year?

Tom Smith: I haven't got any complaints. I have received two letters from the City of Fayetteville on the late payments. The only correspondence I have had was with Mr. Dumas and I have copies of the two letters on late payments in the last year.

Gary Dumas: The only issue in your packets is concerning late payments. We have not had any customer complaints.

Alderman Ferrell: The way this is proposed right now the ninety days and the language that is in there, you are okay with that?

Tom Smith: Yes I am. It's always been our opinion that the City of Fayetteville has had the opportunity or right to come and audit our books as they did a couple of years ago. We don't have anything to hide.

Alderman Ferrell: My question wasn't to be critical. It was just to say to move forward.

Tom Smith: I'm in.

Alderman Thiel: Do you confirm everything that has been said?

Gary Dumas: Yes.

Alderman Thiel: Staff is recommending that we do this contract?

Gary Dumas: Yes.

Alderman Thiel: The Solid Waste staff?

Gary Dumas: Solid Waste works for me.

City Attorney Kit Williams: I recommend this also. I thought that probably rather than having big penalties it was better to have a trial program to try to make sure that in fact everything was going to work. If everything works at that point in time we will be back in front of you with a longer contract.

Vice Mayor Jordan: Do we need to put an amendment on this?

City Attorney Kit Williams: The new resolution would authorize the Mayor to execute the contract. The resolution doesn't say three months. The contract says three months.

Alderman Rhoads moved to amend the resolution to state this contract will be for a period of three months. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Alderman Thiel: I am not sure whether I am going to support this or not. We have twelve carriers now and two of them passed on our consent agenda. I feel like this is sending a bad message to new and existing carriers. I don't know how many times we have had Roll Off in front of us about one thing or another. I feel it is unfair to the other carriers that we continue to make these exceptions. I've not fully decided yet.

Alderman Ferrell: We have a recommendation from our City Attorney and from staff to move forward. I think this resolution has pretty good sideboards on both sides of it to move forward and I will support it.

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

Resolution 83-07 as Recorded in the office of the City Clerk.

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 ordinance was left on the Second Reading at the April 17, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate: I passed out some graphics that were passed out last night at the Ward 4 Meeting. They do have a revision with this particular proposal and that is to add a public street. At the last meeting two weeks ago staff made a presentation and because it was late the City Council opted to have the applicant make their presentation tonight so hopefully they are prepared to make a presentation to you as a full Council.

Jerry Kelso, Engineer of the project gave a presentation. He went through the process of where they started from and where they are at today. He stated we think we have a superior plan. We have worked very hard on this. We feel that if the two Planning Commissioners that couldn't vote had been able to vote we could have successfully had a recommendation to the City Council.

Alderman Allen clarified that James Graves was absent from the Planning Commission meeting that night.

Jerry Kelso: He recommended for approval at the second Planning Commission meeting. I don't know if he would have voted for it but I think he would've and so we feel pretty positive that we had several folks that think this is a very good project.

Kim Fugitt, Project Architect stated the purpose of Jerry going through that is to say that we have taken all of the recommendations that have been given to us by staff and the Planning Commission and tried to incorporate those into the plan in some way shape or form. We feel like we've had a cooperative nature and an open mind to changing the original plans and providing staff and Planning Commission what they have desired. Obviously we are a little short not having staff's approval at this point. He went on to explain the plan that they had for the project. He stated the primary reason for the traffic differences. Wellspring had almost 20,000 vehicle trips per day and the Links project has about 14,000 trips per day.

Alderman Thiel: Could you repeat why that is different?

Kim Fugitt: If you look at the commercial square footage Wellspring had 548,000 square feet and the Links only has 121,000 square feet and that makes a big difference in the traffic that will be generated by the proposal. Wellspring had 40 acres of greenspace parkland and tree preservation and we are offering 103 acres. There are 49 acres in golf and 56 acres in tree preservation and park dedication. Staff has agreed that the zoning that we are proposing is compatible with the Future Land Use Plan.

He went on to give a presentation on their plans for the project.

Alderman Lucas: What are you not going to develop right now?

Kim Fugitt: These are commercial areas here and typically we don't develop the commercial property. Those will be outlots that might be developed by other franchise organizations or business organizations like that. We don't have a specific tenant or user for those commercial sites right now.

Alderman Rhoads: Are the outlots taken in consideration when you do your vehicle trips?

Kim Fugitt: Yes sir.

Alderman Thiel: When we look at the public park land and the golf course, how are you going to separate that?

Kim Fugitt: With a six foot rod iron fence. The reason for that is a safety feature.

Alderman Thiel: In the history of it at the very beginning you mention more commercial on Ruppel Road. I am a little confused that staff or someone recommended against that because that in a way was a selling point for Wellspring because it did have more commercial which made it more of this traditional neighborhood design. Did you say the Planning staff or Planning Commission?

Kim Fugitt: First, staff recommended that we remove the commercial and put mixed use, then the Planning Commissioners suggested that there should be some commercial there and so now we came down to a middle ground where we could have half commercial and half residential.

He went on to speak on the evolution of the plan and explained how they have made great attempts to work with staff's recommendations.

Alderman Allen: I wondered if attainable housing is interspersed throughout the project.

Kim Fugitt: Yes Ma'am, obviously the single family homes would be for sale. We believe the row houses are suitable or are very adaptable to be owner occupied. The Town Center units are both one and two bedroom. It gives us a lot of variety in the type of units that we could offer for sale.

Alderman Allen: Are some of them detached?

Kim Fugitt: The single families are detached. They are probably going to be in the upper end of the attainable range as opposed to the lower.

Alderman Allen: So that would be the \$120,000 or more?

Kim Fugitt: Yes Ma'am. In offering a product under \$100,000, they have access to a golf course, a club house with a fitness center, swimming pool, tanning facilities, work out room, and business centers, the value goes far above that 1,000 square foot owner occupied space.

Alderman Ferrell: What kind of time frame are you looking at on the build out?

Kim Fugitt: Phase I is 600 units and it would be the south half of the property. We would begin Phase I immediately. In Phase I we would build all the public streets associated with Phase I as well as the golf course, the park land dedication and Ruppel Road from Wedington to the entrance.

Alderman Ferrell: Would you give an estimate on how long that would take?

Kim Fugitt: A strong year.

Alderman Thiel: I wanted to follow up on your owner occupied concept. Is that a part of the conditions of approval?

Jeremy Pate: It is. I did want to bring up at this point in time the book that you have in front of you still states that the owner will own all the Links at Fayetteville and take responsibility for maintaining the Links at Fayetteville. That was discussed at the Planning Commission to consider but it has not ever been incorporated in any of the commitments and discussion here in terms of this booklet. I also wanted to bring up that a lot of people have been discussing attainable housing and I want you to keep in mind that the city defined it very differently when they adopted City Plan 2025. Not a percentage of the median house price in Fayetteville but a percentage of the median income which does not translate the numbers that you are seeing on the screen. I just wanted to make sure that you are aware that that is not really the way it was defined by you as a Council when you adopted the 6th goal in the City Plan 2025 of attainable housing.

Alderman Thiel: If I understood, you weren't saying that this would be attainable or affordable housing; just that there would be a certain amount of owner occupied housing guaranteed.

Kim Fugitt: That's correct but as far as a price guarantee, is that what you are asking?

Alderman Thiel: Well, it's basically \$100 per square foot, is that correct?

Kim Fugitt: Right, and with a variety of plans that could range anywhere from a \$90,000 unit to a \$120,000 unit on a flat. Then of course single family homes would be above that. What is the definition of attainable; our understanding was based on median household price.

Tim Conklin: The definition is 80% to 120% of median household income. Typically when you look at affordability you look at how much of your income can be used to pay your mortgage. Typically a maximum of up to 30% depending on your debt obligations that determines how much you can afford, anywhere from \$105,000 to \$145,000.

Kim Fugitt: 100% of median household income?

Tim Conklin: Typically if you are spending more than 30% of your income for housing, you have issues with regard to being able to provide other basic needs.

Kim Fugitt: The definition is 80% to 100% of median household income.

Tim Conklin: 80% to 120% as we defined it.

Vice Mayor Jordan: Do we need to get into this tonight.

Tim Conklin: I don't think so. I would be more than happy to present it at agenda session.

Vice Mayor Jordan: Yeah, let's stay on target here.

Alderman Gray: I believe he did say 30% would be affordable or attainable. Is that right?

Kim Fugitt: We said that 30% would be available for sale to owner occupy. Obviously our definition of attainable was incorrect and there is still some question as to what that really means so we will probably need to revisit that.

Vice Mayor Jordan: That is something that I have talked to the staff about and next month we will probably start defining that.

Tim Conklin: We have it on your agenda.

Alderman Lucas: Mr. Fugitt, last night you said 30% would be up for sale if it will sell.

Jim Lindsey: We are going to sell 200 of these units. We don't know if they will sell or not but we are going to put them on the market. I had them look and there was one house below \$127,500 in the multi-list book. We put 200 units in there that would be very competitive in that level.

Alderman Thiel: And you are guaranteeing that 30% of those will be owner occupied and not bought by somebody just to rent them out.

Jim Lindsey: I can't guarantee that part because when you do a fairhousing process, somebody buys it and wants to rent it, I'd be hamstrung on that. We would make them available for sale to the market in general and we would hope that it would be owner occupied people who would live there.

Alderman Thiel: Okay, so you're not doing the 30% that you mentioned.

Jim Lindsey: I am doing 30% available to the marketplace.

Alderman Ferrell: It sounds to me like Mr. Lindsay is saying that the fairhousing deal won't allow him to do that.

Jim Lindsey: It won't allow me to guarantee somebody that if they moved to Chicago that they can't rent their house. You can't keep somebody anywhere in town from that, if you move somewhere and you would want to rent your house or have some income from it. We couldn't keep that from happening.

Alderman Thiel: You can do that with condominiums. That is set up in the POA that they cannot be rented.

Jim Lindsey: There are some places where they are not renter friendly. I know of some down in Alabama and other places that they don't want you to rent them. Generally speaking, I don't think that would be realistic because any house in Fayetteville that anybody here owns, you can rent your house. We couldn't guarantee that somebody wasn't going to rent that house. I couldn't make the covenants that restrictive, I don't think. I believe it would be unconstitutional to tell somebody you can't rent your house. I would like for Hugh Jarratt to show you what the impact of this is economically to the city. The bottom line of this is that 40 years ago was my first visit down here to this very room. I can't say anything but wonderful things of how I've been treated in this town and how good it has been for me. I can't describe it any better than that. I will tell you all this, if you say turn this down, or turn down other projects, the people who have units in town their rent is going up. So this is a good chance with a good project to continue having affordable, attainable housing for the person who wants to both buy and rent. That would be my last point.

Alderman Allen: I received an email with a question "what percentage of your apartments that you have now are currently occupied.

Jim Lindsey: That is an amazing thing and I wouldn't want to be in a braggadocios mode but we have 27,000 apartments in 9 states in 32 towns and for the last 20 months, we have been over 100% collected. That is not 100% occupied, that's 100% collected if you take late charges and what all we charge. Here in Fayetteville, I looked at it at the end of the month and we have approximately 5,000 units in an area of town and we were like 2% of physical vacancy, which meant if you can stay under 2% fiscal vacancy, you should to be 100% collected with money. One of the things we have been able to do is be affordable because we don't raise rents crazy. We might raise rents \$10 every 2 years or something. People that have come in new and built their prices are so much higher than ours that we have a strategic advantage. We won't have as much strategic advantage here but we do overall. That's the gospel. I'll send you the daily report if you want to see it.

Alderman Ferrell: How many of these golf course type complexes have you built?

Jim Lindsey: We have built a total of 42, that are either an 18 hole or 9 hole course. I don't guess we have a project that doesn't have a lake, pond, or fountain and water. So all of that has been a very positive part of what we've been able to do. When I came here to Fayetteville we had an issue and parks were pushed real strong and then they pushed green space. I was all in the middle of that and I was totally for it and still am. We took that and made that our model and we took that all over Mid-America here. We've never been turned down at a Planning Commission anywhere, never. We have never been turned down by a City Council or Planning Commission in all these towns we went to. Why, because we brought the greenspace to the table. We brought all of the tree preservation because we thought it was important. We met with the neighbors before it ever started. We met with Mr. Jordan last night and Ms. Lucas and the neighbors again, but we had already met with those neighbors, not the ward, but the adjoining neighbors. We took what I call the Fayetteville plan and we took it all over everywhere. In Tuscaloosa, Alabama, Oxford, Mississippi, and I'm not saying this for any reason other than to say the greenspace concept that came out of what was here in Fayetteville was a winner for us everywhere.

Hugh Jarratt: Mr. Lindsey wanted me to hit real quick on the economic impact that this project would have on the town here. We had the Center for Business and Economic Research at the University of Arkansas run the numbers. We gave them all our figures and they came up with these numbers that you have here. When it's fully built out the total economic impact is going to be \$125,000,000 to the City of Fayetteville. That is \$80,000,000 for our direct cost, what that is is the cost that we pay employees to build it, the construction workers, and actual materials that go into it. The actual physical cost is going to be \$80,000,000. On top of that, the indirect cost is \$45,000,000. That is extra employees that people have to bring on to service the 1,600 construction workers. All the employees that are going to have to be ramped up to come in and do this project are going to generate another \$45,000,000 on top of the direct investment that we are going to put here into town. The total tax impact is going to be nearly \$14,000,000 and that's just lump sum money that will come in because of this project. The annual property taxes will be \$720,000 per year, every year. \$600,000 of that is going to go to the schools. The City of Fayetteville's take on that is going to be about \$55,000 every year. However on sales tax, we are going to generate a total of \$170,000 per year economic impact into the city.

He went on to describe how you get those numbers. He stated we also got the estimated fees to the City of Fayetteville and that works out to \$2.6 million dollars that is paid directly to the City of Fayetteville. There is no sharing that money that is yours. He went on to discuss the benefits this project would bring to the city.

Vice Mayor Jordan: I would like to hear from staff at this point in time. Jeremy, why do you all not support this and what would it take for you all to support this?

Jeremy Pate: A couple of issues I would like to bring up in answering that question. I want to correct something that Mr. Kelso mentioned on page 7; they do offer the 30% of sale for the project for at least offering for sale on the market. I did want to correct that and that would likely need to be a condition of approval. A couple of the issues I would like to address, the commercial incorporated into Wellspring and how that worked out; the plans that we say initially were strip center commercial which the Council has expressly said it does not want to see more of especially in the planned zoning districts. That was a concern that we noted in our comments through this process. It was also directly adjacent across from Ruppel Road from a single family development that has just been approved. What we looked at in one Phase was a multi-family development, a mixed use type development that you see at Southern View that is under construction. At one point at the Planning Commission meeting as Mr. Fugitt mentioned that got translated to a more of commercial use directly across from C-1 which the Council recently approved as a policy decision to zone directly across the street as C-1 with a bill of assurance. The north line on the commercial directly matches the C-1 across the street, so that's how that commercial relates to Ruppel Road. It's really hard to discuss the design standards that Mr. Fugitt mentioned because we are just in the draft stages of that and this Council hasn't even seen any of those. So we're probably not going to address much of that. With regard to the infill comment, we've been discussing that a lot, I probably disagree a little bit with even our initial staff report on defining that as infill development and we have had a lot of staff discussion about what that means to us and to the Council. I promised you a memo and we are still working on getting something to you to have that discussion. I still think in the majority of west Fayetteville we're still seeing greenfill development as opposed to infill development. It doesn't mean it can't be done correctly because we'll still see development in areas that have not been developed before. I think there is a proper way to do it and I think the Council in adopting the six goals of the Future Land Use Plan made some positive decisions in trying to reach those goals. Ultimately that's why we have not been able to recommend approval of this project thus far.

He went on to give comparisons to other neighborhoods. He stated Mr. Lindsey and his team have worked hard with staff to try to find some common ground. In terms of staff recommendation I simply don't think it's quite there yet. That's part of Goal #3 of our City Plan 2025 Future Land Use Map is to make traditional town form norm. Those are a lot of the concerns that staff has cited throughout this project and I think Mr. Fugitt hit it right on, he noted in the first sketch plan that he put up on the screen the exact comments that we are stating now. I think we have been consistent in those comments throughout this project.

Alderman Ferrell: Jeremy, wouldn't you say bearing in mind your remarks about commercial, generally speaking the more square footage you have as opposed to residential that the more traffic it generates?

Jeremy Pate: It will generate more traffic. That is evidence by the traffic numbers, in general though a residential use generates more traffic than commercial use if you look at the actual

traffic numbers. A single family development generates up to roughly 10 units about 10 trips per day. Multi-family usually generates less than that. I'm not a traffic engineer so I would have to leave some of those questions up to the professionals.

Alderman Ferrell: Did you say that the residential can cause more traffic than commercial?

Jeremy Pate: I believe so. If you want, Mr. Peters can address that.

Marty Peters, Peters and Associates Engineers: Clearly this development because of the reduction in commercial space generates less traffic than what the Wellspring project did. Ordinarily commercial will not be open during the AM peak hours so it normally doesn't contribute much if any to the AM peak hour but it is open during the PM peak hour. Residential traffic whether it's multi-family or single family detached, generates their peak times during both the AM and the PM during those home to work trip times. On an equal basis commercial space normally generates about 35 vehicle trips per 24 hours per 1,000 square feet of commercial space. If you consider the 1,000 apartment units in this development which will generate about 6,700 vehicle trips per day, that is about 6.7 trips per 1,000 square feet. On an equal basis residential generates considerably less traffic than commercial, but it does generate it in both during the AM and PM peak hour.

Alderman Thiel: When Jeremy mentioned infill, I am glad that you are going to define that a little better because I looked back at the Sloan Cobblestone project at 8-units per acre that we just approved that was recommended by staff and it's on the very outskirts. It has just been annexed. Then I look at this which has been in the city for some time.

Jeremy Pate: About 1 ½ years or 2 years.

Alderman Thiel: That's not infill even though it's 8-units per acre. I am trying to ascertain what you are referring to as infill.

Jeremy Pate: If you look at a lot the goals in our City Plan 2025, which probably warrants a discussion in itself absent this project, but I think the infill discussion verses encouraging growth and growth sectors, I think some of those have been merged in those conversations. Our #1 and #2 goal is encouraging infill development and revitalization of our infill areas. The second goal is discourage suburban sprawl. I think there will always be a market for suburban growth. It doesn't have to necessarily be in a sprawl pattern. I think some of these areas that we will see will still be greenfill development however they can be done in a manner that will be sustainable in that there is adequate infrastructure that is supported so that we don't find ourselves with an inadequate infrastructure to handle some of the development patterns that were seen. I think you are exactly right, it warrants a better definition.

Vice Mayor Jordan: I don't disagree with that Brenda. As a matter of fact certain events have transpired here so that I will be looking a little closer at the areas on the fringes of the city myself.

Alderman Allen: Following along with the infill and sprawl, it almost makes you wonder with a project this dense on the edge of the city if we aren't going against our #1 and #2 goals of the city and virtually creating a little bitty new Greenland or Elkins. That is a concern that I have. It almost creates a new town.

Jeremy Pate: That's why I gave you numbers to compare neighborhoods. It certainly does create a large impact and I think the size of the development and the sheer number dwelling units and potential residents in the area will certainly create an economic impact as duly noted here. It would also create an impact on existing infrastructure in the area. That is certainly a valid comment. I would not want to however discourage master plans because this could also be just chopped up into forty smaller developments that we would just see on a ten acre parcel. There is something to be said about looking at this in context of an overall master plan and understanding how that works. I know the Council and commission have expressed frustration with seeing a project that doesn't have that master plan behind it. We still want to encourage those types of developments but in a sustainable way.

Alderman Lucas: One of my constituents asked, in the Wellspring Development, New Bridge Road had a road that crossed Ruppel and she was asking why that wasn't done with this development.

Jeremy Pate: New Bridge Road the Master Street Plan shows it ending at the west side of Ruppel so it didn't go across the Wellspring project. It would intersect at the northern portion of this site. It does not come across this property.

Alderman Lucas: This is going to be done in phases and only half of Ruppel is going to be done at this time. When will the other half be done, or is it guaranteed to be done. What if we do the first phase and then they decide they don't want to do the second phase. What happens then?

Jeremy Pate: In terms of a recommendation on timing of the development, this is a master plan type of project so it's a zoning land use approval only. We would have to look at the actual development and the number of units that are proposed with the Planning Commission to determine the amount of improvement that would be necessary. If the north half never happened then that traffic demand wouldn't necessarily require that to be improved because it was never developed. So that's how we would have to look at that and base those recommendations on phasing out.

Alderman Lucas: It is my understanding that half of Ruppel Road would be developed with this first phase. Is that correct?

Jeremy Pate: In the commitments that Mr. Lindsey and his team have prepared for you in a statement of commitments, they have stated that they are committed to constructing Ruppel Road.

Jim Lindsey: We have made that commitment to do that half. We will do the east half of Ruppel Road as part of this. We were told with the new urban design that density is not the issue. In fact the more density you could get, if you could figure it out they would be for it. That was not any restriction that was placed on us as we attempted to agree with the city.

Alderman Allen: I understand that, I think we just all need a better definition of infill. That's something that would be helpful to me.

Andy Jetkins, resident on Wedington stated this is a beautiful project and I think it's great. He stated as a citizen of Fayetteville I can see no downside. He went on to speak in favor of the project.

Ross Odom, owner of two companies that do business with Mr. Lindsey stated I have been at a number of projects that Mr. Lindsey has built throughout the three state area and I have yet to see one that's had a negative impact anywhere. He stated this is an awesome project. He stated after all has been said and done you need to consider the impact that this project will have on people. If you would approve this on the fact that there are literally thousands of people involved with Mr. Lindsey, and what he does has a profound impact on our very lives day to day. They have gone above and beyond on this project and it should be approved.

Bob Page, resident of Ruppel Road stated I live directly across the street and it looks like I am going to be the only house left that is not going to be torn down for a development. My biggest concern is the traffic impact. He asked if the four lanes would be able to sustain this project and the other developments. He went on to express his concerns about the project.

Steve Warden, with Fayetteville Mechanical Contractor stated he wanted the local people to do the work for this project. He went on to speak in favor of this project. He stated his company would be greatly impacted if this project goes forward. The employees will be greater impacted if it does not.

James Ball, Owner of JR Ball Contracting Group stated I know it is no surprise that the construction industry has suffered very greatly recently with the almost stopping of residential building. He thanked the Council for all they have done for Fayetteville and he stated it makes me proud. I would encourage you to look at this and pass it.

Don Staley, Owner of Westark Steel asked why in the world would you not want this project there. Tax dollars is what pays for these streets and lights but those tax dollars have to come from somebody. Even when Mr. Lindsey is not in this area he is using local employees and that is supporting your area and all those dollars. They never would get back to Arkansas if he didn't use subcontractors in this area even though he is working out of state. Growth has to go on and I think you would be making a very big mistake not to pass this.

Charles Sloan, Ward 4 resident and a developer stated I think it's a great project. I know this does cause some traffic problems but we have Mt. Comfort Road that is being built and Wedington is being widened. I feel like this is a great opportunity to have Ruppel Road built. I definitely support this and I think it has evolved into something that is really a great project.

J.B. Hayes, a developer stated I have been really impressed and I think we should welcome this type of investment opportunity for the city. He stated this would be a big improvement on our city streets and the tax base.

Jim Bemis, resident of Ward 4 stated I live two blocks from this place and I am going to be one of the 14,000 people that will be driving Ruppel, but there are a whole bunch of other folks that we are not taking into account tonight. He went on to express his concerns on the traffic issues this project could bring. He stated think about what's going to happen in the next four or five years. There are no plans on Ruppel that can be verified.

Alderman Thiel: You did support Wellspring and yet it was projected to have more vehicle trips than this project does.

Jim Bemis: My understanding from Wellspring was that there would be development of that road by Mr. Nock. We don't know what is going to happen on Ruppel. It was much more of a town form as I understood.

Richard Ramiro, a Certified Landscape Architect and Site Planner stated, I have no connection with Mr. Lindsey and I am in favor of this development. I have seen a lot of development in my life and this is an excellent proposal. He went on to express his concerns about the city's ability to be flexible with this new urbanism.

Jim Lindsey: I just wanted to make it clear to everybody that we did have confusion last night but the east side of the south side of Ruppel it will be built and we will put that in the agreement however it needs to be done. Some other people misunderstood that and I didn't make myself clear so I just wanted to let you know it will be built with the first phase.

Alderman Jordan: To the end of the first phase though.

Jim Lindsey: No it will be built all the way through.

Alderman Jordan: The three quarters of a mile?

Jim Lindsey: Yes, we will do that. We had made the promise to do that. I think Kim had made that with staff at some point and so if we made that promise or if Kim makes a promise or statement that is good enough for me. We will build that.

Alderman Allen: I would like to hear from the Ward 4 Alderman about their meeting last night and their reaction to the project.

Alderman Lucas: The meeting last night was very good, some of the same questions were asked last night that have been asked tonight and some of the same statements. This is a difficult decision because there are a lot of testimonial accolades for Mr. Lindsey and I couldn't agree more. He is an excellent developer, he does projects and when he says he is going to do a project it is completed and there is no delay. He has done lots of good things for Fayetteville and I appreciate that. I am concerned about all these people that rely on him for their jobs. I guess on the other side the traffic concerns me. I feel like traffic safety is very important, we have no way as far as I know to complete Ruppel Road to Mt. Comfort and if anyone has ever driven out there you know that the intersection with Ruppel and Mt. Comfort is like a country road. School busses go there and if we are putting 14,000 more trips a day on it that concerns me. The staff talks about neighborhoods, I have been to a neighborhood that is on a golf course in Maumelle and the lots are small but it looks like a neighborhood even though the golf course winds all around it and through it. It seems to me that this can be done. This is a big project, and that is a small town when you think about it. I think it's important that we have the infrastructure to support it. I appreciate the fact that Mr. Lindsey is going to develop half of Ruppel Road to the end of the project but what happens north of that all the way up to Mt. Comfort Road. I don't know that the city has any way of funding that at this point. I think it's wonderful that his apartments are so full but I live in Ward 4. I don't know that there is an apartment complex there

that does not have a for rent or lease sign out in front of it. That is my dilemma. Does that answer your question?

Alderman Allen: Somewhat, would you have anything that you could add to that Mr. Vice Mayor.

Vice Mayor Jordan: In the Ward 4 meeting last night it was a good presentation and we had good discussion on it. Today I received several phone calls and emails that weren't very supportive of the project. My concern is infrastructure of the city. That road has always concerned me and I know the price of that road is \$8,000,000 to complete that road. Another thing that concerns me is 80% of that is going to be apartments, is that true Jeremy?

Alderman Lucas: 1,185 apartments, isn't that right?

Vice Mayor Jordan: You had a little chart that shows it and I don't have that in front of me.

Alderman Lucas: 1,185.

Vice Mayor Jordan: So that's about 80%?

Jeremy Pate: There are 80% apartments, 9% mixed-use, 6% town homes and 6% single family.

Vice Mayor Jordan: Okay, and the other one was about 40% residential, was it not?

Jeremy Pate: It was 43% apartments, 19% mixed-use, 26% town homes, and 13% single family.

Vice Mayor Jordan: I know that our staff does not support this because it doesn't go with our 2025 Plan on town form. Another thing is the Planning Commission denied it. I know the vote was 3-3, but if the vote had been 4-3 would that have passed?

City Attorney Kit Williams: No, just like here it takes five affirmative votes to pass.

Vice Mayor Jordan: Those are my concerns about it. I know it will bring in substantial tax base and I think that it has less trips than what Wellspring did. I think that is a plus too. Those are my concerns and my comments.

Alderman Thiel: I am having a little trouble with this one because this Council passed Wellspring and I'm looking at this. There are only 50 to 75 additional units on this project than there were in Wellspring. There are 63 more acres of greenspace, parkland and tree preservation in this project than there was in Wellspring. There is estimated 5,000 less trips than there were in the Wellspring project.

Vice Mayor Jordan: Let me just be honest with you, if Wellspring was before me today I wouldn't pass it either. Things have changed somewhat.

Alderman Lucas: We don't have the money for the roads now. We were anticipating money for the roads and we don't have it now.

Alderman Thiel: We had money for the roads whenever Wellspring was done?

Alderman Lucas: We had anticipated having money for the roads.

Alderman Thiel: From what?

Alderman Lucas: Impact Fees.

Alderman Thiel: That was quite sometime ago.

Alderman Lucas: We won't go into that.

Alderman Thiel: I look at the economic benefit to everyone and also there are a lot of projects out there but a lot of these projects were approved and they aren't being built. Mr. Lindsey does generally carry through on his projects. The economic benefit on that does work out. And also you will know that that traffic increase will be there because it will get built. What could he do to make this better? I agree that it would be silly to put streets up against the golf courses so how could this project be better. I'm looking back at this eight units per acre that we just approved and I'm looking at what that looks like which Jeremy pointed this out. He said you know, at least whenever you're looking at this project, it's an entire project, it doesn't look like this does, that is just a solid grid of eight units per acre. This has the eight units per acre in the center and then you have a lot of greenspace. There are benefits to looking at the entire project, and I'm not sure how I'm going to vote on this. I'm just saying that I'm a little confused on this. Someone needs to tell why this doesn't work, what they can do to make this better and why I shouldn't support it.

Vice Mayor Jordan: That would be a good question for Jeremy Pate. I just asked him the same question today.

Jeremy Pate: I want to preface this by saying that I am not the designer of this project and nor is that the Planning Divisions role. We often give guidance to projects as they come through but ultimately they've got a very well qualified licensed set of engineers and architects that do that. In terms of the greenspace, I can't quantify those numbers that are presented to you because the comparison chart that I gave you only showed parkland. We know what was on Wellspring but we don't know what is on Links because there is no grading plan or tree preservation areas set out with this, this is a master plan. With Wellspring, it came through as a preliminary plat and we understood exactly what those numbers are and what had to be mitigated. In terms of this I'm still not exactly sure how that plays out with regard to when the site actually gets developed. There is obviously more greenspace on the site. I don't think a simple street that rings around the property is the functional solution. It's a bigger issue of trying to create a traditional town pad in which you create a neighborhood. If you walk in the subdivisions in your wards, there are obviously places where you feel comfortable and understand that this feels like a neighborhood and there are places that do not have that quality of life. That is what we are searching for here in general concept. In terms of the zoning issue, regardless of the street improvements and detail of the issue, ultimately it is a policy decision of this Council. Do you feel that this is an appropriate way to zone this property? Mr. Lindsey stated that the density was not a concern of staff. To a certain degree it's a concern but I don't think the density that is proposed is that big of a concern. It wasn't the number of units that we were concerned with; it was how it was put together on the site and how it actually formed the neighborhood as opposed to something other than that. Some of those issues could be addressed with more public streets, sidewalks that connect these units, as opposed to walking through a lot of the parking lots. I think that's a lot of the concerns in terms of the overall master plan development that city staff has.

Alderman Thiel: Thank you.

Vice Mayor Jordan: Does that help?

Alderman Thiel: Somewhat, I wish I had a copy of Wellspring to look at.

Alderman Ferrell: I would ask my fellow Councilman to consider some things. We have traffic problems all over this town. Our Vice Mayor is the Chairman of the Street Committee and that was one of our first endeavors when we started talking about a strategic plan to try to get ahead of some of these traffic problems was to go out west. There is money allocated to go that way. There is not money allocated to fix everything. We saw where the problems were and as a matter of fact an inordinate of it was headed out there because we wanted to do something before it was a problem. Is that a fair statement?

Alderman Jordan: That is a very fair statement.

Alderman Ferrell: I think it's worthy of mentioning that the Planning Commission voted 3-3-2 and the person that wasn't there was in favor of it. It might not have had five votes but I have heard serious concerns in this body about something being voted down at Planning Commission by one vote. The more apartments that are here for the market, the more stable the rates are going to be. If we cut the number of apartments down, I've heard people say there are apartments to rent but in the long run if there are fewer apartments it's just a simple law of the market. The rent is going to go up. 145 direct employees and their families, of those employees that live in Ward 3, they're for it. I haven't had a single thing against this. There are people that derive their livelihood from jobs like this. Consider that, three quarter of a mile of road they have offered to build. How many developments have we had where somebody has built three quarters of a mile or half of a boulevard, I don't think we've ever had one. The 2025 Plan is a goal.

Jeremy Pate: There are 31 conditions of approval with this project. I just want to make sure everyone is clear on that.

Alderman Jordan: Well, up until this meeting I did not know that three quarters of a mile was going to be built until Mr. Lindsey offered that tonight. That wasn't what we talked about even at the ward meeting. That does give me some food for thought. I would really like to table this for two weeks and think about it. Shirley, what do you think?

Alderman Lucas: That would be fine.

Alderman Gray: One thing that I think is a very significant fact is if we don't approve this plan, what is going in there?

Alderman Lucas: It's valuable property, there will be something.

Alderman Gray: It's very valuable property but it could look just like the picture we saw of cobblestone with none of the amenities that Links is promising us and no promise of the green space. So that's a real significant fact to me.

Alderman Lucas: Hasn't it already been approved as a PZD? So it stays that way until someone changes it?

Jeremy Pate: That's correct.

City Attorney Williams: I think you might have a point Lioneld because you don't have the Mayor here; this is a sharply divided question on the Council. It could be a 4-4 vote so you might want to not only have the entire Council here but also the Mayor here.

Alderman Rhoads moved to table the ordinance until the May 15, 2007 City Council meeting. **Alderman Gray** seconded the motion. Upon roll call the motion passed unanimously.

NEW BUSINESS:

The following item was removed from the Consent Agenda and added to New Business

2007 Citizen Survey: A resolution authorizing the Mayor to negotiate and execute a contract with the Survey Research Center (SRC) at the University of Arkansas in an amount not-to-exceed of \$25,000 to design and conduct the 2007 Citizen Survey; and approving a budget adjustment in the amount of \$25,000.

Vice Mayor Jordan: Alderman Ferrell, I believe you had this pulled from Consent.

Alderman Ferrell: Yes sir, I read through the questionnaire the other day and the more I thought about it, two or three thoughts came to my mind. I don't know that we necessarily need this survey this often. If you look through the meat of it there are a lot of things that have changed a little bit. I would rather take the \$25,000 and build \$6,250 worth of sidewalks near elementary schools, or we could use it to help pay the \$8,000 for the signs. In the report that we got in the packet, if you look at our most recent past months in our tax collections they have been off, I just thought \$25,000 is a pretty significant amount of money. To me it's basically a fiscal thing.

Alderman Lucas: I agree with Alderman Ferrell. We didn't budget for it this year so I don't see why we couldn't wait until next year and budget for it. I think sometimes that two years is too frequently.

Alderman Thiel: I think you made some good points. It seems like we've kind of had public surveys about different issues in one way or another. It could wait until next year.

Alderman Cook: Every two years is twice in your four year term. I know each of us know our wards and the people in our ward but there are other parts of the city that we may not know as well. I don't know all the parts of Fayetteville and I see the citizen survey as a window to the other parts of Fayetteville that I may not know as well. It's a refresher of where the people are coming from to help you. The value is doing it often enough and getting some consistency and answers and it lends more value to what the survey says.

Alderman Rhoads: I come from a background of working at a company that could probably squeeze about as much money out of a dollar bill as any company in the world. Yet, they still

did a survey of all their people every year. To me, the question we have to ask ourselves is, are we getting something from the survey. If the survey yields nothing that we can actually use then we should never do one again. If it gives us something that we can make better decisions with then \$25,000 every two years is not too much money.

Alderman Allen: Would some of you that have been here more than a few months be able to say that it's been helpful for you to have the survey?

Vice Mayor Jordan: I use it.

Alderman Allen: I like Bobby's idea of that. I look at the consent agenda each time we meet and think about a whole summer's worth of hot lunches for kids at the boys club and an awful lot of money that seems to be just saying pass through on consent. I don't know whether this is the item to use as an example or not because I don't know how effective the tool is.

Alderman Thiel: I think initially it did serve a purpose but I have to question whether or not the last one served as much of a purpose as the first couple. They give you a baseline but then I'm not sure if I am learning anything new or relative.

Alderman Jordan: Probably not.

Alderman Thiel: Probably not. I know there were reasons why we said we needed to continue it, and it does give you the validity but I'm not sure you couldn't have that same validity every three years.

Alderman Ferrell: Nancy, in response to what you said I would say I saw the one before and there weren't any surprises.

Alderman Cook: Susan Thomas said and I think we should still consider this, doing another strategic meeting and moving forward but I still think there is value. I think maybe one more round of this with what we've done based on the previous strategic meeting that maybe that will carry us into the next round and we will see the next vision of Fayetteville. I strongly believe we should get together and have another strategic meeting.

Alderman Allen: I would like that.

Alderman Lucas: I think that's a good idea but the survey that was last done has been since our last strategic meeting.

Molly Longstreth, University of Arkansas representative: Last time I felt it seemed as if there was no room for questions that might help you strategically plan for example. I don't view it that way. We did build in some money so that we could have a democratic process, not as extensive as it was that first year. If you wanted to think of a few questions in addition to what you've got that would really help you strategically plan that might be something that you would think about. Also if there were things that were finished that you want to evaluate, that would be something to contemplate also. She went on to explain that this does give you a chance to hear from citizens that you may never hear from.

Alderman Allen: How are the questions compiled?

Molly Longstreth: The questions were compiled in a couple of different ways. The city did a survey in 2001. Second we sat down with the goals and guiding principals and all the strategic planning documents for the city and then we developed questions from those. The ideas about growth management came from a survey that was done in another city in Arkansas because there was an interest in having an understanding of how citizens are feeling about growth issues and what they would be willing to support and what they wouldn't be willing to support. There had been a lot of democratic action in the previous year in the city so we tried to take those into account. We had meetings with the Council and we tried to take in as much input as we possibly could.

Alderman Allen: I think you make a good point about the silent group that maybe feels reluctant to come before the Council. Maybe we could try doing this another year and then reviewing it and thinking about doing it less frequently. I want to depend upon all of you that have been here longer about the merit of this.

Alderman Rhoads: I just think it's another valuable tool to be able to rely upon when you are making a judgment call on things. I don't recall ever seeing anything on the survey that I thought was really out of line or ludicrous. I thought it all made sense and I know I have heard people referring to the survey.

Alderman Allen: I know at agenda session there was some discussion about adding or subtracting some items and so maybe it just deserves some more scrutiny the next time through.

Alderman Rhoads moved to approve the resolution. Alderman Cook seconded the motion. Upon roll call the resolution passed 6-2. Alderman Gray, Thiel, Cook, Allen, Rhoads and Jordan voting yes. Alderman Ferrell and Lucas voting no.

Resolution 84-07 as Recorded in the office of the City Clerk.

Fayetteville Municipal Property Owners' Improvement District No. 18 - Woodbury: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 18 – Woodbury.

City Attorney Kit Williams read the ordinance.

Joe Gregory, with the Law Firm of Jack, Lyon and Jones, P.A. of Little Rock stated he would be happy to answer any questions.

Alderman Cook moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5011 as Recorded in the Office of the City Clerk.

Fayetteville Municipal Property Owners' Improvement District No. 20 – Quarry Trace Commons Subdivision: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 20 – Quarry Trace Commons Subdivision Infrastructure Project.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5012 as Recorded in the Office of the City Clerk.

VAC 07-2522 (Johnson): An ordinance approving VAC 07-2522 submitted by Bates and Associates for property located at the west side of Gregg Avenue, between 6th and Prairie Streets, vacating a 20' wide portion of un-constructed right-of-way, a total of 0.20 acres.

City Attorney Kit Williams read the ordinance.

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

Alderman Cook: I went down there and I can't believe Gregg Street is 60 feet from right of way right there on that spot. I don't see a problem with that really.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5013 as Recorded in the Office of the City Clerk.

ADM 07-2565 (North Point): An ordinance approving ADM 07-2565, for property located at Lot 5 Block 1 of the North Point Subdivision, repealing and replacing Ordinance No. 4932 to allow for a lesser easement vacation than previously approved as indicated on the attached map and legal description.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the ordinance. He stated staff recommends approval. This did not actually go to the Planning Commission because it's simply repealing the last ordinance that was adopted by the City Council.

Alderman Cook: Based on the fact that we gave them a bigger one and he wants a smaller one I will move that we go to the second reading.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Vice Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed unanimously.

Ordinance 5014 as Recorded in the Office of the City Clerk.

Walker Park Cell Tower: A resolution to approve a twenty-five year lease with Callahan Tower Joint Venture for a small lot in Walker Park for a monopine cell tower at an annual rent of between \$12,000 and \$54,000, plus a \$20,000 contribution to the Walker Park Mural Project.

Alderman Thiel: I am glad they are tabling it. I was going to request this even though they are requesting it because we are having a ward meeting Monday, May 14th at 6:00 PM in Room 326 and I would hope if they are still interested in doing this that they will be there to visit with anyone in that neighborhood that has concerns about it. That is in Ward 1 and in fact even the location across the highway if they go to the private property, that's also in Ward 1. I hope people are there if they are interested in this Walker Park cell tower.

City Attorney Kit Williams: Of course they would like it tabled to the first meeting in June so not just the next meeting. The basic reason is that there are several cell phone companies involved and they are looking at both of the sites. Obviously according to what our rules are we are only going to approve one tower that close. So they are looking at both sides and they both should appear at your ward meeting.

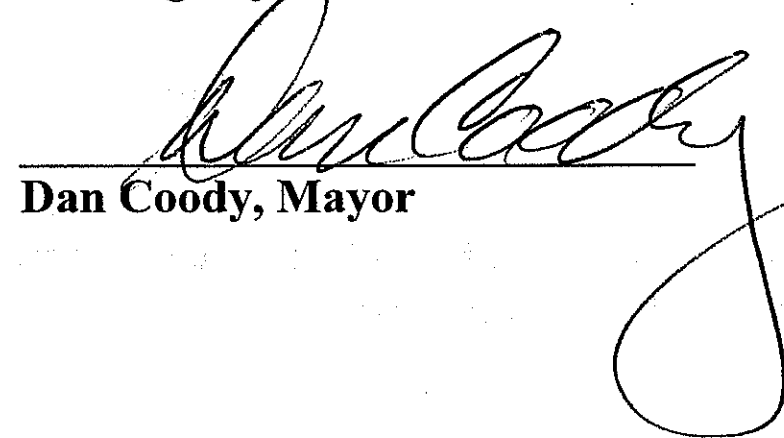
Alderman Lucas: You mean someone else is planning one too?

City Attorney Kit Williams: There is only going to be one tower but different companies are looking at different sites.

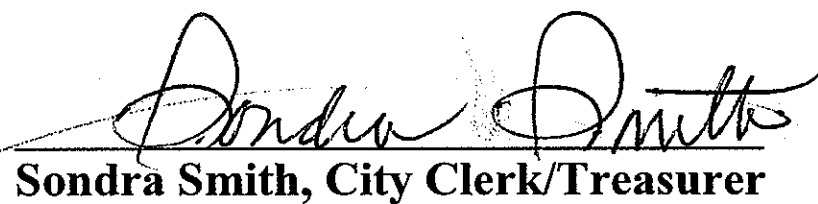
Alderman Allen moved to table the resolution to the June 5, 2007 City Council meeting. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

This Resolution was Tabled to the June 5, 2007 City Council meeting.

Meeting adjourned at 9:45 PM



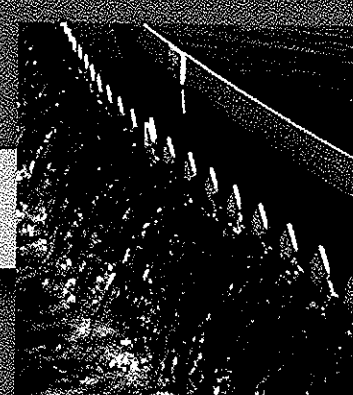
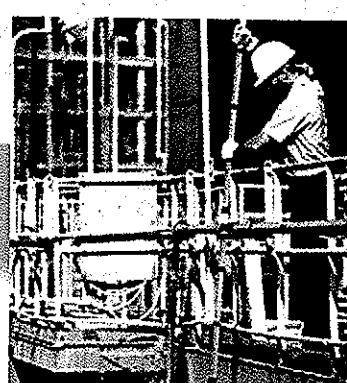
Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer

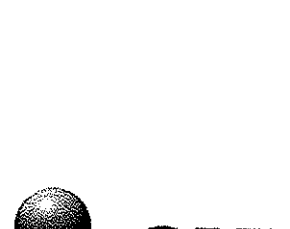
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2006 ANNUAL



Prepared for the City of
Fayetteville, Arkansas

REPORT





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Current Wastewater Operations and Maintenance Information

Owner: City of Fayetteville, Arkansas

Owner Contact: David Jurgens
Water and Wastewater Director
113 West Mountain Street
Fayetteville, AR 72701
479.575.8330

Operator: OMI

Operator Contact: Duyen Tran
Project Manager
1400 North Fox Hunter Road
Fayetteville, AR 72701
479.443.3292

Staff Size: 27

Hours of Operation: 24 Hours, Seven Days a Week

Type of Facility: Biological nutrient removal (BNR) (A/O Process)

Major Process Equipment: Influent screening, grit removal, primary clarification, biological reactors, secondary clarification, effluent filtration, ultraviolet (UV) disinfection, post aeration, split discharge to receiving streams, sludge disposal via land filling

No. of Sewer Lift Stations: 43

Type: Wetwell, drywell, submersible

Other Permitted Programs: Industrial pretreatment program (IPP) and land application

Contract Start Date: January 1987

Renewal Date(s): January 1989, August 1994, January 2001, May 2003

Completion Date: December 2008

Executive Summary

December 31, 2006, marked 20 years of successful partnering between OMI and the City of Fayetteville (the City) in the operation and maintenance (O&M) of the City's wastewater treatment plant (WWTP). This report summarizes activities involved in this partnership for contract year 2006.

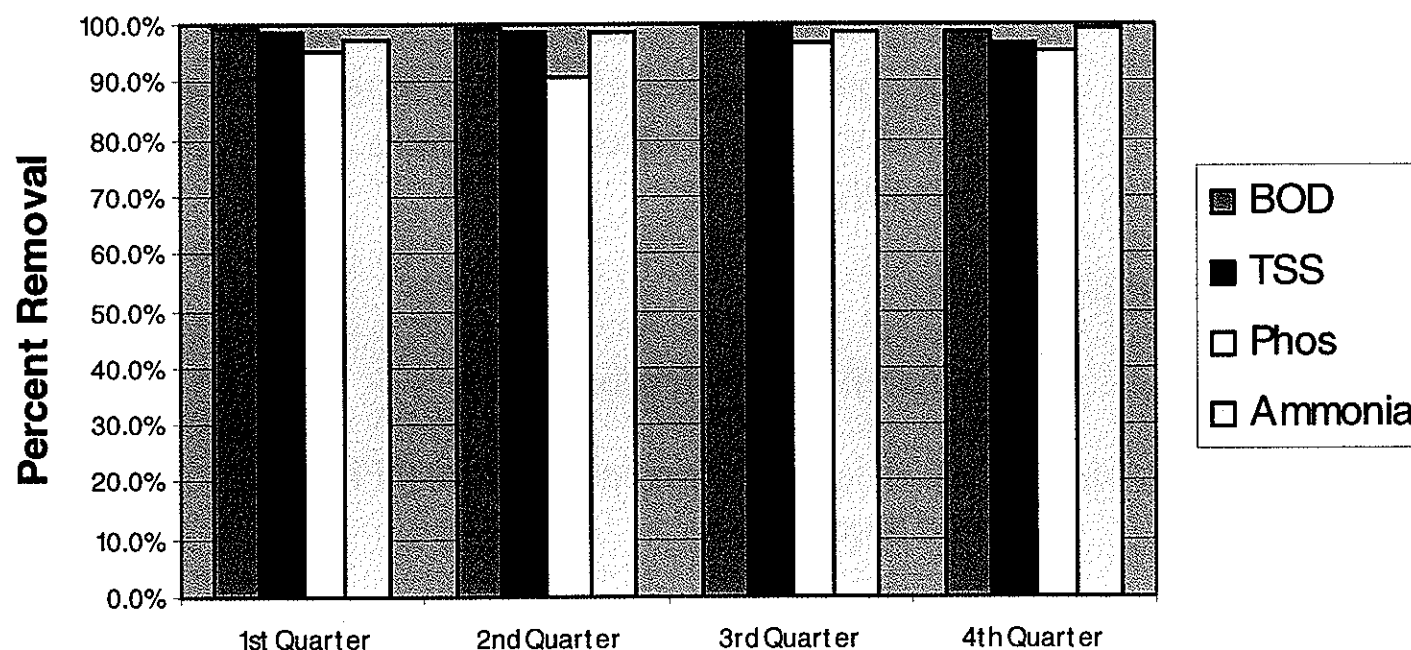
Performance Excellence

Permit Compliance

The Paul R. Noland WWTP achieved 100 percent compliance with its National Pollutant Discharge Elimination System (NPDES) discharge parameters in 2006. This is a remarkable accomplishment considering the plant has been under construction and is operating near plant design capacities. OMI regional technical staff provided invaluable support throughout the year, helping OMI Fayetteville staff maintain permit compliance. **Exhibit 1** shows the average percent removal efficiency the plant achieved in 2006 for biochemical oxygen demand (BOD), total suspended solids (TSS), phosphorus (Phos), and ammonia.

Exhibit 1

2006 Facility Percent Removal



Energy Management

In 2005, a two-megawatt generator was installed to provide backup power for the entire plant and to allow the City to benefit from significant ongoing electrical savings through peak load management. OMI O&M staff efforts continue to save approximately \$16,000 per month in electrical costs (\$192,000 annually).

Awards and Recognition

Thom Dodd, OMI Operator II, received the 2006 Northwest District Arkansas Water Works & Water Environment Association (AWW & WEA) Operator of the Year Award. OMI staff at the Paul R. Noland WWTP received three OMI internal awards in 2006:

- Presidential Teamwork Award, Honorable Mention
- Laboratory Excellence Award, Honorable Mention
- Perfect Compliance and Reporting Award



Plant staff also received two safety awards in 2006 from the Arkansas Department of Labor and the National Safety Council. The awards recognize OMI associates for working more than 9 years and more than 500,000 hours without lost time injury or illness.

Paul R. Noland Plant Upgrade

The upgrade of the Paul R. Noland Plant started in May 2005 and continued through 2006. Maintaining normal operations during construction is constant challenge. OMI staff successfully resolved challenges encountered, including those discussed below.

Digester Cleaning

OMI staff cleaned out two of the six abandoned digesters; cleaning out these digesters allows staff to use them as sludge holding tanks as planned in the plant upgrade. Inhouse staff completed the digester cleanup effort in six weeks, saving the City an estimated \$117,000.

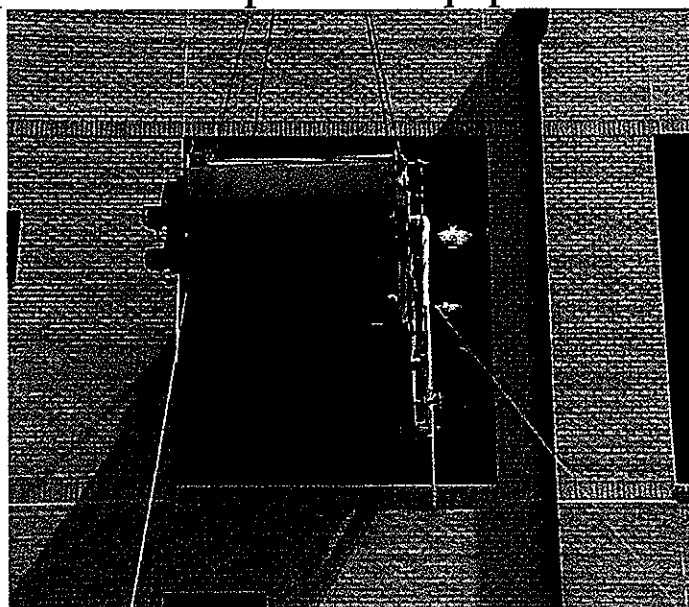
Sludge Pumping Configuration

Working with Black & Veatch Corporation and Archer Western Contractors, OMI associates derived creative solutions at various steps throughout the construction process to maintain the sludge wasting system with the goal of minimizing operations disruptions. OMI staff also made adjustments to the new sludge decant system in one of the newly-converted sludge storage tanks to prevent sludge from becoming septic. Septic sludge produces excessive odor and makes the sludge belt filter press process more difficult, causing an increase in sludge disposal cost and process difficulty.

The wasting system for the upgraded solids handling system did not function as planned. The gravity feed system as designed created a siphoning effect, causing an uneven activated sludge concentration in each aeration basin as well as inconsistent sludge flow. After discussion between OMI staff, Black & Veatch engineers, and Archer Western Contractors, a change order was submitted to correct the process.

Biosolids Building Startup

A new belt filter press was installed, and the existing belt filter press was moved from the old South Operations Building to the new Biosolids Building (see picture at the right of the belt press being placed into the side of the new building). The switchover from the existing system to the new system required extensive coordination between all parties, as well as troubleshooting of problems and issues surrounding the startup of several new processes and pieces of equipment. These issues were largely resolved, and the new



building represents a tremendous enhancement to the solids handling capability of the Paul R. Noland WWTP.

Treated effluent (after screening by newly installed straining equipment) is now used for washdown water and belt filter press cleaning in the new Biosolids Building instead of potable water. The plant's monthly potable water consumption was reduced by approximately two million gallons.

Wastewater System Improvement Project

OMI staff attended numerous meetings with various engineering firms, City staff, and construction companies involved in the Wastewater System Improvement Project (WSIP). The staff reviewed plans and specification to assist engineers in providing complete and accurate information to the bidders; staff continue to interface with all parties as this process moves forward.

OMI Construction Coordinator, Stanley Williams, was featured in and assisted with video updates on the WSIP. The videos are aired on the local government channel and in the lobby of the City Hall.

OMI staff helped monitor the upgrades of the Paul R. Noland WWTP and construction at the Westside WWTP, providing input from an operational perspective. We attended monthly construction progress meetings and other WSIP-related meetings. We worked with design engineers to provide input on the equipment O&M at the plants and lift stations.

OMI staff relocated the power and control panel at the Hamestring Lift Station on a more or less emergency basis. This immediate out-of-scope work minimized delay in line work near this lift station when it became apparent that the existing electrical service had to be relocated to allow construction to continue.

OMI also provided out-of-scope budgets for four lift station upgrades to be completed in 2007, as requested.

Underground Storage Tanks Removal

Preventing compliance complications with underground storage tank regulations and further protecting the environment, David Jurgens directed OMI to facilitate the removal of three abandoned underground storage tanks from the Paul R. Noland WWTP and an underground storage tank at the Farmington Lift Station (LS No. 12). OMI staff worked with Mid-America Environmental Solutions, assisting with tank closure work plans. The tanks were used to store ferric chloride for biosolids conditioning and ferrous sulfate for odor control in the collection system. Removal of the tanks at the WWTP was completed in August 2006 and removal of the tank at LS No. 12 was completed in November 2006. Coordination with Archer Western helped eliminate the cost for backfilling, minimizing overall cost for the tank removal process.

Plant Overview

OMI has provided O&M services at the Paul R. Noland WWTP since the plant first began treating wastewater on February 25, 1988. In 2006, the facility served approximately 79,632 people from the City of Fayetteville and the neighboring communities of Greenland, Farmington, Elkins, and Johnson. The wastewater treatment process consists of influent screening, primary clarification for grit removal, BNR, secondary clarification, effluent filtration, UV disinfection, post aeration, belt filter press sludge dewatering, sludge hauling, and landfill disposal of biosolids.

The Fayetteville area receives an average of 44 inches of rainfall annually and has a temperate climate. Fayetteville is primarily a residential community with associated commercial activity; it has a small, but significant industrial mix, including nine significant industrial users.

The City was required to construct the existing WWTP in the mid-1980s to produce effluent to meet stringent receiving stream standards. OMI is providing complete O&M service, including staff training, computerized maintenance management and inventory control, laboratory services, IPP management, installation of standard OMI management systems, operation of a land application site (including hay harvesting and marketing), operation of a sludge dewatering system and hauling program, and public awareness assistance. OMI operates the facility to consistently meet effluent permit limits of 5, 5, 2, and 1 mg/L (CBOD₅, TSS, ammonia nitrogen, and phosphorous).

Staffing Plan

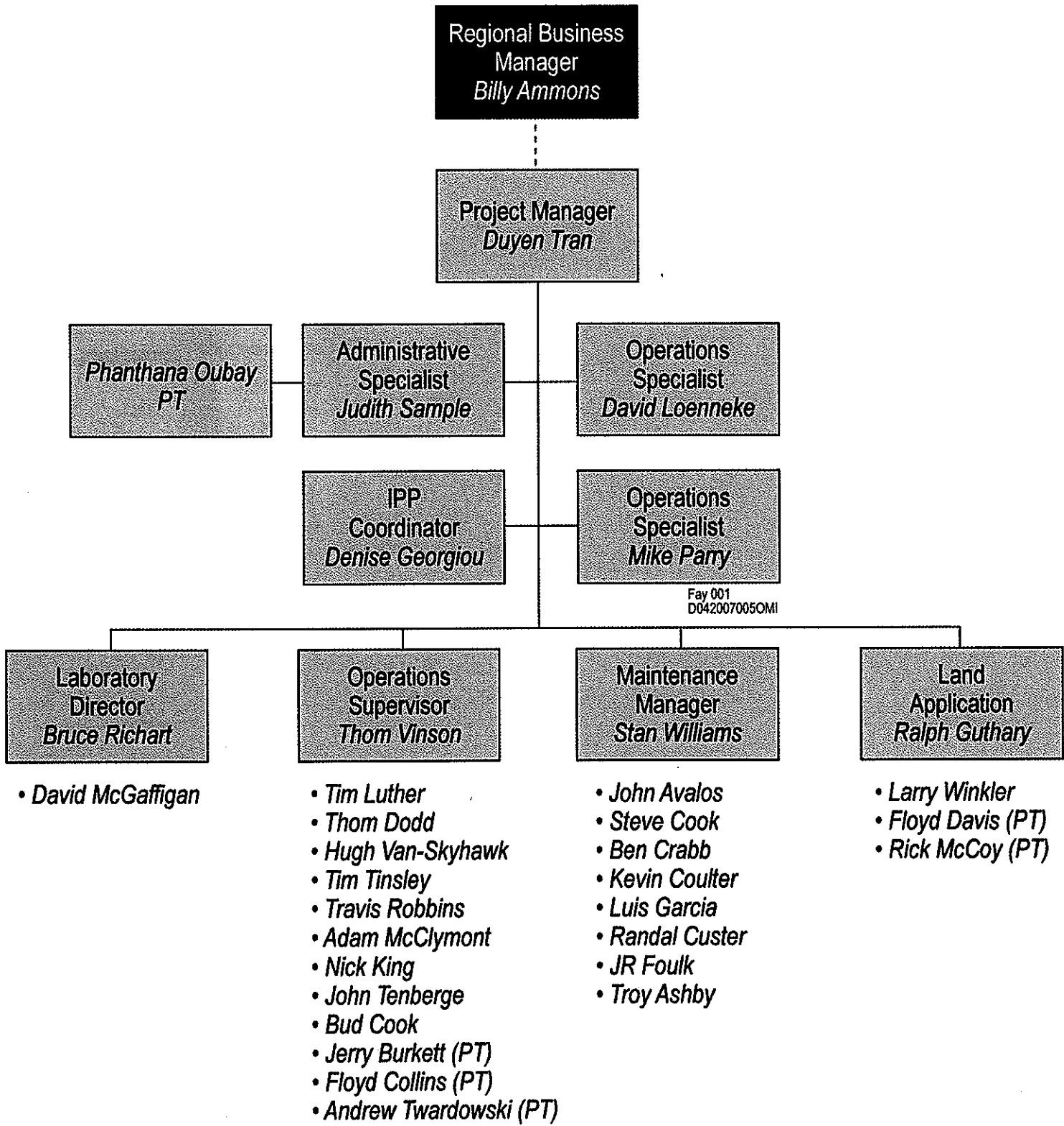
The OMI Fayetteville staff participates in an ongoing cross-training program to enable 27 full-time equivalent persons to handle operations 24 hours a day, 7 days a week. Most associates are fully proficient in two to six disciplines, resulting in a larger pool of human resources to perform the varied tasks required to operate the facility efficiently.



OMI Fayetteville Staff

Exhibit 2 shows current OMI Fayetteville staff assignments.

Exhibit 2
OMI Fayetteville Staff Organization



Department Overviews

Operations

Solids Production and Disposal

The plant generated approximately 20,090 wet tons (or 3,175 dry metric tons) of sludge in 2006; an average of 2.5 loads per day were hauled to landfills for final disposal. The sludge was hauled to the BFI landfill in Porter, Oklahoma, for the first half of the year; then to the American Environmental landfill in Sand Springs, Oklahoma, for the remainder of the year. The Waste Management landfill in Tontitown also was used temporarily between April and June 2006. The total volume of hauled sludge remained relatively the same as 2005; however, the overall costs of sludge disposal continued to be impacted by the increase in diesel fuel prices in 2006. There was no land application of sludge in 2006.

Plant Performance/Permit Compliance

The facility produced high quality effluent on a consistent basis in 2006. A new NPDES permit (effective June 1, 2006) eliminated summer restrictions for discharge to the White River outfall. There were no NPDES permit violations and no instances of significant or extended inhibition to the treatment process. Introduction of the full incoming organic load into the aeration basin continued to be an effective method of enhancing the nutrient removal process.

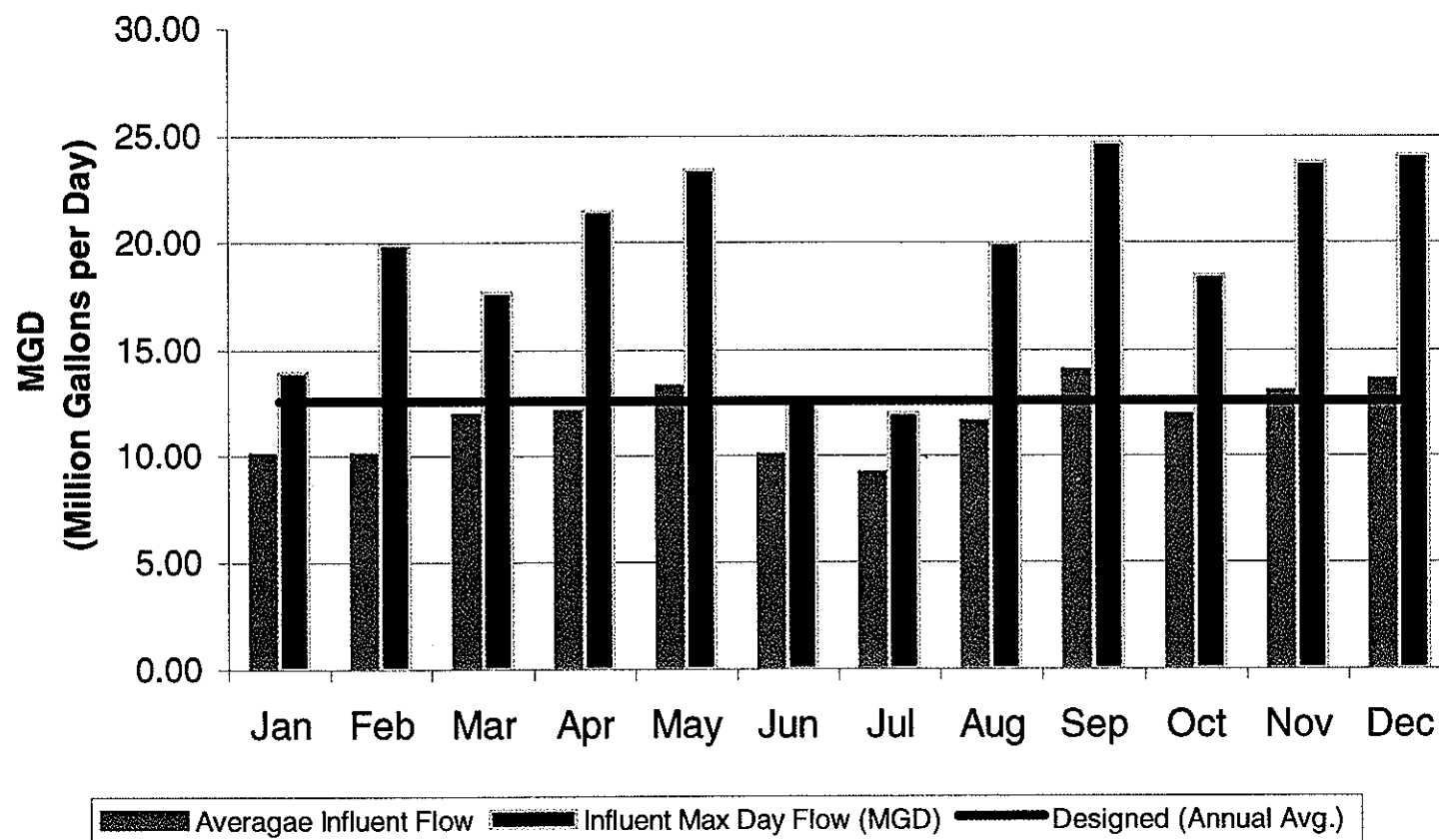
Electricity

Electrical use was up slightly (0.6 percent) for 2006, with a total usage of 12,680,400 kW hours. The overall cost for electricity, however, decreased by 4 percent to \$653,203.76, or \$1,789.60 per day, despite the fuel cost adjustment averaging 31 percent of the total cost for electricity, which is significantly higher than 2005. We realized decreased electrical cost because we used the off-peak electrical rate all year. The off-peak electrical rate was made possible through the power management system. The power management system uses the new two-megawatt power generator to operate the facility during peak demand periods. The City also received an annual credit from Ozarks Electric Cooperative for \$6,060.06.

Plant Loadings

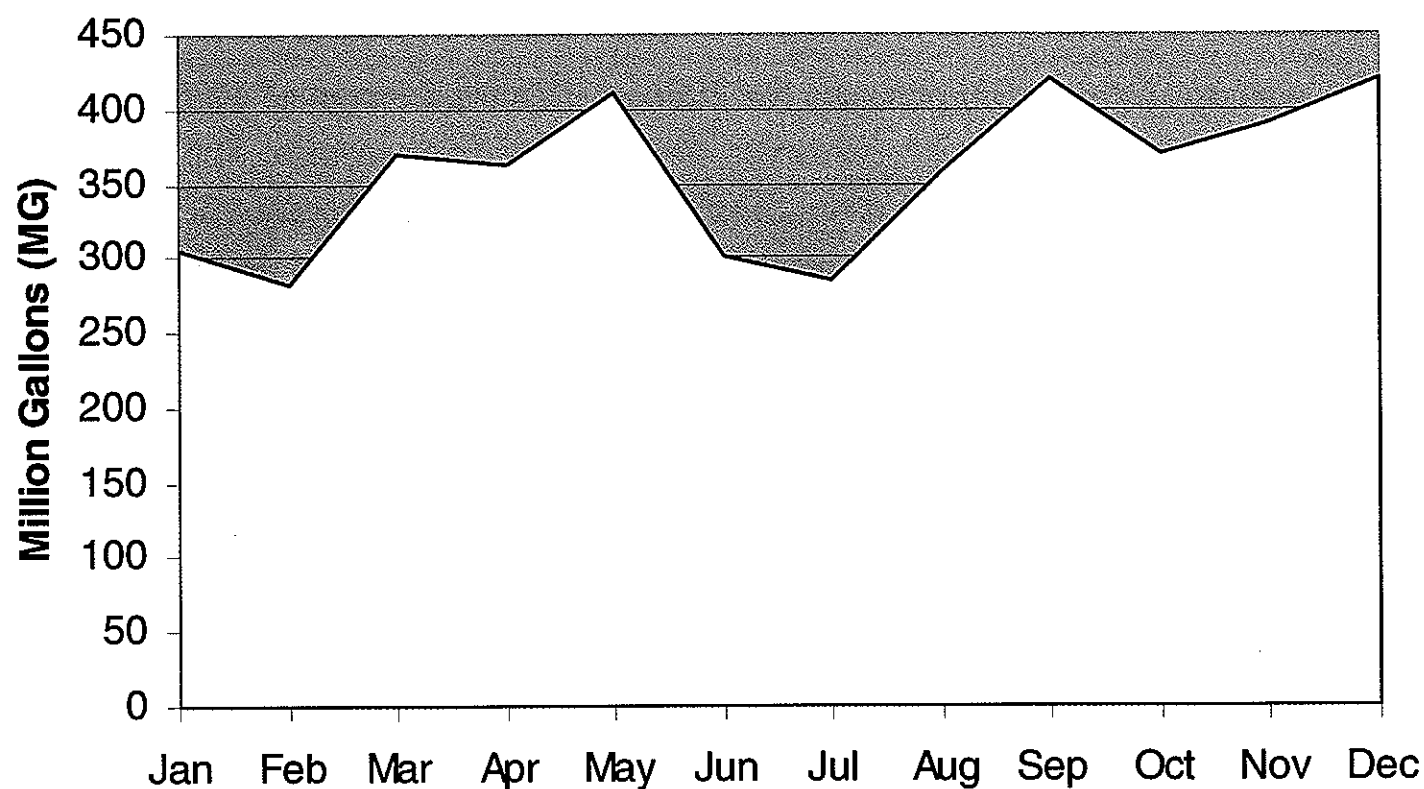
The lowest monthly average influent flow in 2006 was 9.17 millions gallons per day (mgd) in July. The highest monthly average influent flow of 14.03 mgd occurred in September. The annual average influent flow for 2006 was 11.73 mgd; this average is less than the annual average design rating for the WWTP, which is 12.6 mgd. The 2006 influent flow is illustrated in **Exhibit 3**.

Exhibit 3
2006 Influent Flow



The highest monthly average influent BOD loading (organic loading) for 2006 was 27,182 pounds, while the average daily loading was 22,924 pounds. With the facility design is set at 25,700 pounds, this represented an organic loading of 89 percent of the plant's design for BOD. This organic loading is slightly higher than the average loading recorded in 2005, which was 87 percent of the plant's design. The 2006 monthly influent flow is illustrated in **Exhibit 4**.

Exhibit 4
2006 Monthly Influent Flow



Public and Professional Activities

We conducted approximately 30 WWTP tours in 2006. We provided tours to Fayetteville elementary schools, Fayetteville High School science classes, and University of Arkansas civil engineering classes. Several home school groups and a number of civic groups, engineering teams, and individuals visited the facility. Another educational tool we are proud to continue supporting is the trailer-mounted, nine-hole miniature golf course (shown in the photo at the right), with each hole patterned after a step in the wastewater treatment process. We displayed the OMI mini-golf course at the City's Autumnfest in October 2006. We also brought the



miniature golf course to West Memphis and Dewitt, Arkansas, at Ellen McNulty's (of the Arkansas Department of Environmental Quality) request.

OMI staff is active at the district and state level in wastewater activities in 2006. Duyen Tran continued to serve as a member of the Board of Directors of the Northwest District AWW&WEA and served as the Committee Chairperson for the Laboratory and Pretreatment Sessions for the AWW&WEA Short School in Hot Springs.

For the twelfth year, OMI supported the Curb-The-Clutter program by cleaning up of a section of Old Wire Road near Highway 265. Staff also maintained an unofficial commitment to clean up Fox Hunter Road near the plant on an annual basis.

Other OMI community involvement activities included:

- Participating in the City's annual United Way campaign
- Collecting and matching donations for the battered women's shelter and the Seven Hills Homeless Center
- Helping the Meals-on-Wheels program deliver food to elderly people
- Donating money to several local charitable organizations

Training

In keeping with OMI's commitment to stay abreast of new technological and regulatory developments, OMI continued to stress training for all associates. Each OMI associate attends a minimum of 30 hours of training per year. Our associates also are encouraged to cross-train in different disciplines to increase versatility and efficiency. Six OMI associates received Class I wastewater licenses, and six associates upgraded their wastewater licenses in 2006. Six OMI associates hold the highest license level of Class IV wastewater operator licenses within the state. Associates participated in necessary training to qualify for upgrading licenses in classes given by the Arkansas

Environmental Academy, and they attended monthly district meetings of the Northwest District AWW&WEA. OMI also conducted in-house training sessions that were eligible for formal training credits from ADEQ for licensing renewal. In 2006, OMI conducted the 40-hour class inhouse for class I wastewater operator training. The class also was offered to nearby Northwest Arkansas wastewater facilities.

Laboratory

In 2006, the OMI Fayetteville laboratory received 1,232 samples. The laboratory conducted 6,327 analyses on these samples in addition to 2,026 analyses to verify quality control of the data. The in-house analytical capabilities include 38 parameters (although we routinely only analyze for 11 of the 38): alkalinity, chloride, ammonia, BOD/CBOD, chemical oxygen demand, dissolved oxygen, fecal coliform, nitrate, nitrite, pH, total phosphorus, ortho-phosphorus, specific conductance, total residual chlorine, total solids, TSS, volatile suspended solids, total dissolved solids, antimony, arsenic, beryllium, cadmium, chromium, copper, lead, molybdenum, nickel, potassium, selenium, silver, thallium, and zinc.

Noteworthy accomplishments in the laboratory include:

- Passing the annual audit by ADEQ with no findings or recommendations
- Passing the annual U.S. Environmental Protection Agency (U.S. EPA) Discharge Monitoring Report-Quality Assurance Study Program Water Performance Studies for all permitted parameters
- Passing the annual NSI Water Performance Study for all permitted parameters as required by OMI internal laboratory quality control program
- Earning the OMI Laboratory Outstanding Achievement Award
- Presentations at the annual Arkansas Water Environment Association and U.S. EPA Region IV conferences
- Conducted Noland facility and industrial loading studies
- Implemented analytical schedule in accordance with the new NPDES permit

Industrial Pretreatment Program

The IPP includes nine permitted significant industrial users, five of which are metal-based categorical users. Three large food industries participated in the surcharge program for excess TSS and BOD loading, generating more than \$440,000 in revenue for the City. Along with administering the program, industrial pretreatment personnel serve as industrial liaisons who provide education and training for industrial users and the general public.

In addition to industrial discharges to the sewer, hauled septic tank and portable toilet waste are discharged into the headworks of the treatment facility. The hauled waste program generated \$7,300 in revenue for the City.

IPP Activities

- Total number of compliance inspections: 14
- Total number of compliance and surcharge sample collection events: 18
- Total number loads of hauled waste accepted: 146
- Total number of unusual discharge/influent cases: 4
- Permitted industrial users in 2006:
 - Ayrshire Electronics, LLC
 - Cooper Power Systems/Kearney Operation
 - Elkhart Products Corporation
 - Hiland Dairy Company
 - K-D Tools
 - Marshalltown Tools
 - Pinnacle Foods Corporation
 - Superior Industries International, Inc.
 - Tyson Foods, Inc.
- Haulers discharging in 2006:
 - A-1st National Rooter
 - Best Jet
 - Best Toilets
 - Potty House
 - PMI (Special Waste)
 - Basic (Special Waste)

IPP Revenue

Revenue generated from the IPP is shown in **Exhibit 5**.

Exhibit 5
2006 IPP Revenue

Area	Revenue
Industrial Surcharge Fees	\$444,596
Hauled Wastewater Fees	\$7,300
Application Fees	\$1,100
Administrative Fines	\$0
Total	\$452,996

Note: The City of Fayetteville collected all funds directly.

IPP Accomplishments

The annual industrial awareness seminar was held at the Fayetteville Chamber of Commerce November 2, 2006. David Jurgens, City of Fayetteville Water and Wastewater Director, presented the Wastewater System Improvement Project. University of Arkansas Associate Professor Dr. Marty D. Matlock discussed water quality issues in Northwest Arkansas. Duyen Tran, OMI Project Manager, and Billy Ammons, OMI Regional Business Manager, gave a Paul R. Noland WWTP process update. Denise Georgiou, OMI Industrial Pretreatment Coordinator, presented an update on the IPP. Exit evaluations were very positive as were comments from attendees during the seminar. Four significant industrial users earned compliance awards.

The IPP passed the ADEQ annual compliance inspection conducted with the U.S. EPA at the beginning of the year. A second IPP inspection was conducted in late 2006. Allen Gilliam, ADEQ Pretreatment Coordinator, found no major issues in a three-day audit of Fayetteville's IPP. This audit is conducted every three to five years. He completed a file review and inspections at five industries during the audit.

OMI staff coordinated with Pollution Management, Inc. to accept contaminated stormwater from a University of Arkansas remediation site on Harmon Road while protecting the plant and the river.

The Industrial Pretreatment Coordinator worked with Superior Industries International, Inc. on decommissioning of Superior's chrome plant. No high metals or cyanide were seen in the WWTP influent.

OMI staff completed a BOD and TSS loading evaluation; the results showed that population growth and industry accounted for the BOD and TSS increases. No unidentified point source appeared to be responsible.

We completed the industrial user survey (required every three years) in 2006. Two powder coating facilities will be evaluated in 2007 to determine whether permitting is required.

We minimized summer inhibition of the biological process in part through frequent communication with the industrial users.

We worked with industrial users to maintain a high level of industrial user compliance with permit limits (**Exhibit 6**).

We maintained consistent low metal loadings (**Exhibit 7**). The rise in zinc in 2004 is because of a lift station chemical. We had the vendor reduce the zinc, and by the end of the year, loading was back down to previous levels.

Exhibit 6
Permitted Industries' Limits Violations 1996 - 2006

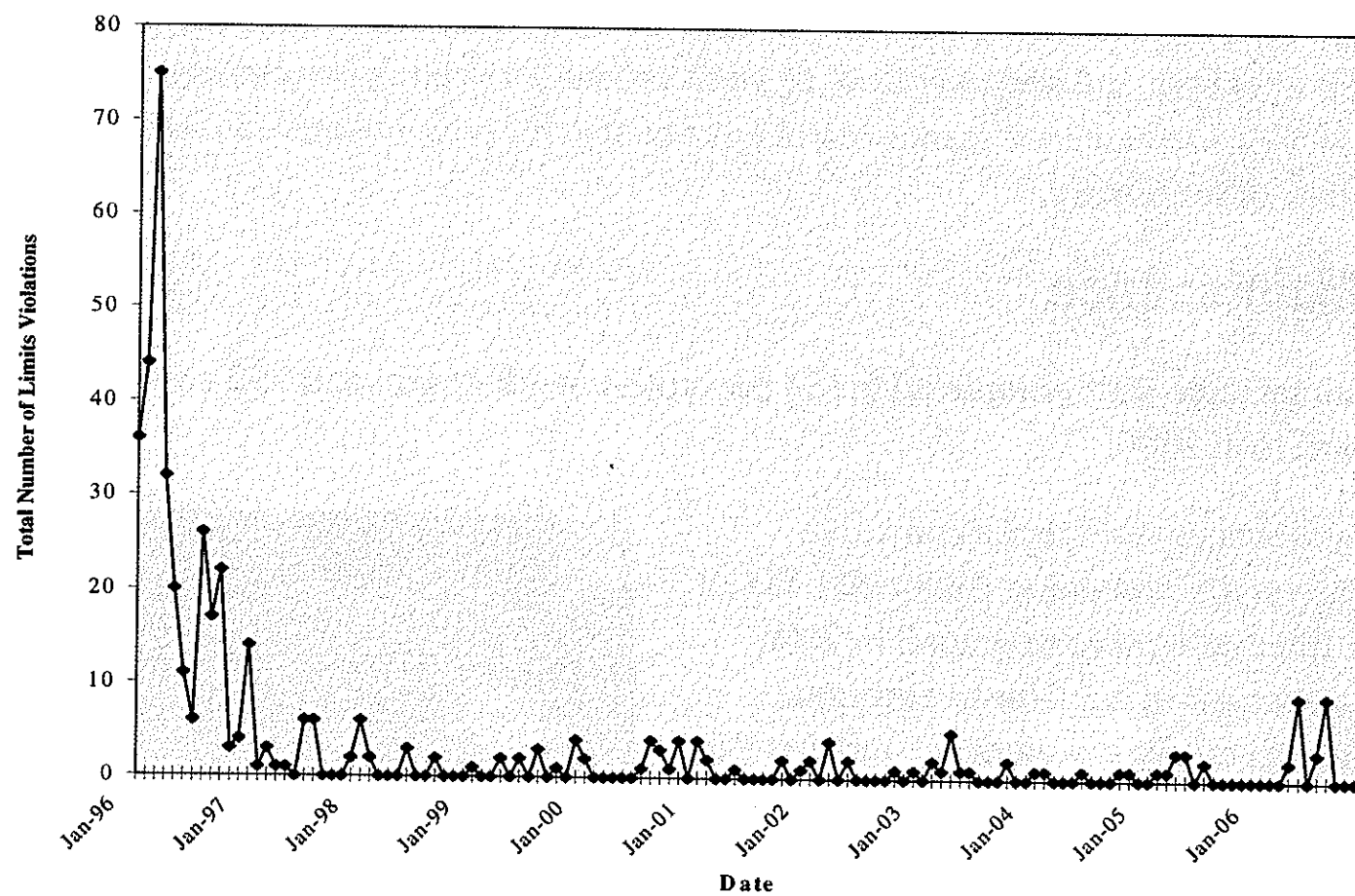
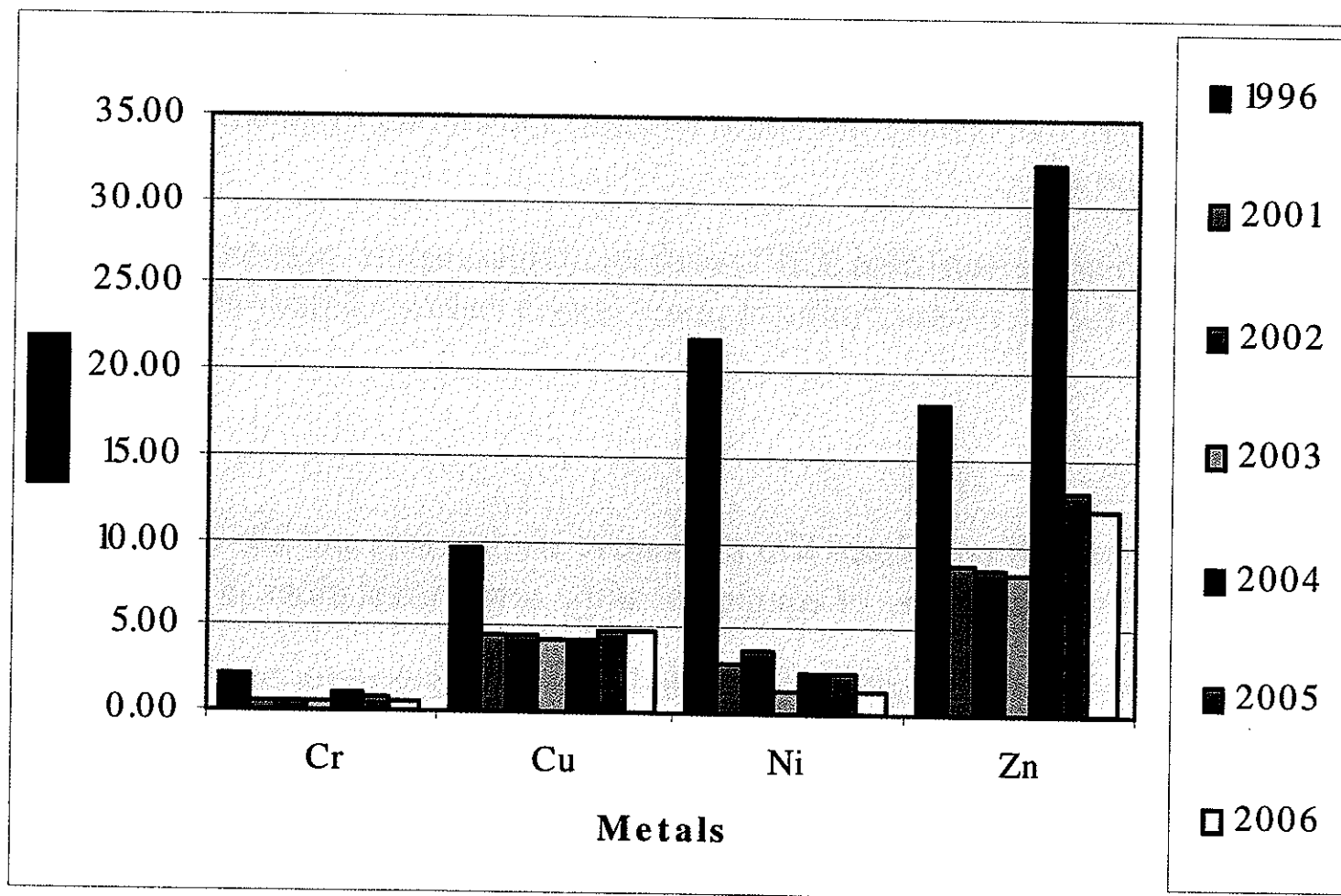


Exhibit 7
Metals Loadings

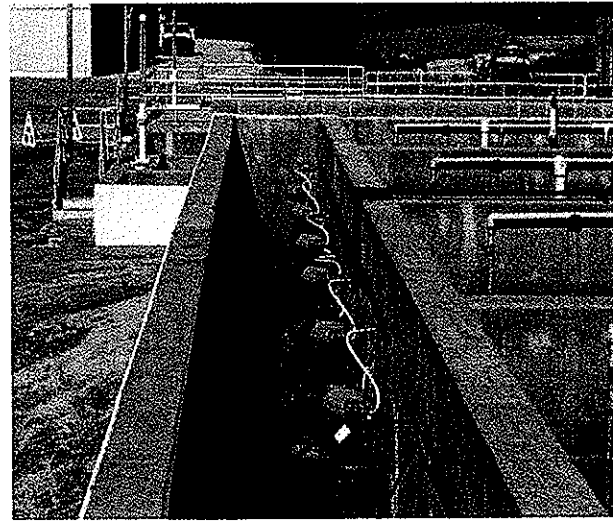


Maintenance

The Noland WWTP uses a computerized maintenance management system to track the maintenance workload and keep the flow of work orders between departments smooth and efficient. The maintenance management system also helps to maintain inventory of parts and work order history.

WWTP Maintenance

- The maintenance staff completed 5,182 preventive work orders and 592 corrective work orders in 2006.
- The maintenance staff replaced valve actuators on the remaining filter cells. Six of the ten filter cells were upgraded in 2005 with a new type of actuator to eliminate freezing and costly maintenance repairs. The manufacturer for the original valve actuators no longer produces parts for the 19-year-old units. These upgrades will allow all ten of the filter cells to operate more efficiently.
- New variable frequency drives for the return activated sludge pumps were installed.
- OMI staff assisted and worked with Archer Western Contractors and Black and Veatch Corporation to resolve numerous construction conflicts that arose during plant upgrade projects.
- Other capital improvement plan (CIP) purchases/replacements included an automatic transfer switch for the primary influent pump station and two aerator motors for the aeration basin.



Lift Stations

- The maintenance staff completed 875 preventive work orders and 286 corrective work orders on various pieces of equipment at the sewer lift stations in 2006.
- OMI maintenance staff evaluated the condition of the generator transfer switch at the Old Wire Road Lift Station (LS No. 6) and repaired the transfer switch in-house to prolong its functionality until the West Side Wastewater System comes online. The generator's transfer switch is more than 20 years old and will cost approximately \$25,000 to replace. The unit will ultimately need replacement but with the interim repair as a viable option, the replacement costs will be significantly reduced to match the reduction in capacity of this station.
- Twelve pumps in various lift stations were rebuilt.

- Other CIP purchases/replacements included an automatic generator transfer switch for Gregg Avenue Lift Station (LS No. 5) and a new pump for Crystal Springs Lift Station (LS No. 3).

Land Application Site

The land application site is composed of 670 acres that adjoins the treatment plant property. The site is also bordered by 12 private property owners.

Beginning in September 2003, the WWTP received a new land application permit for biosolids and effluent. The permit requires groundwater monitoring of three existing wells with at least one down-gradient of the effluent land application sites. The new permit also limits biosolids application beginning in 2004 to emergency situations only. We performed soil sampling in the spring for permit requirements and in the fall to determine the lime and nutrient application needs. Water well sounding and monitoring were completed on a monthly basis, and samples were collected quarterly for analyses as required by the permit.

There was no land application of sludge to the site in 2006; however, we applied 150 tons of lime to the permitted application areas. We applied effluent for irrigation from July 5, 2006, through August 21, 2006, to enhance crop growth and nutrient uptake. A total of 31.14 million gallons of treated effluent was applied to the site during 31 days. We completed herbicide application in the spring for weed control and performed wicking between hay cuttings to control the Johnson grass infiltration. OMI continues to grow Midland Bermuda grass to facilitate the uptake of phosphorus and nitrogen. The grass is cut and harvested as hay and sold to local farmers. The site produced 2,218 tons of hay in 2006, which was sold for an average of \$58.63 per ton. This generated net revenue of approximately \$130,083.73 for the City.

Other accomplishments from the land application site in 2006 include:

- Receiving no complaints about the land application site from the adjacent property owners
- Managing the hay harvesting with minimal staffing through crosstraining
- Returning sludge application trucks and all related parts to the City Fleet Division
- Making fence repairs to the perimeter fences necessitated by vandalism and an automobile accident on the south side fence
- Replacing lateral and marker number signs and no trespassing signs on the outer fences
- Replacing safety placards on all moving vehicles and machinery

Projections For 2007

OMI staff provided strong support to the WSIP in 2006 and expects to continue that effort in 2007. OMI personnel will continue to attend construction meetings and discussions involving the upgrades of the Paul R. Noland WWTP and the construction of the new West Side WWTP. OMI's Plant Construction Coordinator (Stanley Williams) and Regional Business Manager (Billy Ammons) will continue to keep the City Water and Wastewater Director (David Jurgens) informed of plant upgrades progress on a regular basis. OMI helped develop the startup and operational budgets for Westside WWTP and startup procedures for the remainder of the Paul R. Noland WWTP upgrades in 2007. In 2007, OMI staff will attend equipment training classes to prepare for startup of the new plant in 2008.

The rising cost for operations due to cost increases in fuel and labor remained a challenge in 2006. However, OMI staff minimized increases in the operational budget and absorbed additional costs created by the plant upgrades and WSIP. We will continue to explore new technology and new modes of operations to contain costs in 2007.

Significant improvements were made to the equipment at the Paul R. Noland WWTP and the lift stations in 2006. CIP replacements and rehabilitation will continue in 2007 to upgrade aging equipment, maintain operations quality, and further protect the local water environment as well as the City's significant infrastructure investments.

OMI remains focused on enhancing our partnership with the City of Fayetteville by raising the bar of what we expect from ourselves and what we deliver to the City. Our focus leads to our successes and enables us to provide a positive report concerning WWTP activities for 2006. We look forward to 2007 and the opportunity to provide excellent service to the City of Fayetteville and its citizens.

File. Consent Handed out at Council
Meeting 5/15/07

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-40 TO RIGGS POWER SOLUTIONS FOR THE PURCHASE OF THREE (3) BACKUP POWER GENERATORS IN THE AMOUNT OF \$74,268.72 PLUS ALL APPLICABLE TAXES FOR WSIP SUBPROJECT EL-4, EAST SIDE LIFT STATION UPGRADES.

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 #7-40 to Riggs Power Solutions for the purchase of three (3) backup power generators in the amount of \$74,268.72 plus all applicable taxes for WSIP Subproject EL-4, East Side Lift Station Upgrades.

PASSED and APPROVED this 15th day of May, 2007.

APPROVED:

TEST:

By:

AN COODY

Mayor

SONDRA E. SMITH, City Clerk/Treasurer

5/15/2007

Good afternoon City Council Members;

As you are aware, you will once again address an appeal for Lindsey's project along Ruppel road;

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.

I write this email with some reservation. There seems to be some unwritten rule or "protocol" between developers. Though often times we don't necessarily care for another developer's project, some of us consider it inappropriate to publicly voice our distaste with another's proposal. Now having made it to third reading, I have decided to break my silence and voice my opinion with Lindsey's proposal. Of course, this email is purposed to do just that.

I (and many of my staff), attended several meetings during the construction of the City Plan 2025. I feel the input from schooled and experienced planners within my own company, our hired consultants, city planners, and the citizens themselves mapped a fairly clear direction to how they feel Fayetteville should develop and redevelop over the next couple of decades. If you'll recall, you approved one of my own projects known as Park West many months prior to the creation of the City Plan 2025. As it turned out, Park West was the literal model of the soon-to-be-adopted plan. Most of the principles from which Park West was designed became the same principles that make up the City Plan 2025. Another of our projects, known as OakBrooke, utilizes the same design principles.

To my misfortune, The Links is proposed to be directly adjacent to (across Ruppel Road) to my Oakbrooke project. And now that I think about it, I don't remember seeing any "notification" by mail of The Links project. We will soon be seeking final plat for OakBrooke and we intend to bring the project back to City Council for modifications that will actually make the project more harmonious with the principles of the City Plan 2025. And, depending on the Council's support of those modifications, OakBrooke will provide the opportunity for many QUALITY workforce houses. I feel The Links has "missed the boat". In my own opinion, The Links fails to adhere to even the most basic principles of the City Plan 2025, which the proponents of The links claims is at least the foundation from which the design evolved. I feel The Links is another classic example of urban sprawl. The Links is only another pseudo golf course apartment complex of repetitive boxes designed for the housing of college students; destined to become more of the same unkempt motel-style and miniature golf course apartment complexes that litters our city.

- "Safe Community" – Another couple of projects much like the proposed, known as Lakeside Village and The Greens at Lakeside Village are both classic examples of an unsafe environment to live. You only have to refer to many newspaper articles over the last 12 months. An apartment complex the size of The Links would be difficult to manage, with regard to safety, even for an experienced, professional, management team.

- "Housing Choices..."- Even attainable housing buyers would not appreciate the environment their limited "choices" are to be located within. Even attainable home buyers are entitled to a safe environment for their children to be raised in. "Neighborhood", "Sense of Community", "housing for seniors", "quality rental housing"; please. The Links reminds me of no neighborhoods I grew up in or any neighborhood of friends I visited.
- "Ease of Mobility..."- I realize that Ruppel will be constructed at no cost to the city, but this is only one road. Has the developer been assessed for the new bridge to be constructed at the north end of Ruppel just south of Mt. Comfort? Many others of us have indeed been assessed. Many of us have been required not only to reconstruct existing roads, but have been assessed off-site improvement fees and are constructing master-planned collector streets at our own expense; all within and around the same large development; refer to Park West. For the type of density being requested, The Links should be very pleased with only having to purchase the construction of two lanes of Ruppel Road. What were the findings of the Traffic Study? Has there been a traffic study performed; with the current proposed street configuration?

A development of this nature is the perfect formula for traffic congestion.

- "Mix of Uses" – Proper urban planning suggests just that; a "mix" of uses. The proposed project (unless the design is different than what I have previously seen), this project doesn't conform. Though the project does offer a few different uses, the geographical size of the project allows for those uses to be segregated; as with any traditional sprawl development.

I could site many other issues I have with the project, but I feel those cited above are ample reason to deny approval of The Links. I am concerned that we would be setting example of what kind of development we are willing to accept on the west side of town; repeating the same mistakes we made on the east side of town. I feel The Links is a bad idea for a rapidly developing part of town.

Thank you for considering my point of viewpoint and good luck tonight.

Tracy K. Hoskins

B.I.

Links

Handed out at the City
Council Meeting 5/15/07

(Two-Sided)

5/15/2007

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Tracy K. Hoskins



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning 
Date: May 11, 2007
Subject: Links at Fayetteville R-PZD Bill of Assurance

RECEIVED

MAY 11 2007

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

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

Please find the attached Bill of Assurance as offered by Jim Lindsey, owner of the subject property and manager of The Links at Fayetteville, A Limited Partnership. This offer to the City Council, in consideration of the requested rezoning proposal, involves additional improvements to Ruppel Road in the vicinity of the Links PZD project, including improvements from Wedington to Mt. Comfort Road, as existing right-of-way permits. Please see the attached documents for further information.

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, and to clarify and determine any possible cost sharing proposal for certain road improvements, the owner(s), developer, or buyer of this property The Links at Fayetteville, a Limited Partnership, (hereinafter "Petitioners"), and the City of Fayetteville, Arkansas (the "City") offer this Bill of Assurance and enter into this binding agreement and contract.

The Petitioners expressly grant to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Circuit Court of Washington County and agrees that if Petitioners or Petitioners' heirs, assigns, or successors violate any term of this Bill of Assurance, substantial irreparable damage justifying injunctive relief has been done to the citizens and City of Fayetteville, Arkansas. The Petitioners acknowledge that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' rezoning request.

Petitioners and the City of Fayetteville hereby offer assurances that Petitioners and the City shall comply with the terms and conditions set forth below IF Petitioners' rezoning is approved by the Fayetteville City Council.

1. Developer shall grant to the City of Fayetteville an additional five feet of street right-of-way, over and above the required right-of-way along Ruppel Road for a major arterial roadway.
2. Beginning at Wedington Road, the developer shall widen the existing roadway eastward approximately 28' to establish additional lanes of traffic including a 6' sidewalk with available right of way. The street will then transition to a boulevard section at the south boundary line of "The Links". The transition lengths, lane configurations, and geometry shall be subject to City of Fayetteville staff approval and available right of way. See Exhibit A.
3. A two-lane 28 foot road section with curb and gutter shall be constructed by Developer approximately ten feet east of the existing Ruppel Road, as shown by a road section diagram, attached hereto as Exhibit A, from the south boundary to the north boundary of the Property.

4. At the north boundary of the Property, the four lane stretch of Ruppel Road shall be tapered into a two-lane 28 foot wide section of road with no curb, gutter or storm sewer, only open drainage, to be overlaid on top of the existing Ruppel Road north to the intersection of Mount Comfort Road. Widening of Ruppel will be subject to agreement of adjacent property owners.
5. Developer shall not be responsible for the acquisition of any additional right-of-way, access easements, construction easements, etc., if needed. In the event any additional right-of way, access easements, construction easements, etc., are needed to complete the work detailed in this agreement, it shall be the responsibility of the City to acquire said items.
6. The existing Ruppel Road north of the Property (the "Northern Section") shall be widened from its existing width to a width of 28 feet. However, the existing 24 foot bridge located north of the Property shall be left in place. No improvements to said bridge are the responsibility of Developer. The roadway shall be tapered both north and south of said bridge to accommodate a 28 foot wide street section on both sides of the bridge. The widening See Exhibit A for cross-section.
7. All construction on the Northern Section shall be done as a separate and distinct project from construction taking place adjacent to and south of the Property. The City of Fayetteville and the Developers shall split the costs of the Northern Section evenly with an estimated total cost of \$130,000.00.
8. The Developer nor any of its affiliates shall take a profit with relation to the construction of the Northern Section. Developer shall provide to the City estimates of the costs for improvements to the Northern Section prior to construction taking place. Developer shall also provide detailed construction invoices and certified costs to the City of Fayetteville upon completion of the Northern Section.
9. Developer shall provide bicycle lane stripping along both the newly constructed portion of Ruppel Road as well as the existing portion of Ruppel Road.
10. Petitioners specifically agree that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council.

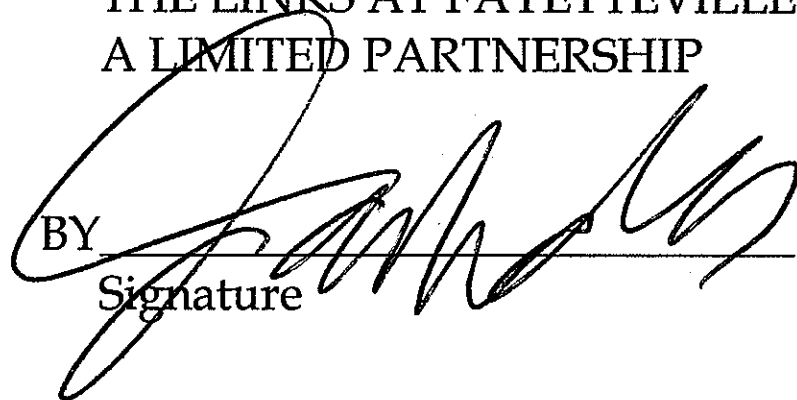
This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners' rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

11. Any additional traffic signal improvements or assessments in lieu thereof, as determined necessary by the Planning Commission based upon the approved traffic study at the time of development review, shall be constructed by the developer. Based on phasing of the project, assessments for traffic signals or other delayed improvements deemed necessary shall be paid on a pro rata basis, and installed once the improvement are warranted.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, we, The Links at Fayetteville, a Limited Partnership, as the owners, developers or buyers (Petitioners) and The City of Fayetteville, as governing municipal authority, offer all such assurances and sign our names below.

5-10-2007
Date
1200 E. SOYCE
Address
FAYETTEVILLE, AR 72703

THE LINKS AT FAYETTEVILLE,
A LIMITED PARTNERSHIP

BY 
Signature

JAMES E. LINDSEY, MANAGER
Printed Name

THE CITY OF FAYETTEVILLE,
ARKANSAS

Date

Address

BY _____
Signature

Printed Name

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 10 day of May, 2007, appeared before
me, James E. Lindsey and after
being placed upon his/her oath sworn or affirmed that he agreed with the terms
of the above Bill of Assurance and signed his name above.

Joy L. Hoops
NOTARY PUBLIC

My Commission Expires:

9-1-2014

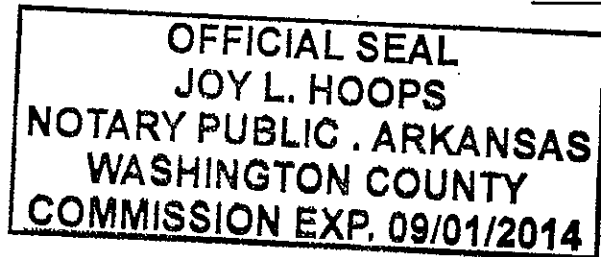
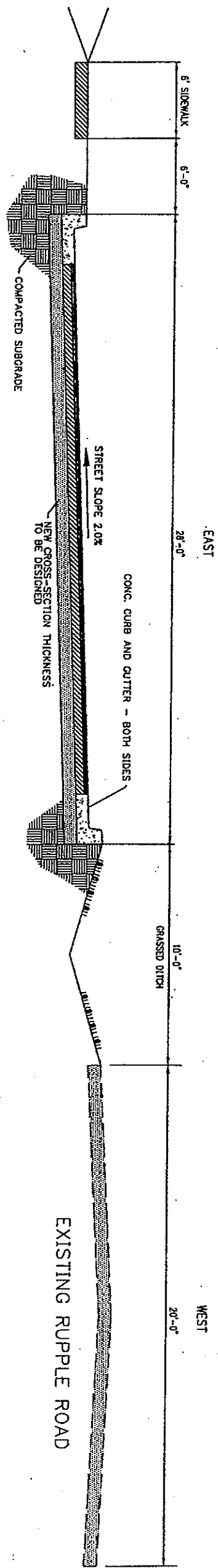
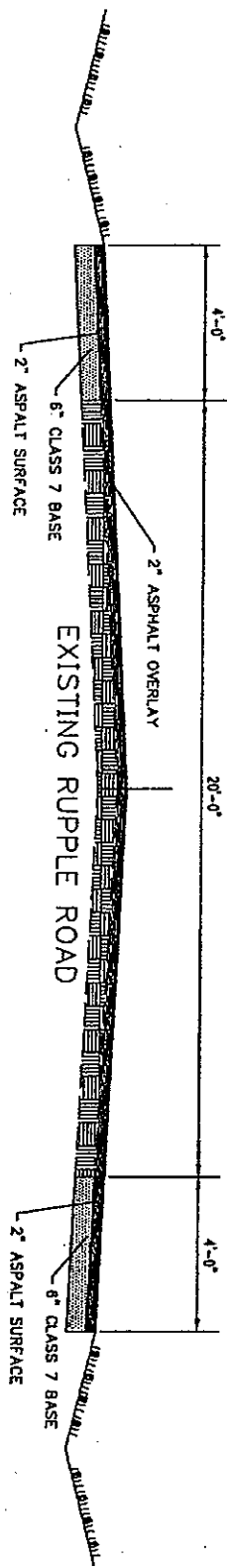


EXHIBIT A



RUPPEL ROAD WIDENING LENGTH OF LINKS PROPERTY



RUPPEL ROAD WIDENING NORTH OF LINKS TO MOUNT COMFORT TRANSITION @ EXISTING BRIDGE AND TRANSITION @ MOUNT COMFORT ROAD

B.I. Links - Handed out at
the City Council
Meeting 5/15/07

**BILL OF ASSURANCE
FOR THE CITY OF FAYETTEVILLE, ARKANSAS**

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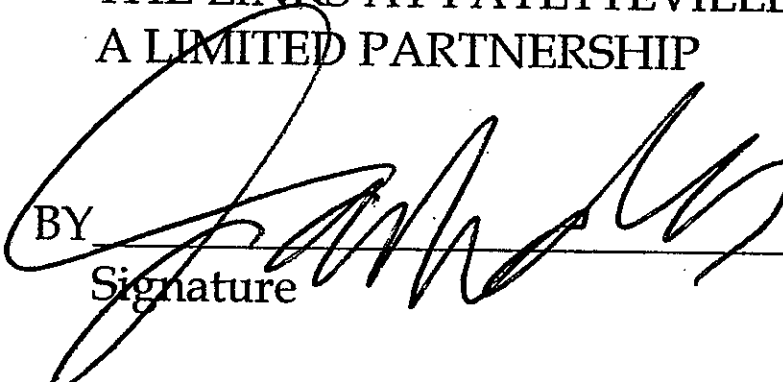
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5-10-2007
Date
1200 E. SOYLE
Address
FAYETTEVILLE, AR 72703

THE LINKS AT FAYETTEVILLE,
A LIMITED PARTNERSHIP

BY 
Signature

JAMES E. LINDSEY, MANAGER
Printed Name

THE CITY OF FAYETTEVILLE,
ARKANSAS

Date

Address

BY _____
Signature

Printed Name

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 10 day of May, 2007, appeared before
me, James E. Lindsey and after
being placed upon his/her oath swore or affirmed that he agreed with the terms
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Joy L. Hoops
NOTARY PUBLIC

My Commission Expires:

9-1-2014

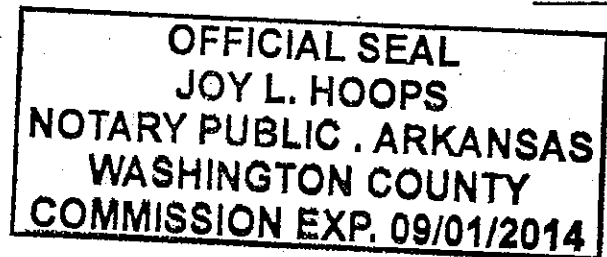
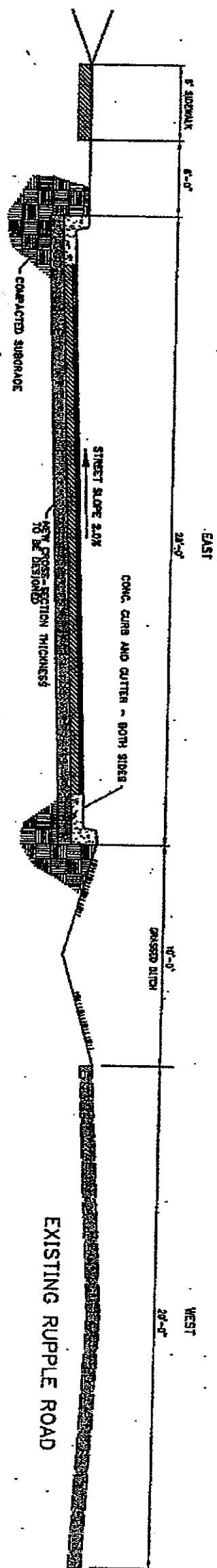
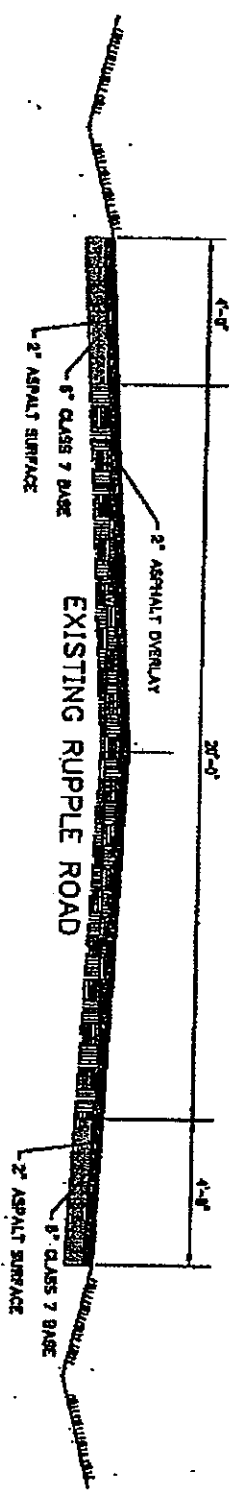


EXHIBIT A



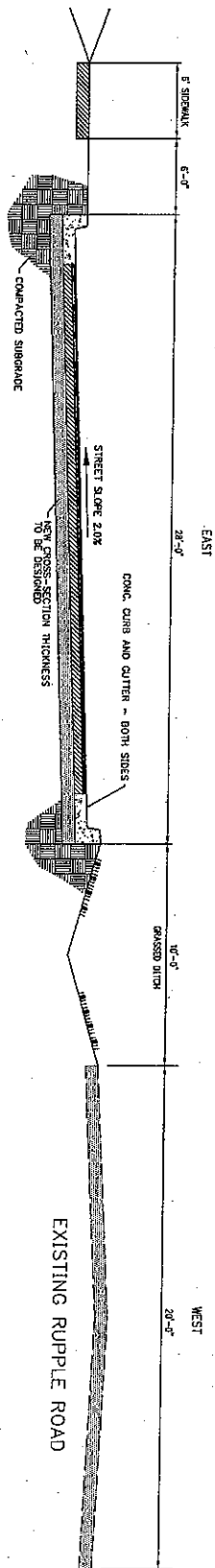
RUPPLE ROAD WIDENING LENGTH OF LINKS PROPERTY



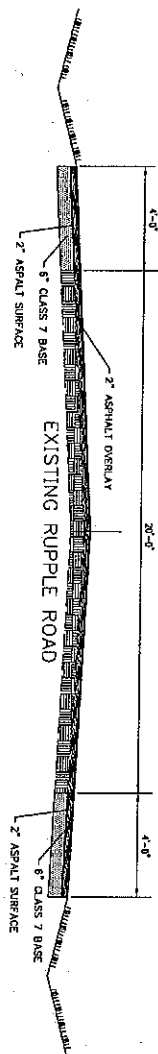
RUPPLE ROAD WIDENING NORTH OF LINKS TO MOUNT COMFORT TRANSITION @ EXISTING BRIDGE AND TRANSITION @ MOUNT COMFORT ROAD



EXHIBIT A



RUPLE ROAD WIDENING LENGTH OF LINKS PROPERTY



RUPLE ROAD WIDENING NORTH OF LINKS TO MOUNT COMFORT TRANSITION @ EXISTING BRIDGE AND TRANSITION @ MOUNT COMFORT ROAD

AFFIDAVIT OF PUBLICATION

STATE OF ARKANSAS,
County of Washington

I, Jim Mears do solemnly swear that I am

Classified Sales Rep.

LEGAL NOTICE

Notice is hereby given that an ordinance has been proposed by the Farmington City Council to simultaneously detach territory from the City of Fayetteville and annexing said territory into the City of Farmington in accordance with Arkansas code annotated §14-40-2101. The property is described as:

A part of the SW 1/4 of the NE 1/4 of S. 15, T16N, R31W, Washington County, Arkansas; being more particularly described as: Beginning at the Southwest corner of said SW 1/4 of the NE 1/4; thence N 02°38'07" E 1024.77 feet; thence S 87°50'00" E 1296.75 feet; thence S 02°28'18" W 484.70 feet; thence N 87°57'44" W 868.22 feet; thence S 02°22'58" W 252 feet; thence S 87°57'45" E 864.05 feet; thence S 02°57'47" W 285.52 feet; thence N 87°59'35" W 1294.22 feet; to the point of beginning and containing 25.442 acres, more or less.

A public hearing will be held regarding this matter at 6:00 p.m. on May 15, 2007 in the City Administration Building, 113 W. Mountain Street, Room 219, Fayetteville, AR. The public, and in particular, property owners within the area proposed to be annexed, are advised of their rights to appear at the public hearing to present their views on the proposed annexation.

Ernie Penn
Mayor

April 27, 2007

of The Morning News, a daily newspaper having a general circulation in said county, and do solemnly swear the said advertisement was published for

1 ~~consecutive~~
day in said newspaper,

the said publication appearing:

27th day of April 2007

_____ day of _____

_____ day of _____

_____ day of _____

_____ day of _____

_____ day of _____

_____ day of _____

Signed

Jim Mears

Subscribed and sworn to me this 27th day of April, 2007

OFFICIAL SEAL
KATHY FRENCH
NOTARY PUBLIC - ARKANSAS
MADISON COUNTY
My commission exp. May 22, 2012

Kathy French

Notary Public

My Commission expires: 5/22/2012

Publication Charges: \$ 105.50 DKR 044441

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
May 15, 2007**

A meeting of the Fayetteville City Council will be held on May 15, 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**

Botanical Garden Annual Report - Catherine Bass.

Noland WWTP Annual Report on Operations - Billy Ammons, OMI Regional Business Manager - Agenda Session Only

Fayetteville Attainable Workforce Housing Policy White Paper Discussion – Leif Olson - Agenda Session Only

Presentation of the recommended options for street improvements associated with the Fayetteville Expressway Economic Development Corridor Project –Carter & Burgess Engineering Firm – Agenda Session Only

A. CONSENT:

- 1. Approval of the April 17, 2007 and May 1, 2007 City Council meeting minutes.**
- 2. McClelland Consulting Engineers, Inc. Engineering Contract:** A resolution awarding an engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design, bidding, and construction services associated with five (5) trail bridges for Scull Creek Trail.

3. **Wilson Brothers Construction:** A resolution approving a contract with Wilson Brothers Construction in the amount of \$1,327,793.62 for improvements to the Noland Wastewater Treatment Plant Primary Pond, WSIP Subproject EP-1; and approving a 5% project contingency in the amount of \$65,000.00.
4. **Bid # 07-36 Glover's Truck Parts & Equipment:** A resolution awarding Bid # 07-36 to Glover's Truck Parts & Equipment for the purchase of one (1) Low Boy Semi Trailer in the amount of \$55,719.00 for use by the Transportation Division.
5. **Bid # 07-39 Williams Tractor:** A resolution awarding Bid # 07-39 to Williams Tractor for the purchase of two (2) Compact Track Excavators in the amount of \$99,377.00, one for use by the Water & Sewer Division and the other for use by the Transportation Division; and approving budget adjustments in the amount of \$41,627.00 and \$750.00 respectively.
6. **Bid # 07-40 Riggs Power Solutions, One Emergency Generator:** A resolution awarding Bid # 07-40 to Riggs Power Solutions for the purchase of one (1) additional backup power Generator in the amount of \$28,066.00 to provide power for the new fuel facility and the Fleet Operations/Transportation Building.
7. **Bid # 07-40 Riggs Power Solutions, Three Backup Power Generators:** A resolution awarding Bid #07-40 to Riggs Power Solutions for the purchase of three (3) backup power generators in the amount of \$74,268.72 for WSIP Subproject EL-4, East Side Lift Station Upgrades.

B. UNFINISHED BUSINESS:

1. **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 ordinance was left on the Third Reading at the May 1, 2007 City Council meeting and Tabled to the May 15, 2007 City Council meeting.*

C. PUBLIC HEARING:

1. **Farmington Annexation Public Hearing Date:** A public hearing regarding the City of Farmington's desire to annex 25.44 acres currently in the city limits of Fayetteville.

D. NEW BUSINESS:

1. **Fayetteville Economic Development Corridor Project:** A resolution to approve the three recommended options for transportation improvements in the Fayetteville Expressway Economic Development Corridor Project.
2. **RZN 07-2520 (Karas):** An ordinance rezoning that property described in rezoning petition RZN 07-2520, for approximately 1.50 acres, located at 4041 West Wedington Drive from R-A, Residential Agricultural to R-O, Residential Office.

3. **VAC 07-2519 (Milver Investments):** An ordinance approving VAC 07-2519 submitted by Milver Investments, LLC for property located at 500 West Prairie Street, vacating an un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.
4. **VAC 07-2573 (Chestnut I Apartments):** An ordinance approving VAC 07-2573 submitted for property located at Chestnut I Apartments at Chestnut Avenue and Poplar Street, vacating a 4,676 square foot multi-use trail easement and replacing it with a realigned 2,558 square foot multi-use trail easement as described and depicted herein.
5. **Amend Chapter 173 and 155, Public Nuisance:** An ordinance to amend Chapter 173 and Chapter 155 of the Unified Development Code to regulate unfinished houses as property nuisances and allow an appeal to the City Council.
6. **Nock-Broyles Land Development, LLC:** An ordinance waiving the requirements of formal competitive bidding; approving a cost-share agreement with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road at the intersection with Salem Road; and approving a budget adjustment in the amount of \$13,100.00.

E. INFORMATIONAL:

City Council Tour: May 14, 2007



April 2, 2007

Honorable Dan Coody
Mayor
City Hall
Fayetteville, Arkansas 72701

Mayor Coody,

Enclosed is the Annual Report for The Botanical Garden of the Ozarks that will be presented to the Parks & Recreation Advisory Board at their meeting today at 5:30 PM.

If you would like to for me to make this presentation to the City Council, I will be happy to do so.

With best wishes,

A handwritten signature in cursive script that reads "Catherine W. Bass".

Catherine W. Bass
Board President



**ANNUAL REPORT -BOTANICAL GARDEN
OF THE OZARKS March 14, 2007**

As you know, the entire year of 2006 was taken up with construction of the building, infrastructure and parking lot. We moved into our building in August, 2006. The building has a full caterer's kitchen & was put into use this fall, complete with all residential appliances and commercial kitchen appliances.

The Great Lawn was seeded with a \$1000 gift of zoysia seed from the Turf Farm at the University of Arkansas. The Shade Garden, and the Vegetable/Herb Gardens are finished, although planting will continue through the Spring of 2007. The Children's Garden, the Four Season Garden and The Sensory Garden are 90% complete, and the construction on the remainder of the gardens will be essentially completed by this summer. Work continues on the Rotary Rose Garden & Peace Arbor, which will sit on The Great Lawn. Many other mature trees and shrubs which were given by the Agri Farm are being planted this spring.

All utilities (gas, water, electric, telephone and cable) have been brought to the property through bores under Highway 265. All irrigation lines have been installed, and the sidewalk around The Great Lawn has been completed.

Mapping on the stream* was completed with a grant from The Arkansas Forestry Department in the amount of \$20,000. Funds from The Outdoor Recreation Grant went towards the parking lot, and the last work to complete the construction, and final inspection will be done by late spring, to finish all reimbursement due on the grant.

Catherine Bass



All remaining work on the entrance signage, lighting, pathways, security barriers, retaining walls, bridges, and interpretive signage along with the final entryway to the Visitor Center will be completed with the funding received from Fayetteville Advertising & Promotion Commission on February 12, 2007. That grant was in the amount of \$549,000.

The Dedication of the Carl Totemeier Horticulture Center was October 6/7 and was highlighted with a dinner, and guest speaker former Senator Dale Bumpers. The ribbon-cutting was Saturday, and was attended by several hundred people. The youth choir from The Art Center of the Ozarks performed music prepared especially for this event.

An after-school program with The Donald W. Reynolds Boys & Girls Club began the fall semester. It is a pilot program called Dragaonfly Quest, designed for Boys & Girls Clubs of America, and is being funded by Cox Communications. A summer program with The Donald W. Reynolds Boys & Girls is being developed, and will run ten weeks.

Other adult and children's educational programs are being planned and given on a bi-weekly basis.

***Scott Starr will submit a report on the Arkansas Forestry Grant**



Botanical Garden of the Ozarks – Report on Arkansas Forestry Commission Grant

Submitted March 13, 2007 – Scott Starr

Between July 2005 and July 2006, the Botanical Garden of the Ozarks fulfilled the conditions of a \$20,000 grant from the Arkansas Forestry Commission. The grant was sought to develop strategies for mitigating the impact of the development of the Botanical Garden on Lake Fayetteville and to investigate educational opportunities for visitors along a proposed stream walk.

The grant funds were used to produce the following results:

- Assess the quality of the stream and stream riparian zone that runs through the Botanical Garden lease property and into Lake Fayetteville.
- Remove exotic and invasive species along the north side of the stream riparian zone.
- Inventory and map all trees in the riparian zone along the stream.
- Develop a plan for analyzing soil and water samples to monitor any nutrient contamination of Lake Fayetteville.
- Design storm water remediation structures – bio-swales, rain gardens, and constructed wetlands – to mitigate the increase in impermeable surfaces resulting from Botanical Garden development.
- Study the elements and design for potential education stations and kiosks along a planned stream walk.

The results from the grant funds were produced with a combination of paid and volunteer professional services, Botanical Garden staff, and student volunteers.



Fayetteville Attainable Workforce Housing Policy

Summary

Attainable workforce housing has been one of the top concerns facing a growing number of Fayetteville residents in recent years. Consistently mentioned in public hearings regarding development proposals is the lack of attainable workforce housing choices being included in new development. In order to keep the diversity of Fayetteville viable and to ensure that we do not become a city of exclusivity, there are a series of programs that the city could implement in order to steer the market towards a broader spectrum of housing choices. Programs such as secondary dwelling units by right and waiving of impact fees are possible with a minimum amount of ordinance amendments, while other programs such as inclusionary zoning would take a considerable amount of time and effort in order to implement. While this document concentrates on attainable home ownership, it also addresses the issue of rental housing quality and maintenance. The general purpose of this paper is to provide a brief background on attainable housing in Fayetteville and a list of proposed programs designed to create a more diverse and attainable housing stock.

Detailed analysis of specific housing needs in a community is a complicated endeavor that must be thoroughly vetted within a specific set of parameters determined by the sets of data being used. Analysis methods could include census indicators, federal guidelines such as Housing and Urban Development (HUD) methods, Jobs/Housing balance, Real Estate indicators, etc. Any method of data analysis must utilize policy assumptions before beginning. For instance, are we interested in looking at housing opportunities for families making 50% of the median family income or 80%? Such analysis can be helpful for determining a specific housing need for a particular segment of the population. However, lacking a specific target group for analysis, assumptions that may or may not be the intent of the City Council would have to be made by the individual doing the analysis. Therefore, any detailed housing need analysis should be undertaken only with directive from the City Council.

The purpose of this paper is to identify various sources of data that illustrate the need for attainable workforce housing.

Population Indicators

The growth of moderate income working families in Fayetteville is outstripping the creation of new attainable housing for such families.

The 2006 Special Census, which has just recently been completed, gives the City an accurate and up-to-date accounting of the number of people living in the City. From this data a growth rate can be calculated.

Fayetteville has added 8,973 residents in the last 6 years. This is derived by subtracting the total population in the 2000 census, 58,047, from the total population in the 2006

census, 67,020. This is an average of 1,496 people per year moving to Fayetteville or a growth rate of 2.42%. Overall the population has increased by 15% and the number of households has increased by 25%.

Income Indicators

HUD Guidelines.

The Federal Department of Housing and Urban Development (HUD) is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs. HUD uses the Section 8 program's Fair Market Rent (FMR) area definitions in developing median family income estimates, which means income estimates are developed for each metropolitan area. HUD uses the benchmark of 80% of the median household income as a baseline for identifying families that would qualify as needing assistance in acquiring attainable housing. Further explanation of the HUD formula can be found at: www.huduser.org.

HUD guidelines imply that approximately 40 percent of the 5,925 new households in Fayetteville between 2000 and 2006 need attainable housing. For the purpose of this paper, Planning Staff has compiled income data of entry level professions that meet HUD's definition for attainable housing eligibility, assuming that these professionals are the sole income earner in the household. The following table illustrates the variations in salaries for each profession:

Profession	Starting Salary
Teachers	\$34,000
Firefighters	\$30,802
Police Officers	\$33,607
Solid waste drivers	\$26,176
Nurses	\$37,500

Source: City of Fayetteville Human Resources, Washington Regional Medical Center, Fayetteville Public Schools.

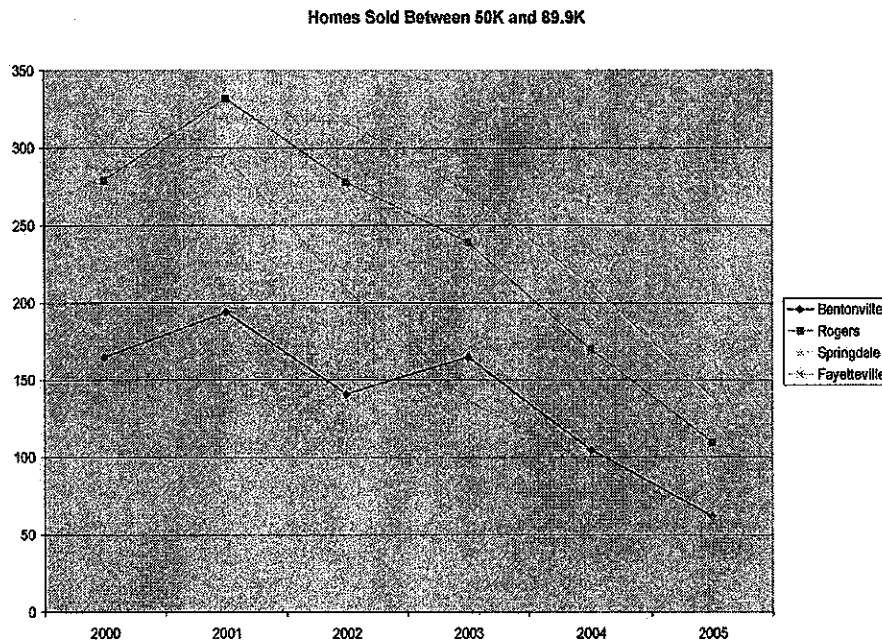
Providing housing that is attainable for these types of positions is essential for a well-balanced community that enables its workforce to live within the City limits.

Housing Indicators

Analysis of home sales prices for the last 6 years.

A household with an annual income range of between \$25,000 and \$30,000 can typically afford and maintain a house that sells for two to three times the annual household income, which means a house on the market would have to be sold for between \$50,000 and \$90,000.

Planning Staff has compiled the sales records for homes in Fayetteville and the other cities in the region for the last five years using the Metro Board of Realtors MLXchange, which does not include homes sold by owner. The following graph illustrates that attainable home sales have declined significantly in the last five years throughout the region. In the year 2000, there were approximately 280 homes sold in Fayetteville between \$50,000 and \$89,900. In 2005, there were approximately 60 homes sold in this price range. Similar drops in the number of attainable homes sales exist for the other regional cities as well. This precipitous drop in affordable home sales is perhaps the most striking data in terms of showing the underserved market that exists. The following graph illustrates this point.



(Source: Metro Board of Realtors MLXchange)

An approximate total of 1,100 homes were sold in the targeted price range during the past five years, suggesting that Fayetteville has a growing gap between the supply of and demand for attainable housing.

Possible Public Policy Alternatives

Develop and implement a residential rental registration and inspection policy.

The City will evaluate the implementation and associated staffing and budgetary needs to create a rental registration and inspection program. Arkansas's State Statutes regarding rental housing is skewed heavily in favor of the landlord with very few inherent rights afforded to the renter. Therefore, maintenance and upkeep is determined by a landlord's willingness to provide a livable rental unit. Inferior housing which lacks basic functioning facilities or inadequate structural components such as roofs, windows, heat,

kitchen or bathroom facilities etc., should be deemed unacceptable in the City of Fayetteville.

Develop a housing rehabilitation program.

As the center city areas continue to redevelop into a denser residential pattern, existing housing units are being razed or removed. The City should develop a program that would allow developers to donate these structures to the City for relocation onto lots owned by or donated to the City.

A Housing Rehabilitation Program could be codified and implemented in a variety of different ways. The City's Legal Department would need to identify the legal obstacles to determine the most effective way to organize and operate such a structure. Peer cities have effectively teamed with non profit organizations that have 501(C)3 status to utilize available funding mechanisms such as tax credits. In this way, a program similar to Habitat for Humanity could utilize donated homes, land, materials, building trade expertise and "sweat equity" to provide attainable housing. Saving quality structures through relocation and rehabilitation is a form of green building, which should be strongly encouraged in the community.

Provide an appropriate mix of residential densities.

Currently the majority of all land located in the City is zoned RSF-4 (64%). Development on quarter acre lots will inevitably steer the market to producing only one type of housing product. The development community has learned through the public hearing process that it is far easier to ask for a RSF-4 zoning designation than it is for a denser residential density. The process provides de-facto encouragement to the development community to only propose residential development at 4 units per acre. Neighborhood concerns regarding density must be alleviated through good urban design. Projects that exhibit exemplary urban design should be approved and used as instructive models for mixed residential building types.

As part of the City Plan 2025 project the City will identify potential urban infill and greenfield areas appropriate for higher density mixed use development. A Complete Neighborhood Plan shall be designed with intensive input from the residents and with specific residential density opportunities identified. Optimally, compact, connected and complete neighborhoods shall become the standard pattern of development in and around other high intensity land uses such as schools, shopping areas, and transportation nodes.

Establish administrative waivers and codify incentives for the development of attainable housing.

The City will establish development incentives to encourage the development of attainable workforce housing such as: density bonuses, waiving of public facility impact fees and the development of an expedited permitting process. Density bonuses, guaranteed through an administrative approval process, would allow developers to increase housing product type diversity and density in exchange for building a percentage of attainable workforce housing. Developments in areas that have adopted

Complete Neighborhood Plans would also be eligible for administrative approval upon meeting a set of criteria such as urban form, transportation linkages, bulk and area requirements, architectural standards, etc. This would result in a decrease in housing unit cost because the yield per acre of land would be greater. The City has the ability to encourage higher residential densities through good design. An incentive such as Administrative Approval for traditional town form creates a fast track approval process that is not fraught with the re-design pitfalls associated with a public review process. The City could also choose to institute a requirement that the housing units constructed under this program would remain attainable for a period of years through deed restrictions.

Revise commercial development standards.

The City will revise its commercial development standards to permit residential uses in all of its commercial districts. Mixing residential and commercial uses can reduce the number of auto trips, increase walkability and create a vibrant urban fabric that is transit worthy. The adaptive re-use of declining strip centers into mixed-use redevelopment centers is an effective tool that has been used successfully in other peer communities. New commercial development should be encouraged to locate a residential dwelling unit in their development plans.

Attainable housing would be created with this program by getting the highest possible use out of developed land. The City's current zoning, which prescribes separate residential and commercial land uses, is inherently wasteful of land resources. Full development potential should be encouraged and realized by the development community. Any additional increase of mixed housing type and size will broaden the residential options in the market.

Revise accessory dwelling standards.

The city will revise its residential zoning district regulations and make Accessory Dwelling Units (ADU) a use-by-right in all residential zones. An Accessory Dwelling Unit is a self contained housing unit that is secondary to the primary residence. Accessory Dwelling Units benefit the community by offsetting the cost of a home mortgage with the potential for rental income. They can provide convenient housing choices for a variety of underserved housing segments such as seniors and college students.

ADUs come in many different forms. Commonly people think of ADUs as detached stand alone cottages or second story garages; however, they can also be attached and separate from the primary residence such as a basement conversion or home addition. What all ADUs have in common is that they must have a kitchen, bathroom, and a place to sleep. ADUs differ from duplexes in two distinct ways. First, the two housing units that make up a duplex are generally the same size. And secondly, a duplex infers that both units can be rented. Most ADU programs require that the owner must reside in either the primary residence or the ADU.

Permitting ADUs by right in all residential zones removes intractable political barriers that make the current conditional use permit process untenable while allowing compatible density development in existing and future neighborhoods. If the City Council

is uncomfortable with removing the public hearing process required by the current Conditional Use Permit, it could appoint a board of architects to review secondary dwelling unit applications. The Board of Architects would be charged with determining findings of fact related to: location, access, parking, infrastructure availability, exterior design, building form, height, construction materials, etc. In this manner design details could be discussed and mediated between the applicant and the neighborhood by a board of design professionals. Further, an architectural manual could be developed to assist homeowners with design considerations and provide appropriate building patterns.

Establish urban residential design standards through adopted complete neighborhood plans.

The city will initiate Complete Neighborhood Plans for both areas identified as potential urban re-development sites and also for greenfield sites located on the urban fringe. High-density mixed-use neighborhoods are vital to promoting a rich urban fabric that is inherently walkable and transit worthy, and this form of development should be encouraged to become the standard not the exception.

The traditional zoning pattern in the City separates land uses and leads to density, which is less than the maximum allowed. For instance, many areas of the City that are zoned Residential Multi-Family are built out at considerably less density than what is actually allowed. A typical multi-family residential development in Fayetteville rarely exceeds 10 units per acre. Factors that impact the final build out density of a multi-family development include public opposition, building setbacks and height restrictions, utility easements, parking requirements, and landscaping and tree preservation requirements. The current suburban development pattern of multi-family housing is pre-determined by the City's Unified Development Code.

The City should encourage increased density through traditional urban design that creates a friendly walkable neighborhood that contributes positively to the community. New high density urban residential development should be required to achieve a minimum density by facing all building to public rights-of-way, integrating parking into the development through a combination of on street parking, covered or structured parking, and interior block surface parking. Urban residential design standards should standardize that all structures must face a public right-of-way thus excluding the ability to create self-contained apartment complexes. Setbacks and height regulations should be liberalized to ensure that structures are located close to the right-of-way and street trees should be the primary method for tree mitigation.

Affordable rental housing units will be created by increasing the development yield for a given piece of land thereby offsetting the high cost of land. The development community would be encouraged to propose innovative design solutions with the knowledge that density through good design is a high priority of the City.

Establish an on-going funding source to implement a Housing Trust Fund designed to promote and administer a workforce housing program.

A Workforce Housing Trust fund could be established in order to achieve the wide spectrum of housing goals in the city which are not adequately addressed through the

broader market. Land acquisition, housing rehabilitation and any number of federal and state programs related to attainable housing could be implemented and administered through such a program. Potential revenue sources include: sales or property tax, real estate transfer taxes, or fee-in-lieu proceeds from an inclusionary zoning ordinance. Additionally, the Housing Trust Fund could be used to direct potential borrowers to the resources available from local financial institutions. Local Banks should also be encouraged to offer low down payment or no down payment options for first time home buyers targeted by the City such as; fire and police officers and school teachers.

Ensure that attainable workforce housing remains affordable.

The City should insure that a specified amount of attainable workforce housing will remain affordable when public funds have been used in its creation. The City could maintain a forgivable lien, deed restrictions, or other alternative method that will run with the land. This program should only be used to regulate the market forces on housing units built or subsidized with public funds. Further, a time limit should be built into the program so that the housing units could be transferred within a reasonable amount of time at market value.

Draft State enabling legislation for inclusionary zoning ordinances.

Inclusionary zoning is a tool that has been used in many rapidly growing communities in the United States. It requires that new residential development build a percentage of its housing as attainable housing. The City generally determines the percentage of housing units to be constructed, the income level being targeted, minimum square footage, materials, integration in the neighborhood, etc. This tool has proven to create attainable housing units; however, it is generally considered as a last resort to be used only in extreme instances.

Inclusionary Zoning has not been explicitly permitted, as of this time, in the State of Arkansas' enabling legislation. If the City Council feels that this is a tool that should be actively pursued then the City's Legal Department should begin the process of drafting enabling legislation.

Conclusion

While the region is experiencing explosive growth and job creation, the City of Fayetteville recognizes that the market is not addressing a significant segment of the population's housing needs. Additionally, the City recognizes that there are policies that could be implemented to provide either voluntary or involuntary incentives to ensure that developers construct attainable workforce housing. The programs that this document proposes have been listed in order from the least intrusive to the most intrusive.

All indications are that the affordable housing shortage will continue to grow. The longer the City waits to address this issue potentially the more painful it could be to resolve. Attainable housing shortages in other areas of the country bear this out. Implementation of an inclusionary zoning program should be seen as a last resort and only after all other options have been exhausted.

Like all complex issues that the City has successfully negotiated in the recent past; the Smoking Ordinance, Hillside Overlay District, Downtown Master Plan, etc., implementing appropriate solutions will probably not be quick or easy. It will take the combined leadership of the City Council and the City Administration in order to implement even the most basic programs outlined in this report.

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

5/15/2007
City Council Meeting Date

Ron Petrie
Submitted By

Engineering
Division

Operations
Department

Action Required:

A resolution approving an Engineering Contract with McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design services, bidding services, and construction services associated with five trail bridges for Scull Creek Trail.

\$ 80,200.00 Cost of this request	\$ 817,775.00 Category / Project Budget	Transportation Bond Trail Improvs Program Category / Project Name
4520.9520.5814.05 Account Number	\$ - Funds Used to Date	Transportation Improvements Program / Project Category Name
06036.1 Project Number	\$ 817,775.00 Remaining Balance	2006A Sales Tax Construction Fund Name

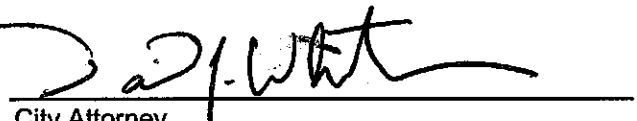
Budgeted Item ☒ Budget Adjustment Attached ☐


Department Director

4-26-07
Date

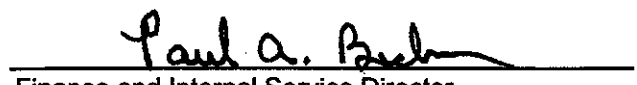
Previous Ordinance or Resolution # _____

Original Contract Date: _____

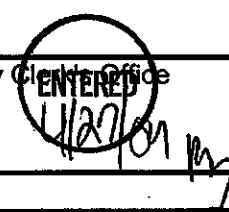

City Attorney

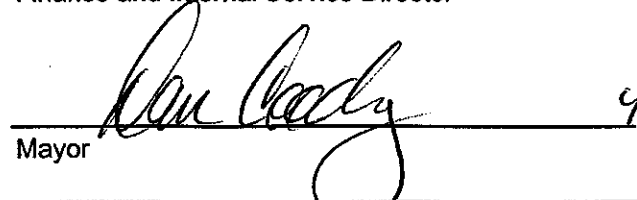
4/27/07
Date

Original Contract Number: _____


Finance and Internal Service Director

4-30-07
Date

Received in City Clerk's Office



Mayor

4/31/07
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: April 23, 2007

Subject: Engineering Services Contract with McClelland Consulting Engineers, Inc.

RECOMMENDATION

Staff requests approval of an engineering contract with McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design services, bidding services, and construction services associated with five trail bridges for Scull Creek Trail.

BACKGROUND

Scull Creek Trail is the highest priority trail for the City of Fayetteville because of its central location and great connectivity to adjacent neighborhoods, parks, schools and businesses. Scull Creek Trail will follow Scull Creek from Wilson Park north to meet Mud Creek Trail near the Mall. Due to topography and property ownership issues, it is necessary for Scull Creek Trail to cross Scull Creek five times within the 4.5 mile total length.

DISCUSSION

Under this contract, McClelland will provide complete design, bidding and construction services for the five trail bridges.

The schedule proposed by McClelland includes 10 months of design, bidding and construction services time to complete the entire project under the contract.

BUDGET IMPACT

The contract amount of \$80,200.00 will be paid from the Transportation Improvement Bond Funds. The total budget for the project is \$817,775.00.

RESOLUTION NO. _____

A RESOLUTION AWARDING AN ENGINEERING CONTRACT TO MCCLELLAND CONSULTING ENGINEERS, INC. IN AN AMOUNT NOT TO EXCEED \$80,200.00 FOR GEOTECHNICAL STUDIES, TOPOGRAPHIC SURVEYS, FLOOD ANALYSIS, DESIGN, BIDDING, AND CONSTRUCTION SERVICES ASSOCIATED WITH FIVE (5) TRAIL BRIDGES FOR SCULL CREEK TRAIL.

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 engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design, bidding, and construction services associated with five (5) trail bridges for Scull Creek Trail.

PASSED and APPROVED this 15th day of May, 2007.

APPROVED

ATTEST:

By: _____
DAN COODY, Mayor

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

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:	4/23/2007
Vendor #: 7480 Vendor Name: MCCLELLAND CONSULT ENGR										P.O Number:	Expected Delivery Date:	
Address:										Mail Yes: ☐ No: ☒	Quotes Attached Yes: ☐ No: ☐	
City: State:										Taxable Yes: ☐ No: ☒	No: ☐	
Requester: MATT MIHALEVICH										Division Head Approval:		
Fob Point: FAYETTEVILLE										Extension: 416		
Zip Code: Ship to code: 2509										Requester's Employee #: 2509		
Account Numbers 4520.9520.5814.05										Project/Subproject # 06036.1		
Extended Cost \$80,200.00										Inventory #		
Unit Cost 80,200.00										Fixed Asset #		
Unit of Issue JOB												
Quantity 1												
Description Engineering Svcs for Scull Creek Trail Bridge Selection												
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
Shipping/Handling										Lot		
Special Instructions:												
RFQ 07-06												
Subtotal: \$80,200.00												
Tax: \$0.00												
Total: \$80,200.00												
Approvals:										McClelland Consulting Engineers, Inc.		
Mayor: _____										Engineering Contract		
Finance & Internal Services Director: _____										Page 4 of 8		
Dispatch Manager: _____										Revised 01/2008		
Department Director: _____										Purchasing Manager: _____		
Budget Manager: _____										IT Manager: _____		
Utilities Manager: _____										Other: _____		

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
MCCLELLAND CONSULTING ENGINEERS, INC.
FAYETTEVILLE, ARKANSAS

THIS AGREEMENT is made as of _____, 2007, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and McClelland Consulting Engineers, Inc. with offices located in Fayetteville, Arkansas (hereinafter called McClelland).

CITY OF FAYETTEVILLE requires professional engineering services in connection with the design and permitting of five pre-engineered bridges along the Scull Creek Trail between Wilson Park and the connection to the Mud Creek Trail. Therefore, CITY OF FAYETTEVILLE and McClelland in consideration of their mutual covenants agree as follows:

McClelland shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of McClelland's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of McClelland.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of McClelland.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 2 - BASIC SERVICES OF MCCLELLAND

2.1 General

2.1.1 Perform professional design services in connection with the Project as hereinafter stated, which shall include normal civil and geotechnical engineering services.

2.1.1.1 The Scope of Services to be furnished by McClelland during the Geotechnical Investigative Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.2 The Scope of Services to be furnished by McClelland during the Surveying Phase is included in Section 2.3 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.3 The Scope of Services to be furnished by McClelland during the Design Phase is included in Section 2.4 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.4 The Scope of Services to be furnished by McClelland during the Bidding Phase is included in Section 2.5 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.5 The Scope of Services to be furnished by McClelland during the Construction Phase is included in Section 2.6 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.6 The Scope of Services to be furnished by McClelland for Resident Services during Construction Phase is included in Section 2.7 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.1.1.7 The Scope of Services to be furnished by McClelland for the Post-Construction Phase is included in Section 2.8 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.2 Geotechnical Investigative Phase

2.2.1 The Geotechnical Investigative Phase will consist of taking sample borings at the proposed bridge locations (provided by the city), determining the engineering properties of the soils encountered, performing engineering analyses of soil strata based on laboratory data and preparing a written geotechnical report to include recommendations for the design and construction of the bridge abutments.

2.3 Surveying Phase

2.3.1 The Surveying Phase will consist of performing topographic and utility verification surveys to assist in the design of the abutments for the proposed bridges. The Surveying Phase will provide all field survey data from field work for designing the project. All surveys shall be tied to the CITY OF FAYETTEVILLE's GPS control network. Preparation of Easements and Right-of-Ways documents is not included.

2.4 Design Phase

2.4.1 The Design Phase will consist of reviewing the existing Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS) provided by CITY OF FAYETTEVILLE to determine the extent of floodway and floodplain for each proposed bridge location. Proposed foundations for the five bridge abutments will be designed to result in no apparent rise in the pre-project Base Flood Elevations (BFE) from the 100-year storm event. The hydraulic models developed will utilize a software program and be in a form and/or format acceptable to FEMA for submittal to obtain a CLOMR and/or LOMR, if required. McClelland's assistance related to the development and acquisition of a CLOMR or LOMR, except as previously described, is not included in the Scope of Work.

2.4.2 Prepare for incorporation in the Contract Documents detailed drawings to show the character and scope of the Work to be performed by contractors on the Project (hereinafter called the "Contract Drawings"), and Invitation to Bid, Instructions to Bidders, Bid Form, Agreement and Bond Forms, General

Conditions, and Specifications (all of which, together with the Contract Drawings, are hereinafter called the "Bid Documents") for review and approval by CITY OF FAYETTEVILLE, its legal counsel, and other advisors as appropriate, and assist CITY OF FAYETTEVILLE in the preparation of other related documents.

- 2.4.2.1 Bid documents shall be based on Construction Specifications Institute (CSI) Master Format and Section Format and shall incorporate CITY OF FAYETTEVILLE's standard general conditions and forms. Text documents shall be provided to CITY OF FAYETTEVILLE in Microsoft® Word software. Contract drawings shall be prepared using standard borders, sheet sizes, title blocks and CADD standards provided by CITY OF FAYETTEVILLE. McClelland may use their normal software for the preparation of drawings but the final product shall be provided to CITY OF FAYETTEVILLE in AutoDesk AutoCAD version 2005.
- 2.4.2.2 Develop for approval by CITY OF FAYETTEVILLE, a project design schedule in which McClelland shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by McClelland in the completion of design. This Schedule shall include reasonable allowances for review and approval times required by CITY OF FAYETTEVILLE, and review and approval times required by public authorities having jurisdiction over the Project. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by CITY OF FAYETTEVILLE, or for delays or other causes beyond McClelland's reasonable control. Nonconformance with this schedule by McClelland and its subconsultants may result in the assessment of damages payable by McClelland to the CITY OF FAYETTEVILLE for costs and damages incurred. The maximum cost liability of McClelland shall be limited to the total gross amount payable to or through the Consultant authorized under this agreement, including amendments thereto.

- 2.4.2.3 When requested by the CITY OF FAYETTEVILLE prepare for and attend up to two City Council meetings to provide periodic updates on the progress of the design.
- 2.4.2.4 If the plans and specifications for the project require bids on alternates in addition to a base bid, there shall be no more than three (3) alternates, and the alternates shall be developed and described in accordance with Title 22, Article 9-203 of the Arkansas Code.
- 2.4.3 Prepare technical criteria, written descriptions, design data, and applications necessary for filing applications for permits from or approvals of the following applicable governmental authorities having jurisdiction to review or approve the final design of the Project and assist in securing approvals. Actual Filing and Permit Fees will be paid by the CITY OF FAYETTEVILLE. Assist CITY OF FAYETTEVILLE in consultations with appropriate authorities.
 - 2.4.3.1 U.S. Army Corps of Engineers (Nationwide 404 Permitting for Bridge Abutments). Wetlands determinations and permitting and ADEQ SWPPP and permit applications are not included in the Scope of Work.
- 2.4.4 Advise CITY OF FAYETTEVILLE of adjustments in excess of five percent of the cost opinion for the Project caused by changes in scope, design requirements, or construction costs and furnish a revised cost opinion for the Project based on the final Bid Documents.
- 2.4.5 Advise CITY OF FAYETTEVILLE of final Opinion of Probable Project Costs, including, but not limited to, construction, inspection, testing and close out.
- 2.4.6 Furnish CITY OF FAYETTEVILLE with 3 copies of the final Bid Documents.
- 2.4.7 Provide appropriate professional interpretations of data, geotechnical investigations, core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests, and inspections of samples, materials and equipment obtained through subcontract services for authorized Project

services including property, boundary, easement, right-of-way, topographic, and utility surveys; noting zoning and deed restrictions.

- 2.4.8 Fully disclose all subcontract agreements including the name and address of the subconsultant, the scope of services to be provided and the value of the subcontract.

2.5 Bidding Phase

- 2.5.1 McClelland will follow City of Fayetteville's bidding protocol for capital improvement projects.
- 2.5.2 Arrange for bidding notices to be sent to contractors, publishing services and direct mailing to contractors of record. Notices shall comply with requirements of CITY OF FAYETTEVILLE. The legal notice to be placed in legal notices section of a local newspaper(s) of countywide and statewide circulation and shall be coordinated with CITY OF FAYETTEVILLE purchasing agent and an affidavit of publication secured.
- 2.5.3 Prepare addenda for drawings and Bid Documents as required and submit to CITY OF FAYETTEVILLE in timely manner such that addenda can be issued by McClelland in accordance with Construction Contract General Conditions. All bidding protocols shall conform to statutory requirements with all addenda being approved by CITY OF FAYETTEVILLE prior to issuance.
- 2.5.4 Secure updated applicable wage rate decisions and incorporate into the Bid Documents. Update wage rate decision by addendum if necessary.
 - 2.5.4.1 Assist CITY OF FAYETTEVILLE by issuing and tracking Bid Documents, addenda and communications during bidding and maintain list of plan holders. Print and distribute copies of plans and specifications for all prospective bidders and plan rooms. Collect from prospective bidders an appropriate non-refundable fee to offset cost of reproducing and distributing Bidding Documents.

- 2.5.5 Assist CITY OF FAYETTEVILLE in obtaining and evaluating bids and preparing construction contracts. McClelland shall prepare and submit bid certification documents to CITY OF FAYETTEVILLE for review.
- 2.5.6 Consult with and advise CITY OF FAYETTEVILLE as to the acceptability of subcontractors and other persons and organizations proposed by the prime construction contractor(s), hereinafter called "Contractor(s)," for those portions of the work as to which such acceptability is required by the Bid Documents.
- 2.5.7 Make recommendations regarding award of construction contracts.
- 2.5.8 Attend the City Council meeting to recommend action by the respective bodies. Prepare and present a recommendation complete with such supporting information as necessary for the bodies to make an informed decision on the action recommended.
- 2.5.9 Develop a bidding services schedule in which McClelland shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by McClelland in the completion of the bidding services.
- 2.6 Construction Phase
 - 2.6.1 The scope of Construction Phase Services shall include: Review of submittals; Processing monthly pay requests; Scheduling and attending progress meetings, as needed; and Coordination of Construction activities between the Contractor and City of Fayetteville. Construction Materials Testing is not included in the Scope of Work.
- 2.7 Resident Services During Construction
 - 2.7.1 Provide Resident Services During Construction to include:
 - 2.7.1.1 Providing a resident construction observer to be at the project during construction activities related to the bridge construction. Resident services shall be on an as needed basis during the construction periods.

- 2.7.1.2 The resident construction observer shall maintain daily logs of site conditions, work completed, activities relating to property owners, and information/directives received from the City of Fayetteville.
- 2.7.1.3 The resident construction observer shall not provide superintendence over the Contractor's personnel or over the Contractor's work and safety procedures.

2.8 Post-Construction Phase

- 2.8.1 Provide Post-Construction Phase Services to include: Securing and processing of final documents (Bonds, affidavits, etc.); Preparation and submission of Record Drawings and Coordination of post – construction/clean up activities required of the Contractor.

SECTION 3 - ADDITIONAL SERVICES OF MCCLELLAND

3.1 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by McClelland, McClelland shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances.

3.1.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.1.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.1.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.1.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.1.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.1.7 Extra Services

3.1.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.2 Contingent Additional Services

3.2.1 If services described under Contingent Additional Services in Paragraph 3.2 are required due to circumstances beyond McClelland's control, McClelland shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described in 3.2 are not required, CITY OF FAYETTEVILLE shall give prompt written notice to McClelland. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, McClelland shall have no obligation to provide those services.

3.2.2 Making revisions in Drawings, Specifications, or other documents when such revisions are:

3.2.2.1 Required because of inconsistent approvals or instructions previously given by CITY OF FAYETTEVILLE, including revisions made necessary by adjustments in CITY OF FAYETTEVILLE's program or Project Budget.

3.2.2.2 Required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents.

SECTION 4 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of McClelland.

4.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

4.2 Assist McClelland by placing at McClelland's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

4.3 Guarantee access to and make all provisions for McClelland to enter upon public and private property as required for McClelland to perform his services under this Agreement.

4.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by McClelland and render in writing decisions pertaining thereto.

4.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

4.6 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF

FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

- 4.7 Give prompt written notice to McClelland whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.
- 4.9 Pay for placement of legal notices and advertisements in newspapers or other publications required.
- 4.10 Furnish, or direct McClelland to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.11 If CITY OF FAYETTEVILLE's standard bidding requirements, Agreement forms and General Conditions are to be used, CITY OF FAYETTEVILLE shall provide copies of such documents for McClelland's use in coordinating the Contract Drawings and Specifications.
- 4.12 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to McClelland in a timely manner.

SECTION 5 - PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. McClelland will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include

the scope of the services authorized and the time in which the services are to be completed.

From the time the City of Fayetteville issues the Notice To Proceed (NTP), McClelland. will endeavor to execute the project within the following time periods:

<u>Task</u>	<u>Completion After NTP</u>
A. Geotechnical Investigation Study	45 calendar days
B. Topographic Survey	30 calendar days
C. Design Services	135 calendar days
D. Bidding Services	170 calendar days
E. Construction Services	245 calendar days
F. Resident Services During Construction	245 calendar days
G. Post-Construction Services	255 calendar days

SECTION 6 - PAYMENTS TO MCCLELLAND

6.1 Compensation

For the Scope of Services during the described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$72,912.00, but not to exceed \$80,200.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

Subject to the City Council approval, adjustment of the contract amount may be made should McClelland establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification

warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for services consistent with McClelland's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by McClelland and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project design schedule as the basis for determining the value earned as the work is accomplished. Final payment for services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion.

6.1.1 Geotechnical Investigative Phase

For the Scope of Services during the Geotechnical Investigative Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$4,958.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendices B & C). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.2 Surveying Phase Services

For the Scope of Services during the Surveying Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$9,978.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.3 Design Phase Services

For the Scope of Services during the Design Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$35,711.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.4 Bidding Phase Services

For the Scope of Services during the Bidding Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$4,635.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.5 Construction Phase Services

For the Scope of Services during the Construction Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$6,384.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.6 Resident Services During Construction

For the Scope of Services during the Resident Services During Construction Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$11,246.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for

compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.7 Post-Construction Phase Services

For the Scope of Services during the Post-Construction Phase described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$2,831.00 as compensation for the scope of work set forth in Appendix A. Engineer will be compensated based upon his standard hourly rate schedule, the current rates being attached to and made a part of this agreement (Appendix B). The hourly rates for compensation include all costs, including labor, overhead, direct expenses, subcontracts and fees.

6.1.8 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to McClelland shall be negotiated at the time Additional services are authorized.

6.2 Statements

Statements and updated progress schedule for each calendar month will be submitted to CITY OF FAYETTEVILLE by signed original document. Statements will be based on McClelland's actual costs incurred and justified by hours expended, hourly rates and other applicable costs in accordance with Attachment B.

6.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of McClelland's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise McClelland in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

6.4 Final Payment

For the Scope of Services described herein, CITY OF FAYETTEVILLE authorizes an amount estimated to be \$72,912.00, but not to exceed \$80,200.00, as compensation for the scope of work set forth in Appendix A.

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, McClelland shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by McClelland to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against McClelland or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 During the course of performance of these services, McClelland will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

McClelland will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

7.1.2 Construction Contractors shall be required to provide (or CITY OF FAYETTEVILLE may provide) Owner's Protective Liability Insurance naming CITY OF FAYETTEVILLE as a Named Insured and McClelland as additional insureds, or, to endorse CITY OF FAYETTEVILLE, and McClelland as additional insureds on construction Contractor's liability insurance policies covering claims for personal injuries and property damage. Construction Contractors shall be required to provide certificates evidencing such insurance to CITY OF FAYETTEVILLE, and McClelland. All contract insurance carriers shall be required to list CITY OF FAYETTEVILLE as certificate holder, furnishing copies of the contractor's insurance certificate to each party.

7.1.3 CITY OF FAYETTEVILLE and McClelland waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of McClelland's services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and McClelland for damage or liability covered by any construction Contractor's policy of insurance.

7.2 Professional Responsibility

7.2.1 McClelland will exercise reasonable skill, care, and diligence in the performance of McClelland's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to McClelland any defects or suspected defects in McClelland's services of which CITY OF FAYETTEVILLE becomes aware, so that McClelland can take measures to

minimize the consequences of such a defect. CITY OF FAYETTEVILLE and McClelland further agree to impose a similar notification requirement on all construction contractors in the Bid Documents and shall require all subcontracts at any level to contain a like requirement. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of McClelland.

- 7.2.2 In addition McClelland will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by McClelland's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 7.1.1.

7.3 Cost Opinions and Projections

Cost opinions and projections prepared by McClelland relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on McClelland's experience, qualifications, and judgment as a design professional. Since McClelland has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, McClelland does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by McClelland.

7.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of McClelland's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President of McClelland.

7.5 Termination

7.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

7.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.1.2 An opportunity for consultation with the terminating party prior to termination.

7.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that McClelland is given:

7.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

7.5.2.2 An opportunity for consultation with the terminating party prior to termination.

7.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

7.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work.

7.5.3.2 Any payment due to McClelland at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of McClelland's default.

7.5.4 If termination for default is effected by McClelland, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for

payment to McClelland for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by McClelland relating to commitments which had become firm prior to the termination.

7.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, McClelland shall:

7.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

7.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by McClelland in performing this Agreement, whether completed or in process.

7.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

7.5.7 If, after termination for failure of McClelland to fulfill contractual obligations, it is determined that McClelland had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

7.6 Delays

In the event the services of McClelland are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond McClelland's reasonable control, McClelland shall be entitled to additional compensation and time for reasonable costs incurred by McClelland in temporarily closing down or delaying the Project.

7.7 Rights and Benefits

McClelland's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

7.8 Dispute Resolution

7.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and McClelland which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or McClelland in the performance of this Agreement, and disputes concerning payment.

7.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

7.8.3 Notice of Dispute

7.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

7.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give McClelland written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

7.8.4 **Negotiation:** Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and McClelland shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of McClelland and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

7.9 **CITY OF FAYETTEVILLE** represents that it has sufficient funds or the means of obtaining funds to remit payment to McClelland for services rendered by McClelland.

7.10 **Publications**

Recognizing the importance of professional development on the part of McClelland's employees and the importance of McClelland's public relations, McClelland may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to McClelland's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to McClelland. CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of McClelland's activities pertaining to any such publication shall be for McClelland's account.

7.11 **Indemnification**

7.11.1 **CITY OF FAYETTEVILLE** agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE, and McClelland from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

7.12 Computer Models

McClelland may use or modify McClelland's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or McClelland may develop computer models during McClelland's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by McClelland does not constitute a license to CITY OF FAYETTEVILLE to use or modify McClelland's computer models. Said proprietary computer models shall remain the sole property of the McClelland. CITY OF FAYETTEVILLE and McClelland will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use McClelland's computer models.

7.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. McClelland may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by McClelland as part of the Services shall become the property of CITY OF FAYETTEVILLE when McClelland has been compensated for all Services rendered, provided, however, that McClelland shall have the unrestricted right to their use. McClelland shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of McClelland.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. McClelland makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

7.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

McClelland's address:

McClelland Consulting Engineers, Inc.
P.O. Box 1229/1810 N. College Ave.
Fayetteville, AR 72702

7.15 Successor and Assigns

CITY OF FAYETTEVILLE and McClelland each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor McClelland shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

7.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

7.17 Entire Agreement

This Agreement represents the entire Agreement between McClelland and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to McClelland a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not

signed by McClelland, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 8 - SPECIAL CONDITIONS

8.1 Additional Responsibilities of McClelland:

8.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve McClelland of responsibility for the technical adequacy of the work. CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

8.1.2 McClelland shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by McClelland's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

8.1.3 McClelland's obligations under this clause are in addition to McClelland's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against McClelland for faulty materials, equipment, or work.

8.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and McClelland arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

8.3 Audit: Access to Records

8.3.1 McClelland shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. McClelland shall also maintain the financial information and data used by McClelland in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. McClelland will provide proper facilities for such access and inspection.

8.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

8.3.3 This right of access clause (with respect to financial records) applies to:

8.3.3.1 Negotiated prime agreements:

8.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

8.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement.
However, this right of access does not apply to a prime agreement, lower

tier subagreement or purchase order awarded after effective price competition, except:

- 8.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of McClelland;
- 8.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;
- 8.3.3.3.3 If the subagreement is terminated for default or for convenience.

8.4 Covenant Against Contingent Fees

McClelland warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by McClelland for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

8.5 Gratuities

- 8.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that McClelland or any of McClelland's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, or the State in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to McClelland terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in

issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

8.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against McClelland as it could pursue in the event of a breach of the Agreement by McClelland. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs McClelland incurs in providing any such gratuities to any such officer or employee.

8.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, McClelland 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.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing

a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.

**DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE**

COMPANY NAME: McClelland Consulting Engineers, Inc.

SIGNATURE: John C. Quinn

DATE: 4/12/07

PRINTED NAME: John C. Quinn, P.E.

TITLE: President

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and McClelland, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

McClelland Consulting Engineers, Inc.

By: John C. Quinn

Title: President

ATTEST: R. Wayne Jones

Changes, modifications or amendments in scope, price or fees to this Contract shall not be allowed without formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

APPENDIX "B"

2007 BILLING RATES

April, 2007

<u>CATEGORY</u>	<u>*HOURLY RATE</u>
Principal Engineer	\$ 147.00
Sr. Project Manager	\$ 137.00
Project Manager	\$ 126.00
Project Engineer II	\$ 105.00
Project Engineer I	\$ 84.00
Landscape Architect III	\$ 98.00
Landscape Architect II	\$ 86.00
Landscape Architect Assistant	\$ 50.00
Engineering Technician III	\$ 79.00
Engineering Technician II	\$ 63.00
Engineering Technician I	\$ 48.00
Construction Observer III	\$ 79.00
Construction Observer II	\$ 58.00
Construction Observer I	\$ 42.00
Chief Draftsman	\$ 68.00
Draftsman II	\$ 53.00
Draftsman I	\$ 48.00
Survey Technician	\$ 74.00
Registered Land Surveyor	\$ 90.00
Survey (2-Man or 1-Man/Robotic) Crew	\$ 137.00
Field Survey -1 Man	\$ 69.00
Party Chief	\$ 63.00
Soils Lab Supervisor	\$ 55.00
Soils Lab Technician II	\$ 45.00
Soils Lab Technician I	\$ 38.00
Clerk/Typist	\$ 48.00
Mileage	\$ 0.42

* Subject to Annual Adjustment Mid-Year.

APPENDIX "C"

GEOTECHNICAL INVESTIGATION SCULL CREEK TRAIL BRIDGES CITY OF FAYETTEVILLE

11-Apr-07

Item No.	Item Description / ASTM Designation	Quantity	Units	Unit Price	Extended
1	Equipment Mobilization and Demobilization (\$2.10/mi each way)	1	LS	\$150.00	\$150.00
				<i>Subtotal</i>	\$150.00
2	Boring Layout	4	HR	\$60.00	\$240.00
	Boring Setup Charges	10	EA	\$35.00	\$350.00
				<i>Subtotal</i>	\$590.00
3	Soil Drilling and Sampling, ASTM D-1586 & ASTM D-1587 Soil Drilling at Abutments (10 Borings - 15 feet max.)	150	LF	\$8.50	\$1,275.00
				<i>Subtotal</i>	\$1,275.00
4	Soil and Rock Laboratory Testing				
	ASTM D-2216, Moisture Content Determination	40	EA	\$10.00	\$400.00
	ASTM D-4318, Liquid and Plastic Limit of Soils	6	EA	\$45.00	\$270.00
	ASTM D-422, Gradation Analysis of Soils (6 Sieves)	6	EA	\$50.00	\$300.00
	ASTM D-2166, Dry Unit Weight of Soil Specimens	20	EA	\$10.00	\$200.00
	ASTM D-2166, Unconfined Compressive Strength of Soils	12	EA	\$40.00	\$480.00
				<i>Subtotal</i>	\$1,650.00
5	Geotechnical Engineering Report and Recommendations				
	Engineering Supervision (Project Manager)	2	HR	\$140.00	\$280.00
	Engineering Analysis & Recommendations (Project Engr.)	6	HR	\$85.00	\$510.00
	Boring Plot Log Preparation (Senior Draftsman)	4	HR	\$68.00	\$272.00
	Boring Plot Plan Preparation (Draftsman)	2	HR	\$55.00	\$110.00
	Report Preparation (Clerical)	1	HR	\$45.00	\$45.00
				<i>Subtotal</i>	\$1,217.00
	ESTIMATED GEOTECHNICAL INVESTIGATION				\$4,882.00

APPENDIX "A"
BASIS OF FEE PROPOSAL
SCULL CREEK TRAIL BRIDGES, FAYETTEVILLE, ARKANSAS
McCLELLAND CONSULTING ENGINEERS, INC.
April 13, 2007

LINE NO.	TASK DESCRIPTION	HOURS BUDGETED FOR EACH DISCIPLINE													CONST. OBS. II	CLERICAL AN	MILEAGE	OTHER DIR. EXP.	EXTENDED COST
		PROJ. MGR.	PROJ. ENGR II	PROJ. ENGR I	ENGR. TECH. III	REG. SURV. DH	SURV. TECH. CT	SURV. CREW ALL	DRFT. SUPV. CF	DRFT. II LW	DRFT. III	CONST. OBS. I	CONST. OBS. II	CONST. OBS. III					
	SCULL CREEK TRAIL BRIDGES																		
1	GEOTECHNICAL INVESTIGATION																		
2	A. GEOTECHNICAL INVESTIGATION																		
		1																\$4,885.00	\$4,885.00
	SUBTOTAL, GEOTECHNICAL INVESTIGATION	1																\$4,885.00	\$4,885.00
	PERFORM TOPOGRAPHIC SURVEYS FOR BRIDGE DESIGN																		
	A. SET CONTROL POINTS AND TBMS																		
	B. PERFORM FIELD SURVEYS INCLUDING UTILITY LOCATIONS																		
	C. PREPARE TOPOGRAPHIC SURVEY																		
			1															\$500.00	\$500.00
	SUBTOTAL, PERFORM TOPOGRAPHIC SURVEYS FOR BRIDGE DESIGN	0	1															\$500.00	\$500.00
	DESIGN SERVICES																		
	A. DEVELOP PROJECT DESIGN SCHEDULE																		
	B. DEVELOP BRIDGE ELEVATIONS FOR EXISTING FLOOD ANALYSIS																		
	C. PREPARE BRIDGE PLAN AND PROFILE SHEETS																		
	D. PREPARE BRIDGE DETAIL SHEETS																		
	E. PREPARE PROJECT SPECIFICATIONS																		
	F. PREPARE PROJECT BID DOCUMENTS																		
	G. PREPARE PROJECT COST ESTIMATES																		
	H. PREPARE AND PLOT CROSS SECTIONS FOR 404 PERMIT																		
	I. PREPARE AND SUBMIT 404 PERMIT APPLICATIONS TO US ARMY COE																		
	J. PREPARE FOR AND ATTEND TWO CITY COUNCIL MEETINGS																		
	K. OBTAIN UPDATED WAGE RATE DETERMINATION																		
	SUBTOTAL, DESIGN SERVICES	15	67	139	100	0	0	0	0	0	0	0	0	0	0	0	0	\$56.00	\$32,711.00
	BIDDING SERVICES																		
	A. SEND BIDDING NOTICES TO PUBLISHED SERVICES AND CONTRACTORS																		
	B. PREPARE ADDENDA AS REQUIRED																		
	C. ANSWER CONTRACTOR'S QUESTIONS																		
	D. ISSUE PROJECT BID DOCUMENTS & ADDENDA																		
	E. EVALUATE BIDS, CHECK REFERENCES, AND MAKE A RECOMMENDATION																		
	F. PREPARE CONSTRUCTION CONTRACTS																		
	G. PREPARE TRAILS COMMITTEE AND CITY COUNCIL MEETINGS																		
	SUBTOTAL, BIDDING SERVICES	3	14	17	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	\$4,636.00
	CONSTRUCTION PHASE SERVICES																		
	A. REVIEW PROJECT SUBMITTALS																		
	B. PROCESS MONTHLY PAY REQUESTS																		
	C. SCHEDULE & ATTEND PROGRESS MEETINGS																		
	D. COORDINATE CONSTRUCTION ACTIVITIES BETWEEN CITY & CONTRACTOR																		
	E. CONDUCT FINAL INSPECTION																		
	F. PREPARE FINAL LIST OF CORRECTIONS																		
	SUBTOTAL, CONSTRUCTION PHASE SERVICES	7	19	32	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	\$0,204.00
	RESIDENT SERVICES DURING CONSTRUCTION																		
	A. PERFORM FIELD INSPECTIONS AS REQUIRED (Avg 2 hr. per day)																		
	B. PREPARE DAILY FIELD LOGS																		
	SUBTOTAL, RESIDENT SERVICES DURING CONSTRUCTION	2	4	8	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	\$11,268.00
	POST-CONSTRUCTION SERVICES																		
	A. SECURE AND PROCESS FINAL DOCUMENTS (BONDS, AFFIDAVITS, ETC.)																		
	B. PREPARE RECORD DRAWINGS																		
	C. COORDINATE POST-CONSTRUCTION/CLEAN UP ACTIVITIES																		
	SUBTOTAL, POST-CONSTRUCTION SERVICES	1	4	12	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	\$2,831.00
	TOTAL	28	95	197	100	15	20	47	28	88	170	0	0	0	0	0	0	\$5,470.00	\$72,972.50

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

A. 3
Wilson Brothers Construction
Page 1 of 64

15-May-07

City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imprv Project
Division

Water/Wastewater
Department

Action Required:

Approval of a construction contract with Wilson Brothers Construction in the amount of \$1,327,793.62, for the ~~renovation of a wastewater lift station~~ ^{improvements} WSIP Subproject EP-1, and approve a 5% contingency of \$65,000.

to Noland Wastewater Treatment Plant Primary Pond

\$1,392,793.62

Cost of this request

\$ 73,457,653

Category / Project Budget

Wastewater System Imp Project

Program Category / Project Name

4480.9480.5315.00

Account Number

\$ 68,666,351

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0313

Project Number

\$ 4,791,302

Remaining Balance

Water/Sewer

Fund Name

Budgeted Item

xx

Budget Adjustment Attached

Department Director

11 Apr 07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

4/17/07
Date

Received in City Clerk's Office

Finance and Internal Service Director

4-17-07
Date

Received in Mayor's Office

Mayor

4/18/07
Date

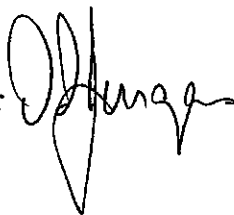
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: April 10, 2007

Subject: Approval of a construction contract with Wilson Brothers Construction in the amount of \$1,327,793.62, for the renovation of a wastewater lift station, WSIP Subproject EP-1, and approve a 5% contingency of \$65,000

RECOMMENDATION

City Administration recommend approval of a construction contract with Wilson Brothers Construction in the amount of \$1,327,793.62, for the installation of a concrete liner, geomembrane liner, a nonpotable water high pressure washdown system and other miscellaneous improvements at the Noland Wastewater Treatment Plant Primary Pond, WSIP Subproject EP-1 and approve a 5% contingency of \$65,000.

BACKGROUND

The project involves lining the 17 million gallon Noland Wastewater Treatment Plant primary storage pond, allowing it to be used for untreated wet weather flows before they enter the treatment process. Currently, the storage pond can only be used for treated or partially treated water. Specifically, it provides for the installation of a concrete liner, geomembrane liner, a nonpotable water high pressure washdown system and other miscellaneous improvements at the site. This project will significantly reduce overflows, as peak flows in excess of short term treatment plant capacity will be stored until the peak flow drops. It will also prevent the biological treatment system from being inundated during the significant variations from normal flow to storm-related flow.

The City received two bids on April 5, 2007 for this project, as follows:

Wilson Brothers Construction	\$ 1,327,793.62
Archer Western	\$ 1,534,000.00
Engineer's Estimate	\$ 1,171,935.00

DISCUSSION

The bid has been reviewed by Black & Veatch, the Engineer; their letter recommending award is attached.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH WILSON BROTHERS CONSTRUCTION IN THE AMOUNT OF \$1,327,793.62 FOR IMPROVEMENTS TO THE NOLAND WASTEWATER TREATMENT PLANT PRIMARY POND, WSIP SUBPROJECT EP-1; AND APPROVING A 5% PROJECT CONTINGENCY IN THE AMOUNT OF \$65,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Contract with Wilson Brothers Construction in the amount of \$1,327,793.62 for improvements to the Noland Wastewater Treatment Plant Primary Pond, WSIP Subproject EP-1. A copy of the Contract, marked Exhibit "A," is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 5% Project Contingency in the amount of \$65,000.00.

PASSED and APPROVED this 1st day of May, 2007.

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA E. SMITH, City Clerk/Treasurer

*** * * B I D T A B U L A T I O N * * ***

BLACK & VEATCH CORPORATION

Project No. 135045.400

FOR: City of Fayetteville

BIDS RECEIVED:

PROJECT PERSONNEL

Noland WWTP Improvements Until 1:30 P.M. April 5, 2007
Contact: EP-1

At 113 West Mountain Street
Fayetteville, Arkansas 72701

Page 1 of 1

NAME OF BIDDER ADDRESS OF BIDDER	ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST	Archer Western Contractors, Ltd. 2121 Ave "J" Suite 103 Arlington, Texas 76006	Wilson Brothers Construction Co. P.O. Box 580 Alma, Arkansas 72921
Item Description			
BID SIGNED		Yes	Yes
BID SECURITY INCLUDED		Yes	Yes
LIST OF SUBCONTRACTORS INCLUDED		Yes	Yes
EQUIPMENT QUESTIONNAIRE INCLUDED		Yes	Yes
BIDDER QUESTIONNAIRE COMPLETED		Yes	Yes
VERIFICATION OF PAST EXPERIENCE		No	Yes
ADDENDUM ACKNOWLEDGED			
NO 1		Yes	Yes
CERTIFIED FUNDS	1,300,000		
Lump Sum Bid	1,172,000.00	1,534,000.00	1,327,793.62

RECEIVED

FEB 22 2007

CITY OF FAYETTEVILLE
MAYOR'S OFFICE



BLACK & VEATCH
Corporation

8400 Ward Parkway, P.O. Box 8405, Kansas City, Missouri 64114, (913) 458-2000

B&V Project 135045.310

Final

**CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

NOLAND WASTEWATER TREATMENT PLANT

**CONTRACT EP-1
WET WEATHER IMPROVEMENTS**

**OPINION OF
CONSTRUCTION PROJECT COST
February 22, 2007**

SUMMARY

General Requirements		78,900
Effluent Storage Reservoir Improvements		986,495
Subtotal		1,065,395
Allowance for Unquantified Scope Items	10%	106,540
TOTAL PROBABLE CONSTRUCTION COST - CONTRACT EP-1		1,171,935



City of Fayetteville, Arkansas
Noland WWTP Improvements
Wet Weather Improvements
Contract EP-1

B&V Project 135045
B&V File B-1.1
April 16, 2007

Mr. David Jurgens
Director of Water and Wastewater
113 West Mountain Street
Fayetteville, Arkansas 72701

Subject: Bid Results and Recommendation

Dear Mr. Jurgens:

Bids were received and opened on April 5, 2005 in the City of Fayetteville City Hall, for the above mentioned project. The following is a list of the contractor lump sum bids in the order in which they were read.

	<u>Lump Sum Bid</u>
Archer Western Construction, Ltd.	\$1,534,00.00
Wilson Brothers Construction Co.	\$1,327,793.62

The low bid was submitted by Wilson Brothers Construction Co. for \$1,327,793.62. The Engineer's Opinion of Probable Cost was \$1,172,000 and the certified amount was 1,300,000. A Bid Tabulation is attached.

Wilson Brothers Construction Co. provided information about their firm, their experience and proposed project team.

Wilson Brothers Construction Co. proposes the following project team:

- Marley T. Phillips – Project Manager, 8 months of experience in this role and over 12 years of total experience.
- Cliff Ellis – Superintendent, 5 years of experience in this role at Wilson Brothers and a total of 58 years of experience.

We have contacted six (6) references from the projects performed by Wilson Brothers Construction Co. The projects ranged in price from \$100,000 to \$2.73 million. The owners and engineers interviewed were satisfied with the work that Wilson Brothers Construction Co. had

Page 2

Mr. David Jurgens
City of Fayetteville, Arkansas
Contract EP-1

B&V Project 135045
B&V File B-1.1
April 16, 2007

performed and commented that Wilson Brothers had been attentive to the Owner and completed the work without excessive change orders.

Wilson Brothers Construction Co. does have certification by the State of Arkansas to conduct business in Arkansas. Additionally, a financial statement has been attached for Wilson Brothers.

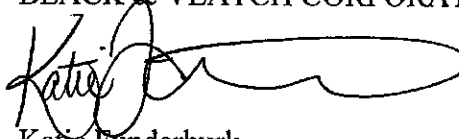
Wilson Brothers Construction Co. has completed and submitted a "Bidder's Qualification Statement". The form has been included for your information and review.

We recommend that Contract EP-1 be awarded to Wilson Brothers Construction Co. for \$1,327,793.62.

If you have any questions or comments regarding the above information, call me at (913) 458-3147.

Very Truly Yours,

BLACK & VEATCH CORPORATION

A handwritten signature in black ink, appearing to read "Katie", followed by a long, horizontal, wavy line that extends to the right.

Katie Funderburk
Project Engineer

Enclosures: 4 copies of the following
Bid Tabulation
Agreement
Bid Documents
Project Team with Resumes
Financial Statement

cc: Andrea Allen, City of Fayetteville

4/13/2007

B I D T A B U L A T I O N

BLACK & VEATCH CORPORATION

Project No. 135045.400

FOR: City of Fayetteville

Noland WWTP Improvements Until 1:30 P.M. April 5, 2007

Contact EP-1

BIDS RECEIVED:

PROJECT PERSONNEL
Project Engineer: Katie Funderburk

At 113 West Mountain Street

Fayetteville, Arkansas 72701

Page 1 of 1

NAME OF BIDDER ADDRESS OF BIDDER	ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST	Archer Western Contractors, Ltd. 2121 Ave "J" Suite 103 Arlington, Texas 76006	Wilson Brothers Construction Co. P.O. Box 580 Alma, Arkansas 72921
Item Description			
BID SIGNED		Yes	Yes
BID SECURITY INCLUDED		Yes	Yes
LIST OF SUBCONTRACTORS INCLUDED		Yes	Yes
EQUIPMENT QUESTIONNAIRE INCLUDED		Yes	Yes
BIDDER QUESTIONNAIRE COMPLETED		Yes	Yes
VERIFICATION OF PAST EXPERIENCE		No	Yes
ADDENDUM ACKNOWLEDGED			
NO 1		Yes	Yes
CERTIFIED FUNDS			
Lump Sum Bid	1,300,000	1,172,000.00	1,327,793.62

DOCUMENT 00500 – AGREEMENT

**BETWEEN THE CITY OF FAYETTEVILLE AND WILSON BROTHERS
CONSTRUCTION CO., INC.**

Project Name: Wastewater System Improvement Project
Contract Name: Noland Wastewater Treatment Plant Wet Weather Improvements
Contract No.: EP-1

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2007 by and
between CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC.

ARTICLE 1 - WORK

1.01 WILSON BROTHERS CONSTRUCTION CO., INC. shall complete all Work as specified
or indicated in the Contract Documents. The Work under this Contract is generally described
as follows:

The Contract provides for the installation of a concrete liner, geomembrane liner, a
nonpotable water high pressure washdown system and other miscellaneous improvements at
the Noland Wastewater Treatment Plant Primary Pond, 1500 N. Foxhunter Road,
Fayetteville, Arkansas 72701 in accordance with the documents prepared by Black & Veatch
Corporation.

1.02 The Contract for which the Work under the Contract Documents may be the whole or only a
part is generally described as follows:

The City of Fayetteville, Arkansas is undertaking a project to redirect sewer flows from
portions of the City in the Illinois River drainage basin to a new wastewater treatment plant
on the west side of the City and upgrade sewers in the City which are in the White River
drainage basin and upgrade the existing wastewater treatment plant on the east side of the
City. The project is known as the Wastewater System Improvement Project and includes, but
may not be limited to, four areas of improvements as follows:

1. Westside Wastewater Treatment Plant.
2. Westside Collection System Improvements.

DOCUMENT 00500 – AGREEMENT (continued)

3. Paul R. Noland Wastewater Treatment Plant Improvements.
4. Eastside Collection System Improvements.

ARTICLE 2 - ENGINEER

- 2.01 The Contract has been designed by BLACK & VEATCH CORPORATION. BLACK & VEATCH CORPORATION assumes all duties and responsibilities, and has the rights and authority assigned to BLACK & VEATCH CORPORATION in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 **TIME OF THE ESSENCE:**

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 **DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:**

- A. The Work will be Substantially Completed within One Hundred Eighty (180) calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within Two Hundred Ten (210) calendar days after the date when the Contract Times commence to run.
1. Substantially Complete by date stated above shall be defined as the completion of all major work items as required for a fully operational system.

3.03 **LIQUIDATED DAMAGES:**

- A. THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC. recognize that time is of the essence of this Agreement and that THE CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense,

DOCUMENT 00500 – AGREEMENT (continued)

and difficulties involved in proving the actual loss suffered by THE CITY OF FAYETTEVILLE if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC. agree that as liquidated damages for delay (but not as a penalty) WILSON BROTHERS CONSTRUCTION CO., INC. shall pay THE CITY OF FAYETTEVILLE One Thousand Dollars (\$1,000.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if WILSON BROTHERS CONSTRUCTION CO., INC. shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by THE CITY OF FAYETTEVILLE, WILSON BROTHERS CONSTRUCTION CO., INC. shall pay THE CITY OF FAYETTEVILLE Five Hundred Dollars (\$500.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

4.01 THE CITY OF FAYETTEVILLE shall pay WILSON BROTHERS CONSTRUCTION CO., INC. for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs below:

A. LUMP SUM CONTRACT PRICE: For all Work a Lump Sum of:
One Million, Three Hundred Twenty-Seven Thousand, Seven Hundred Ninety-Three and 62/100 Dollars (\$1,327,793.62).

4.02 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 5 - PAYMENT PROCEDURES

5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:

- A. WILSON BROTHERS CONSTRUCTION CO., INC. shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by THE CITY OF FAYETTEVILLE as provided in the GENERAL CONDITIONS.

5.02 PROGRESS PAYMENTS, RETAINAGE:

- A. THE CITY OF FAYETTEVILLE shall make progress payments on account of the Contract Price on the basis of WILSON BROTHERS CONSTRUCTION CO., INC.'s Applications for Payment as recommended by BLACK & VEATCH CORPORATION or about the 20th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS or, in the event there is no schedule of values, as provided in the General Requirements.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as BLACK & VEATCH CORPORATION shall determine, or THE CITY OF FAYETTEVILLE may withhold, in accordance with the GENERAL CONDITIONS.
 - a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by BLACK & VEATCH CORPORATION and if the character and progress of the Work have been satisfactory to THE CITY OF FAYETTEVILLE and BLACK & VEATCH CORPORATION, THE CITY OF FAYETTEVILLE on recommendation of BLACK & VEATCH CORPORATION may determine that as long as the character and progress of the Work subsequently remain satisfactory to them a 5 percent retainage will be

DOCUMENT 00500 – AGREEMENT (continued)

withheld on the remaining progress payments prior to Substantial Completion; and

- b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to THE CITY OF FAYETTEVILLE as provided in the GENERAL CONDITIONS.

- 2. Upon Substantial Completion, THE CITY OF FAYETTEVILLE shall pay an amount sufficient to increase total payments to WILSON BROTHERS CONSTRUCTION CO., INC. to 95% of the Contract Price (with the balance being retainage), less such amounts as BLACK & VEATCH CORPORATION shall determine, or THE CITY OF FAYETTEVILLE may withhold, in accordance with the GENERAL CONDITIONS.

5.03 FINAL PAYMENT:

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, THE CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by BLACK & VEATCH CORPORATION and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - WILSON BROTHERS CONSTRUCTION CO., INC.'S REPRESENTATIONS

- 6.01 In order to induce THE CITY OF FAYETTEVILLE to enter into this Agreement, WILSON BROTHERS CONSTRUCTION CO., INC. makes the following representations:

- A. WILSON BROTHERS CONSTRUCTION CO., INC. has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. WILSON BROTHERS CONSTRUCTION CO., INC. has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.

DOCUMENT 00500 – AGREEMENT (continued)

- C. WILSON BROTHERS CONSTRUCTION CO., INC. is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. WILSON BROTHERS CONSTRUCTION CO., INC. has carefully studied all:
- (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. WILSON BROTHERS CONSTRUCTION CO., INC. acknowledges that THE CITY OF FAYETTEVILLE and BLACK & VEATCH CORPORATION do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- E. WILSON BROTHERS CONSTRUCTION CO., INC. has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by WILSON BROTHERS CONSTRUCTION CO., INC. and safety precautions and programs incident thereto.
- F. WILSON BROTHERS CONSTRUCTION CO., INC. does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

- G. WILSON BROTHERS CONSTRUCTION CO., INC. is aware of the general nature of work to be performed by THE CITY OF FAYETTEVILLE and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. WILSON BROTHERS CONSTRUCTION CO., INC. has correlated the information known to WILSON BROTHERS CONSTRUCTION CO., INC., information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. WILSON BROTHERS CONSTRUCTION CO., INC. has given BLACK & VEATCH CORPORATION written notice of all conflicts, errors, ambiguities, or discrepancies that WILSON BROTHERS CONSTRUCTION CO., INC. has discovered in the Contract Documents and the written resolution thereof by BLACK & VEATCH CORPORATION is acceptable to WILSON BROTHERS CONSTRUCTION CO., INC.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC. concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:
 - 1. This Agreement.
 - 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.

DOCUMENT 00500 – AGREEMENT (continued)

- b. WILSON BROTHERS CONSTRUCTION CO., INC.'s Bid.
- c. Documentation submitted by WILSON BROTHERS CONSTRUCTION CO., INC. prior to Notice of Award.
- 3. Performance, Payment, and other Bonds.
- 4. General Conditions.
- 5. Supplementary Conditions.
- 6. Labor-Related Regulations.
- 7. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
- 8. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title:

Noland Wastewater Treatment Plant Wet Weather Improvements EP-1
- 9. Addenda number 1, inclusive.
- 10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.03 SUCCESSORS AND ASSIGNS:

- A. THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC. each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 SEVERABILITY:

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC., who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 OTHER PROVISIONS: Not Applicable.

8.06 CONTROLLING LAW

- A. This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

DOCUMENT 00500 – AGREEMENT (continued)

8.07 ARKANSAS OF INFORMATION ACT

- A. City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, WILSON BROTHERS CONSTRUCTION CO., INC. 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.

DOCUMENT 00500 – AGREEMENT (continued)

IN WITNESS WHEREOF, THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC. have signed this Agreement in quadruplicate. One counterpart each has been delivered to THE CITY OF FAYETTEVILLE, WILSON BROTHERS CONSTRUCTION CO., INC., and BLACK & VEATCH CORPORATION. All portions of the Contract Documents have been signed, initialed, or identified by THE CITY OF FAYETTEVILLE and WILSON BROTHERS CONSTRUCTION CO., INC.

This Agreement will be effective on _____, 2007, which is the Effective Date of the Agreement.

WILSON BROTHERS CONSTRUCTION CO., INC.	<u>City of Fayetteville</u>
_____	<u>Fayetteville, Arkansas</u>
By: _____	By: _____
Title: _____	Title: <u>Mayor</u>

(SEAL)

(SEAL)

Attest _____
Address for giving notices

Attest _____
Address for giving notices

License No. _____

(If Owner is a public body, attach
evidence of authority to
sign and resolution or other documents
authorizing execution of Agreement)

Agent for Service of process

(If WILSON BROTHERS CONSTRUCTION
CO., INC is a corporation, attach evidence
of authority to sign.)

Approved As to Form:
By: _____
Attorney For: City of Fayetteville

END OF DOCUMENT 00500



City of Fayetteville, Arkansas
Water and Wastewater Department
David Jurgens, Director

PROJECT MANUAL

FOR

PROJECT NO. EP-1

NOLAND WASTEWATER TREATMENT PLANT
WET WEATHER IMPROVEMENTS

FAYETTEVILLE WASTEWATER SYSTEM
IMPROVEMENT PROJECT

March 2007

ENGINEER

Black & Veatch Corporation
8400 Ward Parkway
Kansas City, Missouri 64114

OWNER

City of Fayetteville
Waste and Wastewater
Department
113 West Mountain Street
Fayetteville, Arkansas 72701

DOCUMENT 00120 – INVITATION TO BID

**City of Fayetteville, Arkansas
Invitation to Bid
Bid 07-33, EP-1; Noland Wastewater Treatment Plant
Wet Weather Improvements**

Project Name: Wastewater System Improvement Project

Contract Name: Noland Wastewater Treatment Plant
Wet Weather Improvements

Project Nos.: EP-1

Date: Thursday, March 15, 2007
Thursday, March 22, 2007

Bid No.: 07-33

DESCRIPTION OF WORK OF THIS CONTRACT

The Contract provides for the installation of a concrete liner, geomembrane liner, a nonpotable water high pressure washdown system and other miscellaneous improvements at the Noland Wastewater Treatment Plant Primary Pond, 1500 N. Foxhunter Road, Fayetteville, Arkansas 72701 in accordance with the documents prepared by Black & Veatch Corporation.

BID INFORMATION

Sealed bids will be received by the City of Fayetteville, Arkansas (the Owner) until 1:30 p.m., local time, Thursday, April 5, 2007. Bids received after this time will not be accepted. The City of Fayetteville will not be responsible for lost or misdirected bids. Bids will be opened and publicly read aloud immediately after specified closing time in Room 326 at 113 West Mountain Street, Fayetteville, Arkansas. All interested parties are invited to attend.

Bids must be received at the following location BY 1:30 P.M. on Thursday, April 5, 2007:

Purchasing Agent's Office (Room 306) at City Hall
113 West Mountain Street
Fayetteville, Arkansas 72701

DOCUMENT 00120 – INVITATION TO BID (Cont.)

Northwest Arkansas Planning Room
103-A Apple Blossom Road
Bethel Heights, AR 72764
(479)750-7704; Fax (479)750-7709

Reed Construction Data
30 Technology Pkwy, Ste. 100
Norcross, GA 30092
(800)424-3996, Fax (800)303-8629
www.reedconstructiondata.com

ABC Plan Room
c/o Southern Reprographics, Inc.
2905 Pointe Circle
Fayetteville, AR 72703
(479)582-4022; Fax (479)582-4021

Bid News Construction Reports
5727 S. Garnett Road, Suite H
Tulsa, OK 74146
(918)877-1200; Fax (918)877-1203

Bids will be received on a lump sum basis.

Bidders shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments and local city ordinances where the Project is located. The City of Fayetteville will evaluate Bidders in accordance with the Instruction to Bidders.

Prequalification of Bidders will not be required. Owner will evaluate Bidders in accordance with the Instructions to Bidders.

Bid security in the form of a certified or bank cashier's check or a Bid Bond in the amount of 5% of Bid Amount of contract shall accompany each Bid in accordance with the Instructions to Bidders.

Bids shall be in accordance with the Bid Documents.

COMPLETION

Completion time shall be as follows:

The Work shall be Substantially Completed within 180 calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within 210 calendar days after the date when the Contract Times commence to run.

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT

Project Name: Wastewater System Improvement Project

Contract Name: Noland Wastewater Treatment Plant
Wet Weather Improvements

Contract No.: EP-1

Date:

April 5, 2007

SUBMITTED TO:

The City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, Arkansas 72701

SUBMITTED BY:

Company Wilson Brothers Construction Co., Inc

Name Bransen Harris

Address P.O. Box 580 Alma, Ar 72921

Principal Office 201 Collum Lane East Alma, Ar 72921

Corporation partnership, individual, joint
venture, other _____

Arkansas State General Contractor's License Number

015670208

EXPERIENCE STATEMENT

1. Bidder has been engaged as a General Contractor in construction for 35 years and has performed work of the nature and magnitude of this Contract for 35 years. Bidder has been in business under its present name for 35 years.
2. Bidder now has the following bonded projects under contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and estimated completion date.)
3. Bidder has completed the following (list minimum of 3) contracts consisting of work similar to that proposed by this Contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT (CONTINUED)

FINANCIAL STATEMENT

Bidder possesses adequate financial resources as indicated by the following:

1. **Assets and Liabilities:** Attach a financial statement, audited if available, including Bidder's latest balance sheet and income statements showing the following items:
 - a. **Current assets** (cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses).
 - b. **Net fixed assets.**
 - c. **Other assets.**
 - d. **Current liabilities** (accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes).
 - e. **Other liabilities** (capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings).
 - f. **Name of firm preparing financial statement and date thereof:**

If financial statement is not for identical organization named herein, explain relationship and financial responsibility of the organization furnished.

2. **Current Judgments:** The following judgments are outstanding against Bidder:

	<u>Judgment Creditors</u>	<u>Where Docketed and Date</u>	<u>Amount</u>
a.	<u>None</u>	<u></u>	\$ <u></u>
b.	<u></u>	<u></u>	\$ <u></u>

DOCUMENT 00400 - BID FORM

Project Name: Wastewater System Improvements Project
Contract Name: Noland WWTP Improvements – Wet Weather Treatment Improvements
Contract No.: EP-1
Bid No.: 07-33

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: Wilson Brothers Construction Co., Inc
201 Collum Lane East
PO Box 580
Alma, Ar 72921

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

DOCUMENT 00400 - BID FORM (continued)

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
<u>1</u>	<u>April 2, 2007</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress,

DOCUMENT 00400 - BID FORM (continued)

performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.

- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.

DOCUMENT 00400 - BID FORM (continued)

- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

ARTICLE 4 - BID PRICE

- 4.01 Bidder will complete the Work in accordance with the Contract Documents for the following price:

- A. Lump Sum Price:

~~one 1,327,790~~ One Million three hundred twenty-seven thousand
seven hundred _____ Dollars (\$ 1,327,793.62).
Ninety-three and 62/100

ARTICLE 5 - CONTRACT TIMES

- 5.01 Bidder agrees that the Work will be substantially completed and ready for final payment within the number of calendar days indicated in the Agreement.
- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

ARTICLE 6 - BID CONTENT

- 6.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security in the form of a certified or bank cashier's check or a Bid Bond and in the amount of 5% of Bid

Dollars (\$ _____).
- B. Required Bidder's Qualification Statement with supporting data (DOCUMENT 00140 - Bidder's Qualification Statement).
- C. Manufacturer's data where called for in Specifications (DOCUMENT 00450 - Equipment Questionnaire).
- D. DOCUMENT 00430 - List of Subcontractors.

DOCUMENT 00400 - BID FORM (continued)

ARTICLE 7 - COMMUNICATIONS

7.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

Bransen Harris, Wilson Brothers Construction

P.O. Box 580

Alma, Ar 72921

Phone No. (479) 632-2338

FAX No. (479) 632-2331

ARTICLE 8 - TERMINOLOGY

8.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

SUBMITTED on April 5, 2007.

Arkansas State Contractor License No. 015670208

If Bidder is:

An Individual

Name (type or printed): _____

By: _____ (SEAL)

(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

DOCUMENT 00400 - BID FORM (continued)

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner – attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Corporation

Corporation Name: Wilson Brothers Construction Co. Inc. (SEAL)

State of Incorporation: Arkansas

Type (General Business, Professional, Service, Limited Liability): _____

General Business

By: [Signature]
(Signature – attach evidence of authority to sign)

Name (type or printed): Bransen Harris

Title: President

Attest: [Signature] (CORPORATE SEAL)
April Ogilvie
(Signature of Corporate Secretary)

Business address: 201 Collum Lane East P.O. Box 580
Alma, Ar 72921

Phone No.: (479) 632-2338 FAX No.: (479) 632-2331

END OF DOCUMENT 00400

DOCUMENT 00410 - BID BOND

KNOW ALL MEN BY THESE PRESENTS: that we

as Principal, hereinafter called the Principal, and

a corporation duly organized under the laws of the State of _____ as Surety,
hereinafter called Surety, are held and firmly bound unto

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, Arkansas 72701

as Obligee, hereinafter called Owner, in the sum of _____ Dollars
(\$ _____), for the payment of which sum, well and truly to be made, Principal and
said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly
and severally, firmly by these presents.

WHEREAS, Principal has submitted a Bid for the construction of Noland Wastewater Treatment
Plant Wet Weather Improvements, Project No. EP-1, Fayetteville Wastewater System
Improvement Project.

NOW, THEREFORE, if the Owner shall accept the Bid of Principal and the Principal shall enter
into a Contract with the Owner in accordance with the terms of such Bid, and give such Bond or
Bonds as may be specified in the Bidding or Contract Documents with good and sufficient surety
for the faithful performance of such Contract and for the prompt payment of labor and material
furnished in the prosecution thereof, or in the event of the failure of Principal to enter such
Contract and give such Bond or Bonds, if the Principal shall pay to the Owner the difference not
to exceed the penalty hereof between the amount specified in said Bid and such larger amount for

DOCUMENT 00410 - BID BOND (continued)

which the Owner may in good faith contract with another party to perform the Work covered by said Bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this _____ day of _____ 2007.

PRINCIPAL

(CORPORATE SEAL)

By _____

SURETY

By _____

ATTORNEY-IN-FACT

(CORPORATE SEAL)

(This Bond shall be accompanied with
Attorney-in-Fact's authority from Surety)

END OF DOCUMENT 00410

A. I. A. Document No. A-310 (2-70 Ed.)

BID BOND

KNOWN ALL MEN BY THESE PRESENTS, that we, Wilson Brothers Construction Company, Inc., as Principal, hereinafter called the Principal, and Mid-Continent Casualty Company, a Corporation duly organized under the laws of the State of Oklahoma as Surety, hereinafter called the Surety, are held and firmly bound unto City of Fayetteville, 113 West Mountain, Fayetteville, AR as Obligee, hereinafter called the Obligee, in the sum of Five Per Cent of Amount of Bid (5%) for the payment of which ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

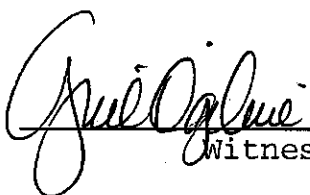
WHEREAS, the Principal has submitted a bid for Wet Weather Improvements Noland Wastewater Treatment Plant.

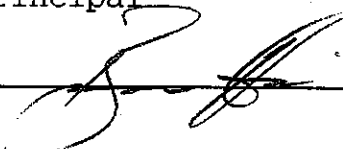
NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then the obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 5 day of April, 2007.

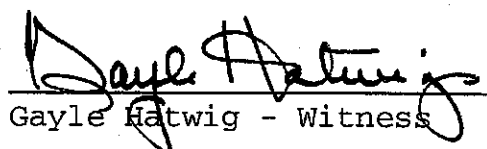
Wilson Brothers Construction Co., Inc.

Principal (Seal)


Witness

 President
(Title)

Mid-Continent Casualty Company
Surety (Seal)


Gayle Hatwig - Witness


James C. Russell - Attorney-In-Fact

MID-CONTINENT CASUALTY COMPANY
Tulsa, Oklahoma

A. 3
Wilson Brothers Construction
Page 34 of 64

Know all Men by these presents: That the MID-CONTINENT CASUALTY COMPANY, a corporation of the State of Oklahoma, having its principal office in the city of Tulsa, Oklahoma, pursuant to the following By-Law, which was adopted by the Stockholders of the said Company on March 13th, 1947, to-wit:

"Article IV, Section 7. -- The Executive Officers of the Company shall have power and authority to appoint, for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one more Resident Vice President, Resident Assistant Secretaries and Attorneys-in-Fact and at any time to remove any such Resident Vice President, Resident Assistant Secretary, or Attorney-in-Fact and revoke the power and authority given him. None of such appointees need be Directors of the Company."

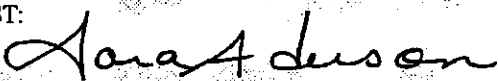
The Company does hereby constitute and appoint **Ken Adney, John Baxter, Tom Foltz, Carolyn Greene, Gayle Hatwig, Kim Marvel, Walter Moorman, Sandy Roe, Jim Russell, Steve Standridge and Tara Zipp**, individually of FT. SMITH, AR

its true and lawful attorney(s)-in-fact, to execute, seal and deliver for and on its behalf as Surety, and as its act and deed,
Any and all bonds and undertakings of Suretyship.

And the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said MID-CONTINENT CASUALTY COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office in Tulsa, Oklahoma.

IN WITNESS WHEREOF, MID-CONTINENT CASUALTY COMPANY has executed and attested these
presents this 26 day of May , 2006

ATTEST:

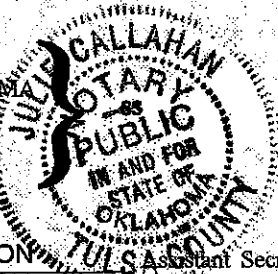

SARA ANDERSON ASSISTANT SECRETARY


TODD BAZATA VICE PRESIDENT

On this 26 day of May , 2006 before me, a Notary Public of the State of Oklahoma in and for the County of Tulsa, came the individual to me personally known to be the officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, said that he is the therein described and authorized officer of the MID-CONTINENT CASUALTY COMPANY aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as such officer were duly affixed to the said instrument by the authority and direction of the said Company, and that Article IV, Section 7, of the By-Laws of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Tulsa, the day and year first above written.

STATE OF OKLAHOMA
COUNTY OF TULSA



Commission # 99009381
My Commission expires 06-07-07

JULIE CALLAHAN Notary Public

I, **SARA ANDERSON**, Assistant Secretary of MID-CONTINENT CASUALTY COMPANY do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of this corporation, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

This certifies that any facsimile or mechanically-produced signature of any officer of the Company and Company seal, wherever appearing upon a power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 5 day of APRIL , 2007

SARA ANDERSON Assistant Secretary



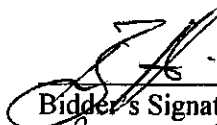
DOCUMENT 00430 - LIST OF SUBCONTRACTORS

In compliance with the Instructions to Bidders and other Contract Documents, the undersigned submits the following names of Subcontractors to be used in performing the Work for Project No. EP-1, Noland Wastewater Treatment Plant Wet Weather Improvements.

Bidder certifies that all Subcontractors listed are eligible to perform the Work.

Subcontractor's Work	Subcontractor's Name	License No.	Work. Comp. EMR	% of Contract Value
Pipelaying				
Excavation/Grading				
Concrete				
Geomembrane Lining System	Comanco Environmental	178790407	0.77	11%.
Mechanical				
Fencing	Modern Fence	0001760407	0.82	2%.
Electric	Matlock Electric	0009141207	1.00	1%.

NOTE: This form must be submitted in accordance with the Instructions to Bidders.


Bidder's Signature
Bransen Harris, President

END OF DOCUMENT 00430

DOCUMENT 00450 – EQUIPMENT QUESTIONNAIRE

The Bidder shall enter in the spaces provided the names of the manufacturers of equipment which Bidder proposes to furnish, and shall submit this Questionnaire with its Bid. Owner will review and evaluate the information before award of the Contract.

Only one manufacturer's name shall be listed for each item. Upon award of a contract, the named equipment shall be furnished. Substitutions will be permitted only if named equipment does not meet the requirements of the Contract Documents, the manufacturer is unable to meet the delivery requirements of the construction schedule, or the manufacturer is dilatory in complying with the requirements of the Contract Documents. Substitutions shall be subject to concurrence of Owner and shall be confirmed by Change Order.

Preliminary acceptance of equipment listed by manufacturer's name shall not in any way constitute a waiver of the specifications covering such equipment; final acceptance will be based on full conformity with the Contract Documents.

Failure to furnish all information requested or entering more than one manufacturer's name for any item in this Equipment Questionnaire may be cause for rejection of the Bid.

<u>Equipment</u>	<u>Manufacturer</u>
1. Geomembrane Liner	<u>GSE</u>
2. Electric Actuators	<u>EDM Series 2000 Model 4000</u>
2. Gate Valves	<u>Muller</u>

END OF DOCUMENT 00450



Similar Completed Contracts

**1. Lake Shepherd Springs Road Relocation
Lake Fort Smith Dam and Reservoir Enlargement**

Owner: City of Fort Smith Utilities Department
Steve Parke, Director of Utilities
623 Garrison Avenue
Fort Smith, AR 72901
Phone: 479.785.2801 Fax: 479.784.2407

Engineer: Mickle Wagner Coleman, Inc.
Bobby Aldridge, P.E.
P.O. Box 1507
Fort Smith, AR 72902
Phone: 479.649.8484 Fax: 479.649.8486

Contract Amount: \$2,783,749.00 Completed By Bidder: 80%

Surety: Westfield Insurance Company Date of Completion: September 2003

2. 48th Street Water and Sewer - Springdale, Arkansas

Owner: Springdale Water Utilities
526 Oak Ave
Springdale, AR 72765
Phone: 479.751.5752

Engineer: Garver Engineers
~~Kip Guthrie, P.E.~~
3810 Front Street, Ste. 10
Fayetteville, AR 72703
Phone: 479.527.9100 Fax: 479.527.9101

Contract Amount: \$319,382.00 Completed By Bidder: 100%

Surety: Westfield Insurance Company Date of Completion: May 2005

3. City of Fort Smith Reconstruction/ 03-03-A Fort Smith Street Overlay

Owner: City of Fort Smith Utilities Department
Steve Parke, Director of Utilities
623 Garrison Avenue
Fort Smith, AR 72901
Phone: 479.785.2801 Fax: 479.784.2407

Engineer: City of Fort Smith

Contract Amount: \$1,245,269.44 Completed By Bidder: 70%

Surety: Westfield Insurance Company Date of Completion: August 2004

4. City of Fort Smith Reconstruction/ 03-03-B Fort Smith Street Overlay

Owner: City of Fort Smith Utilities Department
Steve Parke, Director of Utilities
623 Garrison Avenue
Fort Smith, AR 72901
Phone: 479.785.2801 Fax: 479.784.2407

Engineer: City of Fort Smith

Contract Amount: \$847,068.18 Completed By Bidder: 70%

Surety: Westfield Insurance Company Date of Completion: April 2004

5. Sludge Removal at the Fort Smith Airport

Owner: City of Fort Smith Utilities Department
Steve Parke, Director of Utilities
623 Garrison Avenue
Fort Smith, AR 72901
Phone: 479.785.2801 Fax: 479.784.2407

Engineer: City of Fort Smith

Contract Amount: \$100,000.00 Completed By Bidder: 100%

Bonding Agent: Brown Hiller Clark Date of Completion: 1982

6. **City of Alma Oxidation Ponds**

Owner: City of Alma
804 Fayetteville Ave.
Alma, AR 72921
Phone: 479.632.4110

✓ Engineer: Hawkins-Weir Engineers, Inc.
Brett D. Peters, P.E.
P.O. Box 648
Van Buren, AR 72957
Phone: 479.474.1227

} not
engineer
Fax: 479.474.8531

Contract Amount: \$160,000.00

Completed By Bidder: 100%

Bonding Agent: Brown Hiller Clark

Date of Completion: December 1998



Current Bonded Projects

1. Mountainburg Waste Water System Improvements

Owner: City of Mountainburg
Stanley Moore, Mayor
P.O. Box 433
Mountainburg, AR 72946
Phone: 479.369.2791 Fax: 479.369.4674

Engineer: Hawkins-Weir Engineers, Inc.
Brett D. Peters, P.E.
P.O. Box 648
Van Buren, AR 72957
Phone: 479.474.1227 Fax: 479.474.8531

Contract Amount: \$357,868.00

Surety: Mid-Continent Casualty Company

Estimated Completion Date: June 30, 2007

2. OG & E Sanitary Sewer Relocation

Owner: Oklahoma Gas and Electric Company
Paul Davis
1200 E. I-240 Service Road, Bldg. B
Oklahoma City, OK 73149
Phone: 405.553.4837 Fax: 405.553.4811

Engineer: Hawkins-Weir Engineers, Inc.
Brett D. Peters, P.E.
P.O. Box 648
Van Buren, AR 72957
Phone: 479.474.1227 Fax: 479.474.8531

Contract Amount: \$79,971.50

Surety: Mid-Continent Casualty Company

Estimated Completion Date: March 12, 2007

**3. Lake Shepherd Springs Recreation Area – Day Use and Boat Ramp
Areas Sitework, Project No. 99-01-C21A**

Owner: City of Fort Smith Utilities Department
Steve Parke, Director of Utilities
623 Garrison Avenue
Fort Smith, AR 72901
Phone: 479.785.2801 Fax: 479.784.2407

Engineer: Mickle Wagner Coleman, Inc.
Bobby Aldridge, P.E.
P.O. Box 1507
Fort Smith, AR 72902
Phone: 479.649.8484 Fax: 479.649.8486

Contract Amount: \$2,131,853.00

Surety: Mid-Continent Casualty Company

Estimated Completion Date: June 26, 2007

4. Creekside Phase III

Owner: Barber Construction
Gary Boyles
2921 South Old Missouri Road, Ste 3
Springdale, AR 72746
Phone: 479.750.3112 Fax: 479.750.2853

Engineer: Crafton, Tull, Sparks and Associates
901 North 7th Street, Ste. 200
Rogers, AR 72756
Phone: 479.878.2420

Contract Amount: \$2,131,853.00

Surety: Mid-Continent Casualty Company

Estimated Completion Date: June 15, 2007

5. Legendary Subdivision

Owner: Gary Brandon Enterprises
P.O. Box 21
Springdale, AR 72765
Phone: 479.751.7254 Fax: 479.751.7624

Engineer: Engineering Services, Inc.
P.O. Box 282
1207 South Old Missouri Road
Springdale, AR 72764
Phone: 479.751.8733 Fax: 479.751.8746

Contract Amount: \$7,601,525.00

Surety: Mid-Continent Casualty Company

Estimated Completion Date: June 1, 2007

6. Valley View Estates, Highlands Square North

Owner: Rausch Coleman VV, Inc. LLC
Kim Hessee
308 E. Main
Farmington, AR 72730
Phone: 479.267.6008 Fax: 479.267.5241

Engineer: Engineering Design Associates, P.A.
134 West Emma Ave
Springdale, AR 72764
Phone: 479.756.1266 Fax: 479.756.2129

Contract Amount: \$1,288,167.00

Surety: Mid-Continent Casualty Company

Estimated Completion Date: April 1, 2007

7. Springhills Subdivision Phase II

Owner: McMahon Brothers Custom Homes, Inc.
Tim McMahon
P.O. Box 7300
Springdale, AR 72766
Phone: 479.521.2611 Fax: 479.521.2442

Engineer: Engineering Services, Inc.
P.O. Box 282
1207 South Old Missouri Road
Springdale, AR 72764
Phone: 479.751.8733 Fax: 479.751.8746

Contract Amount: \$1,991,159.00

Surety: Mid-Continent Casualty Company

Estimated Completion Date: May 15, 2007

Marley T. Phillips

Work Experience:

Wilson Brothers Construction, Inc./ Alpha Utilities, Inc., November 2006 - Present

Project Manager

Responsibilities include:

- Client contact
- Tracking project budget and schedule
- Daily operations of various construction projects including earthwork and utility construction
- Preparing material lists and ordering of material ensuring compliance with plans, specifications, and local codes
- Recent Projects
 - 36" & 42" Water transmission mains modifications – Fayetteville, AR
 - U of A – Utility tunnel, water, sewer, and drainage construction – Fayetteville, AR
 - 25 ac. condominium subdivision including earthwork and utilities – Fayetteville, AR
 - Rogers High School campus addition – Rogers, AR

CEI Engineering Associates, Inc.; October 1994 – November 2006

CAD Tech

- Responsible for plan revisions and corrections as directed by project manager/engineer.

CAD Designer

- Responsible for the design and production of commercial site development plans with input from Project Manager and Project Engineer.

Program Manager

- Managing the design and production team including quality control of commercial site development plans
- Represent multiple clients in all permitting activities at local, county, and state levels nationwide.
- Manage project schedule and budget, client maintenance and coordination, address contractor requests for information, change orders and field changes.

Department Manager

- Develop, implement, and monitor departmental annual budget to ensure business goals and objectives are accomplished
- Oversee program/project management and design activities, including scheduling, technical expertise, design review and approval, permitting, construction monitoring, site investigations and feasibility studies
- Write and negotiate client and sub-consultant contracts in reference to scope of work, professional fees, insurance requirements, and ensure liability to company and client is limited.
- Personnel responsibilities including: recruiting, interviewing, hiring and training new employees, assigning and directing work, appraising performance, rewarding and disciplinary actions, addressing complaints and resolving employee issues. Conducting regular departmental meetings to discuss workload, work assignments, and client coordination.
- Marketing potential clients and business development.

Cliff Ellis, Project Superintendent

To Whom It May Concern:

I began working for the Arkansas Highway and Transportation Department in the construction department in 1946. In 1952 I entered the military and upon leaving the military in 1954, I returned to the highway department.

My experience is in all phases of construction, including surveying, drafting, dirt, concrete, asphalt and bridges. I have constructed fire pits for training, detention ponds, private ponds, highways, bridges over streets and waterways. My latest detention pond work was at Kensington Hills and Stone Meadow Subdivisions in Benton County.

My work has involved working on lakes and dams for the Corps of Engineers in Arkansas and Oklahoma. Also, I was in charge of building a 50' high dam while in Germany.

25 years with the AHTD

8 years street superintendent with the City of Fort Smith

25 plus years for various Contractors

WILSON BROTHERS CONSTRUCTION CO., INC.

AND AFFILIATE

FINANCIAL STATEMENTS

OCTOBER 31, 2006

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
OCTOBER 31, 2006

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JOHN LANGHAM & Co.
CERTIFIED PUBLIC ACCOUNTANTS

TO THE BOARD OF DIRECTORS AND STOCKHOLDERS
WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
ALMA, ARKANSAS

INDEPENDENT AUDITOR'S REPORT

We have audited the accompanying combined balance sheet of Wilson Brothers Construction Co., Inc. and Affiliate (corporations) as of October 31, 2006, and the related combined statements of income, changes in stockholders' equity and cash flows for the year then ended. These financial statements are the responsibility of the company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with U.S. generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the combined financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the combined financial statements referred to above present fairly, in all material respects, the financial position of Wilson Brothers Construction Co., Inc. and Affiliate as of October 31, 2006, and the results of their operations and their cash flows for the year then ended in conformity with U.S. generally accepted accounting principles.

Our audit was made for the purpose of forming an opinion on the basic combined financial statements taken as a whole. The accompanying supplementary information is presented for the purpose of additional analysis and is not a required part of the basic combined financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic combined financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic combined financial statements taken as a whole.

John Langham & Co.

CERTIFIED PUBLIC ACCOUNTANTS

FORT SMITH, ARKANSAS
JANUARY 7, 2007

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
BALANCE SHEET
OCTOBER 31, 2006

ASSETS

CURRENT ASSETS

Cash and cash equivalents	\$ 955,452
Certificates of deposit	724,784
Contract receivables (Note 4)	
Completed contracts	500,923
Contracts in progress	2,964,740
Retainage	2,016,401
Related party (Note 2)	68,562
Costs and estimated earnings in excess of billings on uncompleted contracts (Note 3)	284,700
Accounts receivable	
Employee	2,004
Related party (Note 2)	139,542
Prepaid expenses	40,462
TOTAL CURRENT ASSETS	<u>7,697,570</u>

PROPERTY AND EQUIPMENT, at cost (Notes 1 and 5)

Buildings and improvements	86,918
Machinery and equipment	3,434,640
Vehicles	1,293,675
Furniture and fixtures	61,709
	<u>4,876,942</u>
Less: Accumulated depreciation	1,598,302
NET PROPERTY AND EQUIPMENT	<u>3,278,640</u>

OTHER ASSETS

Deferred tax asset (Note 8)	28,968
TOTAL OTHER ASSETS	<u>28,968</u>

TOTAL ASSETS	<u>\$11,005,178</u>
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The accompanying notes to the financial statements are an integral part of this report.

LIABILITIES AND STOCKHOLDERS' EQUITY

CURRENT LIABILITIES

Accounts payable	
Trade	\$ 2,782,465
Related party (Note 2)	8,519
Subcontractors	99,447
Retainage	84,574
Billings in excess of costs and estimated earnings on uncompleted contracts (Note 3)	1,419,416
Accrued expenses	240,250
Current portion of long-term debt (Note 5)	927,178
Income taxes payable	180,954
Note payable - Line of credit (Note 4)	0
TOTAL CURRENT LIABILITIES	<u>5,742,803</u>

LONG-TERM LIABILITIES

Deferred tax liability (Note 8)	247,566
Notes payable - Related parties (Note 6)	750,000
Long-term debt (Note 5)	1,422,147
TOTAL LONG-TERM LIABILITIES	<u>2,419,713</u>

STOCKHOLDERS' EQUITY

Common stock; No par value; \$175 stated value; 2,000 shares authorized, 200 shares issued and outstanding	35,000
Additional paid-in capital	56,000
Retained earnings	2,751,662
TOTAL STOCKHOLDERS' EQUITY	<u>2,842,662</u>

TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	<u>\$11,005,178</u>
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WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
STATEMENT OF INCOME
FOR THE YEAR ENDED OCTOBER 31, 2006

CONTRACT REVENUES EARNED	\$28,645,301
COST OF REVENUES EARNED	<u>25,466,423</u>
GROSS PROFIT	<u>3,178,878</u>
GENERAL AND ADMINISTRATIVE EXPENSES	
Officers' salaries	179,803
Office and clerical salaries	216,884
Office burden	26,883
Employee benefits (Note 9)	55,569
Advertising	6,038
Bank and late fees	1,658
Contributions	229,259
Officers' life insurance	2,589
Miscellaneous	12,732
Legal and accounting	36,044
Meals and entertainment	3,632
Travel	17,621
Computer support	10,359
Dues and subscriptions	1,964
Postage	6,859
Office rent (Note 2)	42,000
Office expense	42,838
Taxes and licenses	18,932
Telephone and utilities	17,276
Depreciation expense	11,737
Bad debt	<u>618,340</u>
TOTAL GENERAL AND ADMINISTRATIVE EXPENSES	<u>1,559,017</u>
INCOME FROM OPERATIONS	<u>1,619,861</u>
OTHER INCOME (EXPENSE)	
Interest income	17,228
Gain/(Loss) on disposal of fixed assets	19,387
Miscellaneous income	<u>49,672</u>
TOTAL OTHER INCOME (EXPENSE)	<u>86,287</u>
NET INCOME BEFORE INCOME TAXES	1,706,148
PROVISION FOR INCOME TAXES (Note 8)	<u>393,978</u>
NET INCOME	<u><u>\$ 1,312,170</u></u>

The accompanying notes to the financial statements are an integral part of this report.

**WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
STATEMENT OF CHANGES IN STOCKHOLDERS' EQUITY
FOR THE YEAR ENDED OCTOBER 31, 2006**

COMMON STOCK

Beginning balance - October 31, 2005	\$ 35,000
No activity	<u>0</u>
Ending balance - October 31, 2006	<u>35,000</u>

ADDITIONAL PAID-IN CAPITAL

Beginning balance - October 31, 2005	56,000
No activity	<u>0</u>
Ending balance - October 31, 2006	<u>56,000</u>

RETAINED EARNINGS

Beginning balance - October 31, 2005	1,439,492
Net income	<u>1,312,170</u>
Ending balance - October 31, 2006	<u>2,751,662</u>

TOTAL STOCKHOLDERS' EQUITY

\$2,842,662

The accompanying notes to the financial statements are an integral part of this report.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED OCTOBER 31, 2006

CASH FLOWS FROM OPERATING ACTIVITIES

Net income	\$1,312,170
Adjustments to reconcile net income to net cash provided by operating activities:	
Depreciation expense	589,274
(Gain)/Loss on sale of equipment	(19,387)
(Increase) decrease in assets	
Certificates of deposit	(7,859)
Contract receivables	1,569,932
Costs and estimated earnings in excess of billings on uncompleted contracts	(168,403)
Accounts receivable - Other	10,216
Prepaid expenses	1,621
Deferred tax asset	(17,021)
Increase (decrease) in liabilities	
Accounts payable	(1,095,750)
Income tax payable	143,115
Billings in excess of costs and estimated earnings on uncompleted contracts	350,792
Deferred tax liability	66,401
Accrued expenses	77,949
NET CASH PROVIDED(USED) BY OPERATING ACTIVITIES	<u>2,813,050</u>

CASH FLOWS FROM INVESTING ACTIVITIES

Purchase of equipment	(1,556,571)
Purchase of certificate of deposit	(500,000)
NET CASH PROVIDED(USED) BY INVESTING ACTIVITIES	<u>(2,056,571)</u>

CASH FLOWS FROM FINANCING ACTIVITIES

New borrowings - short term	2,250,486
New borrowings - long term	1,184,730
New borrowings - related party	500,000
Debt reduction - short term	(3,250,000)
Debt reduction - long term	(721,572)
NET CASH PROVIDED(USED) BY FINANCING ACTIVITIES	<u>(36,356)</u>

NET INCREASE(DECREASE) IN CASH AND CASH EQUIVALENTS 720,123

CASH AND CASH EQUIVALENTS, BEGINNING OF PERIOD 235,329

CASH AND CASH EQUIVALENTS, END OF PERIOD \$ 955,452

SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION

Interest paid	\$ 188,004
Income taxes paid	<u>\$ 138,500</u>

The accompanying notes to the financial statements are an integral part of this report.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
NOTES TO THE FINANCIAL STATEMENTS
OCTOBER 31, 2006

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

NATURE OF BUSINESS

Wilson Brothers Construction Co., Inc. is a corporation engaged primarily as a general contractor specializing in highway, road and utility construction. The company generally operates in western and northwestern Arkansas and eastern Oklahoma.

Management uses estimates and assumptions in preparing these financial statements in accordance with accounting principles generally accepted in the United States of America. Those estimates and assumptions affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities, and the reported revenues and expenses. Actual results could vary from the estimates that were used.

The following is a summary of significant accounting policies used in the preparation of the accompanying financial statements. Such policies are in accordance with accounting principles generally accepted in the United States of America and have been consistently applied.

BASIS OF PRESENTATION

The combined financial statements consist of two affiliated corporations that operate under shared management and common ownership, collectively referred to in these combined financial statements as Wilson Brothers Construction Co., Inc. and Affiliate. The corporations included are Wilson Brothers Construction Co., Inc. and Titan Construction, Inc. All material intercompany transactions and balances are eliminated in the combination.

Profit on construction contracts is recorded on the basis of the company's estimates of the percentage-of-completion of individual contracts, commencing when progress reaches a point where experience is sufficient to estimate final results with reasonable accuracy. A portion of the total estimated profit is recognized in the ratio that contract expenditures incurred and work performed to date bear to total estimated contract costs.

Contract costs include all direct material and labor costs, and subcontract costs, and those indirect costs related to contract performance, such as indirect labor, supplies, tools and repair costs. General operating costs are charged to expense as incurred. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are determined. Changes in job performance, job conditions, and estimated profitability may result in revisions to costs and income and are recognized in the period in which the revisions are determined.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
NOTES TO THE FINANCIAL STATEMENTS
OCTOBER 31, 2006

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

The asset, "Costs and estimated earnings in excess of billings on uncompleted contracts", represents revenues recognized in excess of amounts billed. The liability, "Billings in excess of costs and estimated earnings on uncompleted contracts" represents billings in excess of revenues recognized.

PROPERTY AND EQUIPMENT

Property and equipment are stated at cost. Depreciation is computed using the straight-line method over the following estimated useful lives:

Buildings and improvements	20 - 39 years
Machinery and equipment	5 - 10 years
Vehicles	5 - 10 years
Furniture and fixtures	3 - 7 years

Expenditures for maintenance and repairs are charged against operations. Renewals and betterments that materially extend the life of the assets are capitalized. Depreciation expense for the year ended October 31, 2006, was \$589,274.

CASH EQUIVALENTS

For purposes of the statement of cash flows, the company considers all highly liquid debt instruments purchased with an original maturity of three months or less to be cash equivalents. At October 31, 2006, the company had no cash equivalents.

CONCENTRATION OF CREDIT RISK AND CONTRACT RECEIVABLES

The company maintains its cash balances at two financial institutions located in Fort Smith, Arkansas and Alma, Arkansas. Accounts at the institutions are insured by the Federal Deposit Insurance Corporation up to \$100,000. Amounts per the banks' records at October 31, 2006, before deducting outstanding items, exceed the FDIC insurance coverage by \$1,835,095.

The company earned 5% of its contract revenue from related party projects. At October 31, 2006, contract receivables were 1% related party. Uncollectible contracts receivable are charged directly against income in the year they are determined to be uncollectible. Therefore, no allowance for doubtful accounts is maintained by the company. Use of this method does not result in a material difference from the valuation method required by accounting principles generally accepted in the United States of America.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
NOTES TO THE FINANCIAL STATEMENTS
OCTOBER 31, 2006

NOTE 1: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

The amount of bad debt charge-off for the year ended October 31, 2006 is \$618,340.

NOTE 2: RELATED PARTY TRANSACTIONS

The company rents an office building, workshop and warehouse from a related party, Wilson Brothers Rentals, which is owned by minority stockholders of the company. \$42,000 in rent was paid by the company to Wilson Brothers Rentals for the year ended October 31, 2006. Additionally, the company contracts with another company owned by the majority stockholder for staking services.

For the year ended October 31, 2006, the company's contract revenues earned included \$1,564,081 with related costs of \$1,640,454 from construction projects for companies in which the majority stockholder has an interest.

Receivables from related parties consist of the following at October 31, 2006:

Contract receivables from majority stockholder and related companies	
Completed contracts	\$ 0
Contracts in progress	0
Retainage	68,562
	<u>\$ 68,562</u>

Accounts payable arising from construction activities, due to related parties, at October 31, 2006 was \$8,519.

NOTE 3: COSTS AND ESTIMATED EARNINGS ON UNCOMPLETED CONTRACTS

Costs and estimated earnings on uncompleted contracts for the year ended October 31, 2006 is as follows:

Costs incurred on uncompleted contracts	\$14,030,332
Estimated earnings	<u>1,946,427</u>
	15,976,759
Less billings to date	<u>17,111,475</u>
	<u><u>\$ (1,134,716)</u></u>

Included in the accompanying balance sheet under the following captions:

Costs and estimated earnings in excess of billings on uncompleted contracts	\$ 284,700
Billings in excess of costs and estimated earnings on uncompleted contracts	<u>(1,419,416)</u>
	<u><u>\$ (1,134,716)</u></u>

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
NOTES TO THE FINANCIAL STATEMENTS
OCTOBER 31, 2006

NOTE 4: NOTE PAYABLE - LINE OF CREDIT

The company maintains a \$1,000,000 line of credit at First National Bank with a balance of \$0 at October 31, 2006. The current interest rate on this line of credit is 8.25% and the line renews in February 2007. The debt is collateralized by the company's receivables and by the personal guarantees of the stockholders.

Interest expense for the year ended October 31, 2006 amounted to \$47,607.

NOTE 5: LONG-TERM DEBT

Long-term debt at October 31, 2006 consists of the following:

Various vehicle notes payable with First National Bank in monthly installments totaling \$2,985, including interest ranging from 5.47% to 8.00%, and collateralized by vehicles with a book value of \$28,247 at October 31, 2006.	\$ 32,186
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Various vehicle notes payable with GE Commercial Finance in monthly installments totaling \$14,424, including interest ranging from 0.00% to 8.99%, and collateralized by vehicles with a book value of \$435,065 at October 31, 2006.	436,338
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Various equipment notes payable with John Deere Credit in monthly installments totaling \$4,313, including interest of 5.08%, and collateralized by equipment with a book value of \$125,920 at October 31, 2006.	102,103
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Various equipment notes payable with CNH Capital in monthly installments totaling \$14,257, including interest ranging from 0.0% to 6.25% and collateralized by equipment with a book value of \$535,297 at October 31, 2006.	509,603
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Various equipment notes payable with Financial Federal Credit, Inc. in monthly installments totaling \$44,310, including interest ranging from 6.08% to 7.96%, and collateralized by equipment with a book value of \$902,556 at October 31, 2006.	996,376
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The company has two notes payable with CIT Group requiring monthly payments of \$1,988 with interest of 6.85% and 7.50%, and collateralized by a vehicle and a backhoe with a book value totaling \$65,982 at October 31, 2006.	54,332
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The company has a note payable with Caterpillar Financial requiring monthly payments of \$4,947 with interest at 0.00%, and collateralized by a skid steer with a book value of \$107,255 at October 31, 2006.	89,212
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The company has a note payable with Komatsu Financial requiring monthly payments of \$3,048 with interest at 0.00%, collateralized by equipment with a book value of \$104,267 at October 31, 2006.	103,658
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WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
NOTES TO THE FINANCIAL STATEMENTS
OCTOBER 31, 2006

NOTE 5 LONG TERM DEBT (continued)

The company has a note payable with FCC Equipment Finance, Inc. requiring monthly payments of \$1,249 with interest at 7.85%, and collateralized by an excavator with a book value of \$32,816 at October 31, 2006.

Less current maturities

	25,517
	<u>2,349,325</u>
	927,178
	<u>\$ 1,422,147</u>

Maturities of long-term debt for each of the next five years and in the aggregate are as follows:

<u>PERIOD ENDED</u>	<u>AMOUNT</u>
October 31, 2007	\$ 927,178
October 31, 2008	859,461
October 31, 2009	436,962
October 31, 2010	92,993
October 31, 2011	32,731
	<u>\$ 2,349,325</u>

Interest expense for the year ended October 31, 2006 amounted to \$109,811.

NOTE 6: NOTES PAYABLE - RELATED PARTIES

The company has a \$250,000 note with the majority stockholder's grandmother which matures November 1, 2007. The company makes monthly interest only payments. Interest rate at October 31, 2006 was 7.5%.

\$ 250,000

The company has a \$500,000 note with the majority stockholder which matures November 1, 2007. The company makes monthly interest only payments. Interest rate at October 31, 2006 was 7.5%.

500,000
<u>\$ 750,000</u>

Interest expense for the year ended October 31, 2006 amounted to \$30,586.

NOTE 7: OPERATING LEASES

The company leases various pieces of machinery and equipment under non-cancellable operating leases. Lease expense on these leases for the year ending October 31, 2006 was \$1,834,761.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
NOTES TO THE FINANCIAL STATEMENTS
OCTOBER 31, 2006

NOTE 7: OPERATING LEASES (continued)

The minimum monthly lease payments for these leases for the years ending October 31 for the next five years are as follows:

<u>PERIOD ENDED</u>	<u>AMOUNT</u>
October 31, 2007	\$1,442,882
October 31, 2008	935,524
October 31, 2009	386,024
October 31, 2010	183,053
October 31, 2011	7,266
	<u>\$2,954,749</u>

NOTE 8: PROVISION FOR INCOME TAXES

Income tax expense for the year ended October 31, 2006 consists of the following:

	<u>AMOUNT</u>
Current expense (benefit)	
Federal	\$ 282,552
State	54,712
Deferred expense	56,714
	<u>\$ 393,978</u>

Deferred income taxes (benefits) reflect the impact of "temporary differences" between amounts of assets and liabilities for financial reporting purposes and such amounts are measured by tax laws. These temporary differences are determined in accordance with SFAS No. 109.

NOTE 9: PENSION PLAN

The company sponsors a 401(k) profit sharing plan where employees can contribute to their own account on a pretax basis. Matching contributions and employer contributions are discretionary on the part of management. Contributions to the plan for plan costs committed to by management for the year ended October 31, 2006 was \$44,151.

SUPPLEMENTARY INFORMATION

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
SCHEDULE OF EARNINGS FROM CONTRACTS
FOR THE YEAR ENDED OCTOBER 31, 2006

	<u>REVENUE EARNED</u>	<u>COST OF REVENUES</u>	<u>GROSS PROFIT</u>
Contracts completed during the period	\$14,366,303	\$12,768,319	\$ 1,597,984
Contracts in progress at end of period	<u>14,278,998</u>	<u>12,698,104</u>	<u>1,580,894</u>
	<u>\$28,645,301</u>	<u>\$25,466,423</u>	<u>\$ 3,178,878</u>

See accountants' report on supplementary information.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
SCHEDULE OF CONTRACTS COMPLETED
FOR THE YEAR ENDED OCTOBER 31, 2006

FOR THE YEAR ENDED
OCTOBER 31, 2006

BEFORE NOVEMBER 1, 2005

CONTRACT TOTALS

Contract Number	Revenues Earned	Cost of Revenues	Gross Profit (Loss)	Revenues Earned	Cost of Revenues	Gross Profit (Loss)	Revenues Earned	Cost of Revenues	Gross Profit (Loss)
03-06	\$ 1,087,575	\$ 1,099,873	\$ (12,298)	\$ 984,599	\$ 936,535	\$ 48,064	\$ 102,976	\$ 163,338	\$ (60,362)
04-28	1,135,952	1,223,324	(87,372)	1,133,346	1,215,653	(82,307)	2,606	7,671	(5,065)
05-08	174,333	233,426	(59,093)	164,497	171,067	(6,570)	9,836	62,359	(52,523)
05-16	3,294,575	2,907,023	387,552	2,104,123	1,568,098	536,025	1,190,452	1,338,925	(148,473)
05-17	751,774	474,640	277,134	344,154	238,680	105,474	407,620	235,960	171,660
05-18	2,119,523	1,790,035	329,488	414,661	357,674	56,987	1,704,862	1,432,361	272,501
05-20	187,069	166,726	20,343	58,537	44,881	13,656	128,532	121,845	6,687
05-22	4,302,076	3,724,580	577,496	758,708	684,604	94,104	3,543,368	3,059,976	483,392
05-23	2,679,671	1,987,871	691,800	804,282	638,971	165,311	1,875,389	1,348,900	526,489
05-25	37,529	47,221	(9,692)	34,853	33,017	1,836	2,676	14,204	(11,528)
05-26	60,040	74,340	(14,300)	24,184	20,675	3,509	35,856	53,665	(17,809)
05-28	842,534	744,567	97,967	80,926	65,846	15,080	761,608	678,721	82,887
06-03	429,003	391,909	37,094	0	0	0	429,003	391,909	37,094
06-04	269,994	553,499	(283,505)	0	0	0	269,994	553,499	(283,505)
06-05	150,000	106,990	43,010	0	0	0	150,000	106,990	43,010
06-07	348,273	257,249	91,024	0	0	0	348,273	257,249	91,024
06-09	44,672	31,522	13,150	0	0	0	44,672	31,522	13,150
06-11	228,964	227,828	1,136	0	0	0	228,964	227,828	1,136
06-13	1,380,387	1,080,366	300,021	0	0	0	1,380,387	1,080,366	300,021
06-17	94,868	65,235	29,633	0	0	0	94,868	65,235	29,633
06-18	158,891	131,298	27,593	0	0	0	158,891	131,298	27,593
06-20	138,336	119,767	18,569	0	0	0	138,336	119,767	18,569
Small Contracts	1,357,134	1,284,731	72,403	0	0	0	1,357,134	1,284,731	72,403
	\$ 21,273,173	\$ 18,724,020	\$ 2,549,153	\$ 6,906,870	\$ 5,955,701	\$ 951,169	\$ 14,366,303	\$ 12,768,319	\$ 1,597,984

3 - Related Party

See accountants' report on supplementary information.

WILSON BROTHERS CONSTRUCTION CO., INC. AND AFFILIATE
SCHEDULE OF CONTRACTS IN PROGRESS
FOR THE YEAR OCTOBER 31, 2006

TOTAL CONTRACTS		FROM INCEPTION TO OCTOBER 31, 2006					BEFORE NOVEMBER 1, 2006					AT OCTOBER 31, 2006		FOR THE YEAR ENDED OCTOBER 31, 2006				
Contract Number	Revenues	Estimated Gross Profit(Loss)	Revenues Earned	Cost of Revenues	Gross Profit(Loss)	Billed to Date	Estimated Cost to Complete	Revenues Earned	Cost of Revenues	Gross Profit(Loss)	Costs and Estimated Earnings in Excess of Billings	Billings in Excess of Estimated Earnings	Revenues Earned	Cost of Revenues	Gross Profit(Loss)			
R 05-14	\$ 2,597,073	\$ 7,343	\$ 2,012,807	\$ 2,007,094	\$ 5,713	\$ 1,858,705	\$ 572,636	\$ 458,562	\$ 428,989	\$ 29,563	\$ 134,102	\$ 0	\$ 1,554,245	\$ 1,570,095	\$ (23,850)			
05-15	3,478,189	605,299	3,425,624	2,823,390	596,134	3,439,669	43,500	1,239,199	903,229	335,970	0	14,165	2,198,325	1,926,161	272,164			
05-29	3,390,884	414,853	2,846,992	2,487,801	349,191	2,996,204	478,210	0	0	0	0	180,212	2,846,992	2,487,801	349,191			
06-06	1,991,159	269,749	720,783	623,137	97,646	943,724	1,046,273	0	0	0	0	222,941	720,783	623,137	97,646			
06-08	286,723	33,462	216,247	190,126	26,121	248,438	63,135	0	0	0	0	33,089	216,247	190,126	26,121			
06-12	1,323,000	93,730	1,189,748	1,105,459	84,289	1,200,038	123,811	0	0	0	0	10,268	1,189,748	1,105,459	84,289			
06-14	515,600	54,233	405,894	393,217	42,677	433,395	98,390	0	0	0	0	27,471	405,894	393,217	42,677			
06-15	318,779	12,697	260,414	249,976	10,438	235,471	54,106	0	0	0	24,943	0	260,414	249,976	10,438			
06-16	7,321,294	737,846	2,071,934	1,853,123	208,811	2,581,892	4,720,326	0	0	0	0	508,758	2,071,934	1,863,123	208,811			
06-19	2,160,306	507,972	1,423,577	1,088,839	334,738	1,617,455	563,495	0	0	0	0	183,378	1,423,577	1,088,839	334,738			
06-22	1,816,511	322,724	648,698	518,190	128,508	835,094	774,597	0	0	0	88,610	0	648,698	519,190	128,508			
06-23	535,000	12,045	320,590	313,343	7,247	231,950	209,612	0	0	0	0	43,949	320,590	313,343	7,247			
06-24	835,586	81,157	176,084	146,114	29,970	220,033	298,315	0	0	0	0	176,084	176,084	146,114	29,970			
06-25	102,110	4,956	77,970	74,185	3,785	65,174	22,969	0	0	0	12,796	0	77,970	74,185	3,785			
06-27	790,886	98,888	169,358	95,955	73,403	136,525	597,843	0	0	0	0	27,169	169,358	95,955	73,403			
06-28	181,990	22,162	72,171	63,363	8,808	57,922	96,405	0	0	0	4,249	0	72,171	63,363	8,780			
	\$ 27,133,030	\$ 3,827,115	\$ 15,976,759	\$ 14,030,332	\$ 1,946,427	\$ 17,111,475	\$ 9,816,563	\$ 1,697,761	\$ 1,392,228	\$ 385,533	\$ 284,700	\$ 1,419,416	\$ 14,276,988	\$ 12,698,104	\$ 1,580,884			

R - Related Party

See accountants' report on supplementary information.
-14-

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

15-May-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding bid #07-36 to Glover's Truck Parts & Equipment in the amount of \$52,488. plus tax for the purchase of a low boy semi trailer for use by Transportation Division.

\$55,719.00

Cost of this request

\$

1,041,233.00

Category/Project Budget

Other Vehicles and Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

608,258.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02080

Project Number

\$

432,975.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐



Department Director

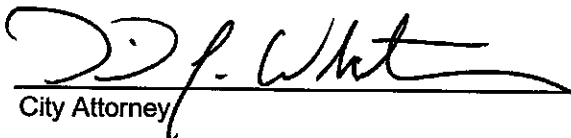
4-27-07

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

4/30/2007

Date

Received in City Clerk's Office





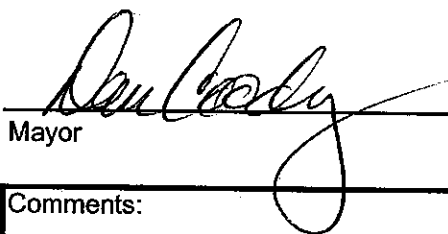
Finance and Internal Service Director

4-30-07

Date

Received in Mayor's Office





Mayor

4/31/07

Date

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent 

Date: April 25, 2007

Subject: Purchase of one low boy semi trailer

RECOMMENDATION: That City Council approve the purchase of one low boy semi trailer for use by Transportation Division.

BACKGROUND: Bid #07-36 was opened on April 6, 2007 for one sliding axle equipment semi trailer for assignment to the Transportation Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Williams Tractor Company does not meet specifications in several areas:

- 38' Lower load deck length specified – Bid 36' 6"
- 6" x 30" hydraulic tilt cylinders specified – Bid 4" x 26.5"
- 212" stroke axle slide cylinder(s) specified – Bid 180"
- 12 month parts and labor warranty specified – Bid 6 months parts only

The second lowest bid from Glover's Truck Parts & Equipment meets all specifications.

I recommend acceptance of the bid from Glover's Truck Parts & Equipment in the amount of \$52,488.00.

This unit is a replacement for unit #955, a 1995 Holden folding gooseneck lowboy trailer. This unit is past its 10 year scheduled replacement date and requires frequent repair. The rear loading design of the replacement sliding axle trailer eliminates the need to detach the trailer and unfold the gooseneck each time the trailer is loaded or unloaded, saving several hours of crew time each time the several pieces of asphalt equipment are moved from job to job.

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

This purchase was approved by the Equipment Committee at the meeting on April 24, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-36 TO GLOVER'S TRUCK PARTS & EQUIPMENT FOR THE PURCHASE OF ONE (1) LOW BOY SEMI TRAILER IN THE AMOUNT OF \$55,719.00 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 #07-36 to Glover's Truck Parts & Equipment for the purchase of one (1) Low Boy Semi Trailer in the amount of \$55,719.00 for use by the Transportation Division.

PASSED and APPROVED this 15th day of May, 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 #07-36 Glover's Truck Parts & Equipment
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: April 16, 2007

SUBJECT: Award of Bid 07-36

Bid #07-36 was opened on April 6, 2007 for one sliding axle equipment semi trailer for assignment to the Transportation Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Williams Tractor Company does not meet specifications in several areas:

38' Lower load deck length specified – Bid 36' 6"

6" x 30" hydraulic tilt cylinders specified – Bid 4" x 26.5"

212" stroke axle slide cylinder(s) specified – Bid 180"

12 month parts and labor warranty specified – Bid 6 months parts only

The second lowest bid from Glover's Truck Parts & Equipment meets all specifications.

I recommend acceptance of the bid from Glover's Truck Parts & Equipment in the amount of \$52,488.00.

This unit is a replacement for unit #955, a 1995 Holden folding gooseneck lowboy trailer. This unit is past its 10 year scheduled replacement date and requires frequent repair. The rear loading design of the replacement sliding axle trailer eliminates the need to detach the trailer and unfold the gooseneck each time the trailer is loaded or unloaded, saving several hours of crew time each time the several pieces of asphalt equipment are moved from job to job.

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

Cc:
Gary Dumas

APPROVED 4-0
4/24/07
2RB

BID: 07-36
4/6/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-36, Sliding Axle Equipment Semi Trailer

BIDDER	Manufacturer	Model	Total Bid Price
1 Globe Trailer Manufacturing, Inc.	Globe	GTSS352-48	\$78,267.97
2 Glover's Truck Parts & Equipment	Landoll	435A	\$52,488.00
3 J.A. Riggs Tractor Co.	Trail King	TK80SA	\$55,392.00
4 Mack Truck Sales of Tulsa			No Bid
5 Williams Tractor, Inc.	Trail-Eze	TE701	\$49,999.00

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

CERTIFIED: P. Vice P. VICE PURCH MGR
WITNESS: A. Foren 4/6/07
DATE

City Of Fayetteville

(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date: 4/26/2007
Vendor #										P.O Number	Expected Delivery Date:
Vendor Name: GLOVER'S TRUCK PARTS & EQUIPMENT										Mail Yes: No: XX	
Address:										Taxable Yes: XX No:	
City:										Zip Code	Ship to code: 050
State:										Requester's Employee # 1940	Extension: 495
Requester BARBARA OLSEN										Account Numbers	Project/Subproject # 02080.1
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Inventory #	Fixed Asset #				
1	LANDOLL 435A LOW BOY TRAILER	1	EA	\$52,488.00	\$52,488.00						
2	TO BE UNIT #9100, FIXED ASSET		EA		\$0.00						
3	#709100		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:	52,488.00				
						Tax:	3,230.53				
						Total:	55,718.53				
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

15-May-07
City Council Meeting Date

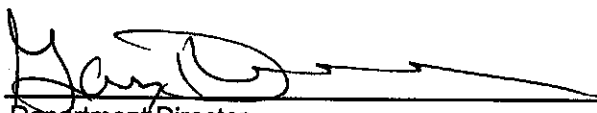
David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-39 to Williams Tractor in the amount of \$98,844.93 for the purchase of two compact track excavators: one as an expansion for Water & Sewer Division for \$41,360.88 (plus \$266 for logos and beacons) and approval of a budget adjustment to move the funds from Water & Sewer to the Fleet expense account; and one excavator for Transportation Division for \$57,484.05 and approval of a budget adjustment to move \$750 from another project to cover budget, logos and beacons.

\$99,377.00 Cost of this request	\$ 57,000.00 Category/Project Budget	Backhoes/Loaders Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 34.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02076 Project Number	\$ 56,966.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ 2 Budget Adjustments Att'd ☒


Department Director 4-27-07
Date

Previous Ordinance or Resolution # _____


City Attorney 4/30/2007
Date

Original Contract Date: _____

Original Contract Number: _____


Finance and Internal Service Director 4-30-07
Date

Received in City Clerk's Office
ENTERED 4/29/07


Mayor 4/30/07
Date

Received in Mayor's Office
ENTERED 4/30/07 Sep

Comments:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *DB*

Date: April 25, 2007

Subject: Purchase of two compact Track Excavators

RECOMMENDATION: That City Council approve the purchase of two compact Track Excavators: one as an expansion for Water and Sewer Division for \$41,361 and one as a replacement of #640 for Transportation Division for \$57,485.

BACKGROUND: Bid #07-39 was opened on April 10, 2007 for two Compact Track Excavators for assignment to Water and Sewer Division and Transportation Division. Seven bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Williams Tractor Company meets all specifications.

I recommend acceptance of the bid from Williams Tractor Company in the amount of \$98,844.93.

Item 1 (\$41,360.88) is an equipment expansion approved in the 2007 budget for Water and Sewer Division. 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 02076, Backhoes/Loaders.

Item 2 (\$57,484.05 – same as Item 1 with additional attachments) is a replacement for unit #640, a 1998 Ford 575E tractor backhoe. This unit is past its 8 year scheduled replacement date and requires frequent repair. The compact excavator with attachments is much more versatile for many applications for the same cost as a conventional tractor backhoe.

\$57,000 is budgeted and available in the 2007 CIP budget, Project 02076, Backhoe/Loaders. A budget adjustment will be requested to move an additional \$750 from Project 02080, Other Vehicles/Equipment to cover \$484 over-budget, as well as logos and beacons.

This purchase was approved by the Equipment Committee at the meeting on April 24, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-39 TO WILLIAMS TRACTOR FOR THE PURCHASE OF TWO (2) COMPACT TRACK EXCAVATORS IN THE AMOUNT OF \$99,377.00, ONE FOR USE BY THE WATER & SEWER DIVISION AND THE OTHER FOR USE BY THE TRANSPORTATION DIVISION; AND APPROVING BUDGET ADJUSTMENTS IN THE AMOUNT OF \$41,627.00 AND \$750.00 RESPECTIVELY.

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 #07-39 to Williams Tractor for the purchase of two (2) compact track excavators in the amount of \$ \$99,377.00 one for use by the Water & Sewer Division and the other for use by the Transportation Division.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves Budget Adjustments in the amount of \$41,627.00 and \$750.00 respectively.

PASSED and APPROVED this 15th 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. 5
Bid # 07-39 Williams Tractor
Page 4 of 10

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 Backhoe/Loader Equipment project #02076 by \$41,627 to provide the total amount needed to purchase a compact track excavator 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.
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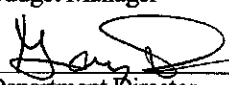
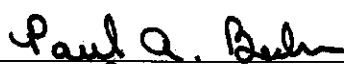
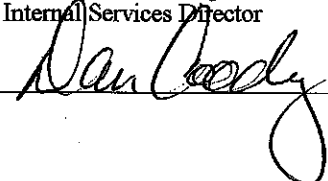
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	41,627	02076	1
Transfer to Shop	5400	5610	7602	70	3,627	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	3,627		
Trans from Water & Sewer	9700	0970	6602	40	41,627	02076	1

Approval Signatures

Requested By		4-27-07
		Date
Budget Manager		4-27-07
		Date
Department Director		4-27-07
		Date
Finance & Internal Services Director		4-30-07
		Date
Mayor		4-30-07
		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
---------	------

A. 5
Bid # 07-39 Williams Tractor
Page 5 of 10

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

Project or Item Added/Increased:

Increase the Backhoe/Loader project #02076 by \$750 to provide the total amount needed to purchase a compact track Excavator as a replacement for unit #640.

Project or Item Deleted/Reduced:

Decrease Project #02080 by \$750.

Justification of this Increase:

This replacement was budgeted for replacement in 2007, but the estimated replacement price was underestimated at \$750 under actual price.

Justification of this Decrease:

Purchase price for the replacement of unit #69 was overestimated by \$8,000. There are sufficient funds available in project #02080 to meet City Policy and 2007 objectives.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	750	02076	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Vehicles and equipment	9700	1920	5802	00	750	02080	1

Approval Signatures

<u>B. Olsen</u>	<u>4-27-07</u>
Requested By	Date
<u>[Signature]</u>	<u>4/27/07</u>
Budget Manager	Date
<u>[Signature]</u>	<u>4/30/07</u>
Department Director	Date
<u>Paula A. Buel</u>	<u>4-30-07</u>
Finance & Internal Services Director	Date
<u>Alan Coody</u>	<u>4/31/07</u>
Mayor	Date

Budget Office Use Only

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



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

A. 5
Bid #07-39 Williams Tractor
Page 6 of 10

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: April 16, 2007

SUBJECT: Award of Bid 07-39

Bid #07-39 was opened on April 10, 2007 for two Compact Track Excavators for assignment to Water and Sewer Division and Transportation Division. Seven bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Williams Tractor Company meets all specifications.

I recommend acceptance of the bid from Williams Tractor Company in the amount of \$98,844.93.

Item 1 (\$41,360.88) is an equipment expansion approved in the 2007 budget for Water and Sewer Division. 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, Construction Equipment.

Item 2 (\$57,484.05 – same as Item 1 with additional attachments) is a replacement for unit #640, a 1998 Ford 575E tractor backhoe. This unit is past its 8 year scheduled replacement date and requires frequent repair. The compact excavator with attachments is much more versatile for many applications for the same cost as a conventional tractor backhoe.

\$57,000 is budgeted and available in the 2007 CIP budget, Project 02076, Backhoe/Loaders. A budget adjustment will be requested to move an additional \$750 from Project 02080, Other Vehicles/Equipment

Cc:
Gary Dumas

APPROVED 4/24/07 JRB
3 FOR
1 AGAINST

BID: 07-39

4/10/2007

2:00 PM

CITY OF FAYETTEVILLE



Bid 07-39, Compact Track Excavator

BIDDER	Manufacturer	Model	Total Bid Price
1 A. Camp Equipment	Terex Terex	TC50 TC50	\$49,000.00 \$76,000.00 \$125,000.00
2 Diamond Rentals & Sales	Mustang Mustang	5003ZT 5003ZT	\$48,730.00 \$70,515.00 \$119,245.00
3 Hugg & Hall Equipment	Volvo Volvo	ECR58 ECR58	\$49,043.00 \$72,439.00 \$121,482.00
4 Riggs Cat	Caterpillar Caterpillar	305CCR 305CCRA	\$53,454.16 \$63,995.00 \$117,449.16
5 Scott Construction Equipment Co.	Kobelco Kobelco	50 SR-3 50 SR-3	\$46,000.00 \$72,521.00 \$118,521.00
6 Warrior of Arkansas, Inc.	John Deere John Deere	50D 50D with HB50 Breaker	\$42,261.00 \$62,868.00 \$105,129.00
7 Williams Tractor, Inc.	Bobcat Bobcat	435 435	\$41,360.88 \$57,484.05 \$98,844.93

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

CERTIFIED:

P. Vice

P. VICE PURCH MGR

J. Zeman 4/10/07
WITNESS DATE

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date:
Vendor #	11133				Vendor Name: WILLIAMS TRACTOR, INC				P.O Number	4/26/2007	
Address:					Fob Point:				Expected Delivery Date:		
City:					State:	Zip Code	Ship to code:	Requester's Employee #	Division Head Approval	Quoted Attached	
Requester	BARBARA OLSEN				1940				Yes:	No:	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	BOBCAT 435 COMPACT TRACK	1	EA	\$41,360.88	\$41,360.88	9700.1920.5802.00	02076.1				
2	EXCAVATOR, FOR W & S, TO BE		EA		\$0.00						
3	#815, FIXED ASSET #700815		EA		\$0.00						
4	BOBCAT 435 COMPACT TRACK	1	EA	\$57,484.05	\$57,484.05	9700.1920.5802.00	02076.1				
5	EXCAVATOR, FOR TRANSP, TO BE		EA		\$0.00						
6	#816, FIXED ASSET #700816		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:		98,844.93				
					Tax:		EXEMPT				
Approvals:					Total:		98,844.93				
Mayor:					Department Director:		Purchasing Manager:				
Finance & Internal Services Director:					Budget Manager:		IT Manager:				
Dispatch Manager:					Utilities Manager:						

Why a compact excavator?

Don't let their small size fool you; compact excavators are powerful digging machines with advanced hydraulic systems that can often outperform larger tractor loader backhoes, which are limited to only 180 degrees of workgroup movement. The house on a Bobcat® compact excavator can continuously rotate 360 degrees. This allows for enhanced spoil placement,

superior visibility and reduces repositioning for work in tighter spaces. A tracked undercarriage gives you additional benefits like superior flotation compared to a wheeled machine. Also, compact excavators use less fuel and can be hauled with lighter, more fuel-efficient trucks, keeping your hourly costs down.

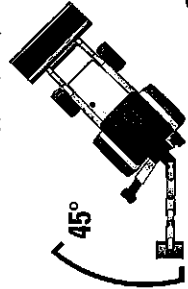
180°



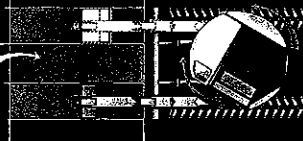
Greater flexibility

When working next to objects, an excavator gives you much more flexibility. In this situation, a tractor loader backhoe may be limited to only 45 degrees of workgroup movement. The excavator excels at the same situation by having up to 180 degrees of movement—allowing you to place spoil where you need to, or even load a truck behind the machine.

45°



BURIED UTILITY

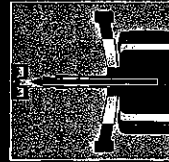
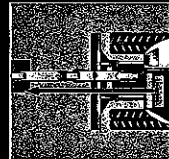


BURIED UTILITY



Independent boom swing

provides offset digging capabilities, enabling you to dig square holes, or on each side of a buried utility without repositioning the machine. Try that without repositioning your backhoe!



Compact Excavator

Tractor Loader Backhoe

Operator offset on a compact excavator positions the operator to the side of the boom for an unobstructed view of the attachment. On a tractor loader backhoe, you have to lean around the boom to see the attachment.

- ▣ Advanced Hydraulics
- ▣ More Horsepower
- ▣ FastTrack Drive System
- ▣ Panoramic Serviceability
- ▣ Comfort Cab
- ▣ Intrack Swing Frame
- ▣ Attachments Now
- ▣ Do More Than Dig
- ▣ More Model Selections
- ▣ Uptime Protection



City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 6
Bid # 07-40 Riggs Power Solutions,
One Emergency Generator
Page 1 of 6

15-May-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding one additional generator from bid #07-40 to Riggs Power Solutions (J.A.Riggs Tractor Co.) in the amount of \$26,401.14 plus tax. This purchase is for one Emergency Stand-by Generator to power the new Fuel facility and to provide essential power for the Fleet Operations/Transportation building in the event of a power outage.

\$28,066.00

Cost of this request

\$

50,000.00

Category/Project Budget

Fleet Emergency Generator

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

-

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

07014

Project Number

\$

50,000.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Department Director

Date

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:



Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations

From: David Bragg, Fleet Operations Superintendent *DRB*

Date: April 25, 2007

Subject: Purchase of one Emergency Generator

RECOMMENDATION: That City Council approve the purchase of one Emergency Stand-by Generator to power the new Happy Hollow Fuel facility and provide essential power for the Fleet Operations/Transportation building.

BACKGROUND: The Fleet Operations 2007 CIP budget includes an emergency stand-by generator to power the new Happy Hollow fuel facility and provide essential power for the Fleet Operations/Transportation building. It is essential that fuel be available to City vehicles for emergency operations. Fleet and Transportation personnel are essential to the majority of expected emergency response efforts. The design of the building is such that management cannot be conducted without electrical power.

Bid #07-40 was opened on April 9, 2007 for three Lift Station Backup Power Generators for the Wastewater Treatment Division. Six bid responses were received. A detailed tabulation sheet is attached. Item 2 on this bid is an exact match for the Fleet Operations generator requirements.

The lowest bid from Riggs Power Solutions (J. A. Riggs Tractor Co.) meets all specifications and is recommended for award by Wastewater Division for their needs. In addition, Riggs has trained generator and switch gear technicians on call from Springdale and Fort Smith locations.

I recommend award of one additional generator for Fleet Operations to Riggs Power Solutions in the amount of \$26,401.14.

Funds are budgeted and available in the 2007 CIP budget, Project 07014, Fleet Emergency Generator. Electrical connection and wiring will be contracted to King Electric under the City's existing electrical contract.

This purchase was approved by the Equipment Committee at the meeting on April 24, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-40 TO RIGGS POWER SOLUTIONS FOR THE PURCHASE OF ONE (1) ADDITIONAL BACKUP POWER GENERATOR IN THE AMOUNT OF \$28,066.00 TO PROVIDE POWER FOR THE NEW FUEL FACILITY AND THE FLEET OPERATIONS/TRANSPORTATION BUILDING.

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 #7-40 to Riggs Power Solutions for the purchase of one (1) additional backup power generator in the amount of \$28,066.00 to provide power for the new fuel facility and the Fleet Operations/Transportation Building.

PASSED and APPROVED this 15th day of May, 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. 6
Bid #07-40 Riggs Power Solutions,
One Emergency Generator
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: April 24, 2007

SUBJECT: Emergency Generator Purchase

The Fleet Operations 2007 CIP budget includes an emergency stand-by generator to power the new Happy Hollow fuel facility and provide essential power for the Fleet Operations/Transportation building. It is essential that fuel be available to City vehicles for emergency operations. Fleet and Transportation personnel are essential to the majority of expected emergency response efforts. The design of the building is such that management cannot be conducted without electrical power.

Bid #07-40 was opened on April 9, 2007 for three Lift Station Backup Power Generators for the Wastewater Treatment Division. Six bid responses were received. A detailed tabulation sheet is attached. Item 2 on this bid is an exact match for the Fleet Operations generator requirements.

The lowest bid from Riggs Power Solutions (J. A. Riggs Tractor Co.) meets all specifications and is recommended for award by Wastewater Division for their needs. In addition, Riggs has trained generator and switch gear technicians on call from Springdale and Fort Smith locations.

I recommend award of one additional generator for Fleet Operations to Riggs Power Solutions in the amount of \$26,401.14.

Funds are budgeted and available in the 2007 CIP budget, Project 07014, Fleet Emergency Generator. Electrical connection and wiring will be contracted to King Electric under the City's existing electrical contract.

Cc:
Gary Dumas

APPROVED 4-0
4/24/07
zeab

BID: 07-40
4/9/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-40, Lift Station Backup Power Generators

BIDDER	Jackover Engineering of Arkansas	Millennium Products	Riggs Power Solutions	RP Power, LLC	Solar Technology Systems, Inc	United Engineers, LLC
1 LS-13: 50 kW, 480 Volt Manufacturer Model Price Each	Cummins/Onan 60GGHE/OTPC225 \$22,931.00	Baldor IGLC60N-G \$26,995.00	Caterpillar Olympian G60F3 \$21,466.43	Kohler 50R2GB/KSP-DMTF-0200S \$21,627.00	Generac Power QT055 \$34,500.00	Generac QT055 \$19,897.00
2 LS-14: 125 kW, 480 Volt Manufacturer Model Price Each	Cummins/Onan 125GGGLA/OTPC400 \$31,626.00	Baldor IGLC125N-G \$35,950.00	Caterpillar Olympian G125G1 \$26,401.14	Kohler 125R2G/KSP-DMTA-0400S \$28,670.00	Generac Power QT130 \$58,000.00	Generac SG130 \$26,689.00
3 LS-16: 125 kW, 480 Volt Manufacturer Model Price Each	Cummins/Onan 125GGGLA/OTPC400 \$31,626.00	Baldor IGLC125N-G \$35,950.00	Caterpillar Olympian G125G1 \$26,401.14	Kohler 125R2G/KSP-DMTA-0400S \$28,670.00	Generac Power QT130 \$58,000.00	Generac SG130 \$26,689.00
TOTAL BID PRICE	\$86,183.00	\$98,895.00	\$74,268.71	\$78,967.00	\$150,500.00	\$73,275.00

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

CERTIFIED: P. Vice A. Fourn 4/9/07
P. VICE PURCH MGR. WITNESS DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor #		11700		Vendor Name: J.A. RIGGS TRACTOR CO		Requisition No.		Date: 4/26/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:				State:		Mail Yes: No: XX_			
Requester BARBARA OLSEN				Zip Code		Taxable Yes: XX No: No:			
Item Description		Quantity		Unit of Issue		Ship to code: 050		Division Head Approval Yes: No:	
		1		EA		Requester's Employee # 1940		Extension: 495	
1 CATERPILAR OLYMPIAN						Account Numbers 9700.1920.5802.00		Project/Subproject # 07014.1	
2 G125G1 125KW, 480 VOLT GENERATOR				EA					
3 TO BE UNIT #9099, F.A. #709099				EA					
4				EA					
5				EA					
6				EA					
7				EA					
8				EA					
9				EA					
10				EA					
Shipping/Handling				Lot					

Special Instructions:		Subtotal: 26,401.14	
		Tax: 1,665.31	
		Total: 28,066.45	

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
or
Contracts**

15-May-07
City Council Meeting Date

David Jurgens
Submitted By

Water/Wastewater
Division

Water/Wastewater
Department

Action Required:

Purchase of backup power generation equipment per Bid 07-40 for WSIP subproject EL-4, East side Lift Station Upgrades, from Riggs Power Solutions, in the amount of \$ 74,268.72.

\$74,268.72

Cost of this request

\$ 73,457,653

Category / Project Budget

Wastewater System Imp Project

Program Category / Project Name

4480.9480.5801.00

Account Number

\$ 68,666,351

Funds Used to Date

Water and Wastewater

Program / Project Category Name

02133.0341

Project Number

\$ 4,791,302

Remaining Balance

Water/Sewer

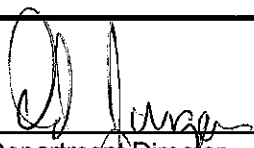
Fund Name

Budgeted Item

☒ xx

Budget Adjustment Attached

☐

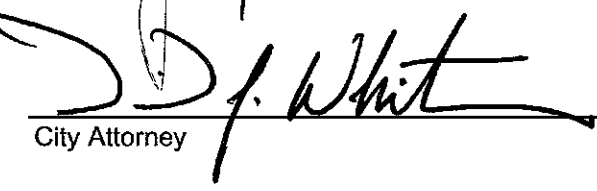

Department Director

11 APR 07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

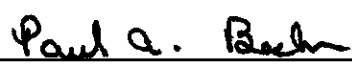
4/12/07
Date

Received in City Clerk's Office

ENTERED

4/11/07

aw


Finance and Internal Service Director

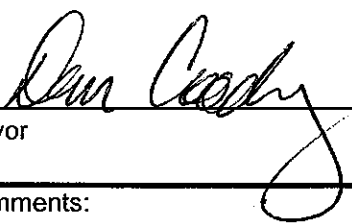
4-13-07
Date

Received in Mayor's Office

ENTERED

4/13/07

PA


Mayor

4/16/07
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director



Date: 9 April 2007

Subject: Purchase of backup power generation equipment for WSIP subproject EL-4, East side Lift Station Upgrades, from Riggs Power Solutions, in the amount of \$ 74,268.72.

RECOMMENDATION

City Administration recommend purchase of backup power generation equipment for WSIP subproject EL-4, East side Lift Station Upgrades, from Riggs Power Solutions, in the amount of \$ 74,268.72.

BACKGROUND

The City's latest National Pollution Prevention Discharge (NPDES) permit requires backup power to wastewater facilities. Generators are being provided to all plants, all west side lift station components of the WSIP, and the east side lift stations that are being upgraded as part of the WSIP.

DISCUSSION

These generators were planned as part of WSIP subproject EL-4, East Side Lift Station Upgrades. In order to save funds, we purchased the generators separately from contracts for the mechanical portions of the lift station upgrades. The specifications were generally developed by Garver, with review from City and OMI staff. To reduce contract costs, the bidding process has been handled in-house. These generators operate on natural gas.

The City received six bids on 9 April 2007 for this project, as follows:

United Engines, LLC	\$ 73,275.00	Does Not Meet Specifications
Riggs Power Solutions	\$ 74,268.72	Lowest Bid That Meets Specifications
RP Power	\$ 78,967.00	
Jack Tyler	\$ 86,400.00	
Millennium Products, Inc.	\$ 98,895.00	
Suller Tech, Inc.	\$150,000.00	Does Not Meet Specifications

The bid from United Engines, while low, does not meet the technical specifications and thus cannot be accepted. The specific item that it does not meet is the engine operating speed. The United Engines generator operates at 3000 RPM, while the specifications require an operating speed of 1800 rpm. The other bids meet the specification, so it was not an unreasonable requirement. The impact of the higher speed would mean that the generator will wear out much quicker, significantly increasing long term costs.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-40 TO RIGGS POWER SOLUTIONS FOR THE PURCHASE OF THREE (3) BACKUP POWER GENERATORS IN THE AMOUNT OF \$74,268.72 FOR WSIP SUBPROJECT EL-4, EAST SIDE LIFT STATION UPGRADES.

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 #7-40 to Riggs Power Solutions for the purchase of three (3) backup power generators in the amount of \$74,268.72 for WSIP Subproject EL-4, East Side Lift Station Upgrades.

PASSED and APPROVED this 15th day of May, 2007.

APPROVED

ATTEST:

By:

DAN COODY, Mayor

By:

SONDRA E. SMITH, City Clerk/Treasurer

BID: 07-40
4/9/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-40, Lift Station Backup Power Generators

BIDDER	Jack Style Engineering of Arkansas	Millwright Products	Riggs Power Solutions	RP Power LLC	Solar Technology Systems, Inc.	United Engines, LLC
1 LS-13: 50 kW, 480 Volt Manufacturer Model Price Each	Cummins/Onan 60GGHE/OTPC225 \$22,931.00	Baldor IGLC60N-G \$26,995.00	Caterpillar Olympian G60F3 \$21,466.43	Kohler 50R2GB/KSP-DMTF-0200S \$21,627.00	Generac Power QT055 \$34,500.00	Generac QT055 \$19,897.00
2 LS-14: 125 kW, 480 Volt Manufacturer Model Price Each	Cummins/Onan 125GGGLA/OTPC400 \$31,626.00	Baldor IGLC125N-G \$35,950.00	Caterpillar Olympian G125G1 \$26,401.14	Kohler 125R2G/KSP-DMTA-0400S \$28,670.00	Generac Power QT130 \$58,000.00	Generac SG130 \$26,689.00
3 LS-16: 125 kW, 480 Volt Manufacturer Model Price Each	Cummins/Onan 125GGGLA/OTPC400 \$31,626.00	Baldor IGLC125N-G \$35,950.00	Caterpillar Olympian G125G1 \$26,401.14	Kohler 125R2G/KSP-DMTA-0400S \$28,670.00	Generac Power QT130 \$58,000.00	Generac SG130 \$26,689.00
TOTAL BID PRICE	\$86,183.00	\$98,895.00	\$74,268.71	\$78,967.00	\$150,500.00	\$73,275.00

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

P. Vice

A. Fourn

4/9/07

CERTIFIED:

P. VICE PURCH MGR

WITNESS

DATE



ENGINEERING DIVISION CORRESPONDENCE

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8206
Fax: (479) 575-8202

Memo

To: David Jurgens
From: Shannon Jones SJJ
Date: April 9, 2007
Re: Bid 07-40 – EL-4a – Standby Generators

The City received five bids for this project, as follows:

United Engines, LLC	\$ 73,275.00
Riggs Power Solutions	\$ 74,268.72
RP Power	\$ 78,967.00
Jack Tyler Engineering of Arkansas	\$ 86,183.00
Millenium Products, Inc.	\$ 98,895.00
Solar Technology Systems, Inc.	\$ 150,500.00
Engineering Staff Estimate	\$ 95,000.00

The bids have been reviewed by the Engineering Staff. Upon review, it was noted that the motor for the Generac generator for the 130 kW generator unit is rated at 3000 rpm. The specifications are to deliver power at a governed speed of 1800 rpm. It was also noted the Generac was not on the list of approved manufacturers. The bid documents stated, "Brands or manufacturers that are included in a bid that are of at least equal quality, size, and specification as to what has been specified, will be acceptable for consideration only if approval within seventy-two (72) hours obtained prior to bid opening from the City of Fayetteville Purchasing Division." The vendor did not submit a request to be included on the list of approved manufacturers. Therefore, I recommend awarding the bid to **Riggs Power Solutions** in the amount of **\$ 74,268.72** for the purchase of standby generators.

Bid 07-40, Addendum 1

Date: Thursday, March 29, 2007

To: All Prospective Vendors

From: Andrea Foren, Purchasing Agent (575.8220)

RE: Bid 07-40, Lift Station Backup Power Generators



This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. **Bidders should indicate receipt this addendum by signing this form and submitting it with each bid.**

- Please add the following specifications to each item listed in the bidding documents (Section 16263 - J):

8. Sound Attenuated Weather Protective Enclosure

- a. Manufacturer shall have a minimum five years' experience in the design and construction of weather-protected generator-set enclosures.
- b. The enclosure panels shall be assembled with modular, bolt-together construction.
- c. Enclosure shall include the following features:
 - i. Foam insulation on all interior surfaces
 - ii. Sound level not to exceed 68 dba within 7 meters of enclosure surface in any direction
 - iii. All exterior and interior surfaces finished with baked-on powder-coat
 - iv. Bottom flange with multiple mounting holes
 - v. Stainless steel door hardware and lift-off hinges
 - vi. Lockable doors
 - vii. Gasketed access doors

- Section 1.5, Items 1-3 shall be revised with the following modifications for items 1 and 3 on sections A, B, and C :

1.5 GENERATOR DETAILS

A. LS-13 – Item 1

- 1. Minimum Power Rating – 50 kW, 480 Volts
- 3. 200 amp Automatic Transfer Switch – NEMA 4X

B. LS-14 – Item 2

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

C. LS-16 – Item 3

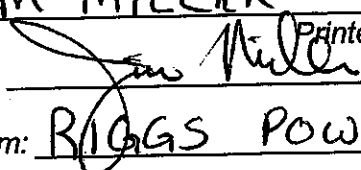
1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

Please let me know if you have any questions.

Sincerely,

Andrea Foren
City of Fayetteville, Purchasing Agent
113 W. Mountain
Fayetteville, AR 72753
Phone: 479.575-8220
E-Mail: aforen@ci.fayetteville.ar.us

Please acknowledge receipt of this addendum (Bid 07-40, Addendum 1) by signing below and submitting this document as part of your bid:

By: JIM MILLER
Signature:  Printed Name
Name of Firm: RIGGS POWER SOLUTIONS
Date: 4 / 9 / 07

City of Fayetteville
Bid 07-40, Lift Station Backup Power Generators
Bid Form

*GUARANTEED DELIVERY DATE: _____

F.O.B. Fayetteville Waste Water Treatment Plant, 1400 Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:
1.	<u>LS-13</u> : 50 kW, 480 Volt	1	\$ <u>21,466.43</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER: <u>CATERPILLAR</u>		MODEL: <u>OLYMPIAN G60F3</u>	
2.	<u>LS-14</u> : 125 kW, 480 Volt	1	\$ <u>26,401.14</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER: <u>CATERPILLAR</u>		MODEL: <u>OLYMPIAN G125G1</u>	
3.	<u>LS-16</u> : 125 kW, 480 Volt	1	\$ <u>26,401.14</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER: <u>CATERPILLAR</u>		MODEL: <u>OLYMPIAN G125G1</u>	

TOTAL BID PRICE:

\$ 74,268.72

EXECUTION OF BID -

Bidders are requested to indicate by check on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

This form continues on the next page. . .

Upon signing this Bid, the bidder certifies that:

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

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

*NAME OF FIRM: RIGGS POWER SOLUTIONS

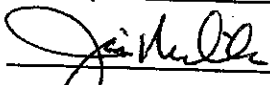
*BUSINESS ADDRESS: 9125 I-30

*CITY: LITTLE ROCK *STATE: AR *ZIP: 72209

*PHONE: 501-570-3527 FAX: 501-570-3256

*E-MAIL ADDRESS: jimm@jarrigs.com

*BY : (PRINTED NAME) JIM MILLER

*AUTHORIZED SIGNATURE: 

*TITLE: POWER SYSTEMS SALES *DATE: 4-9-07

Bid 07-40, Addendum 1

Date: Thursday, March 29, 2007

To: All Prospective Vendors

From: Andrea Foren, Purchasing Agent (575.8220)

RE: Bid 07-40, Lift Station Backup Power Generators



This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. **Bidders should indicate receipt this addendum by signing this form and submitting it with each bid.**

- Please add the following specifications to each item listed in the bidding documents (Section 16263 - J):

8. Sound Attenuated Weather Protective Enclosure

- a. Manufacturer shall have a minimum five years' experience in the design and construction of weather-protected generator-set enclosures.
- b. The enclosure panels shall be assembled with modular, bolt-together construction.
- c. Enclosure shall include the following features:
 - i. Foam insulation on all interior surfaces
 - ii. Sound level not to exceed 68 dba within 7 meters of enclosure surface in any direction
 - iii. All exterior and interior surfaces finished with baked-on powder-coat
 - iv. Bottom flange with multiple mounting holes
 - v. Stainless steel door hardware and lift-off hinges
 - vi. Lockable doors
 - vii. Gasketed access doors

- Section 1.5, Items 1-3 shall be revised with the following modifications for items 1 and 3 on sections A, B, and C :

1.5 GENERATOR DETAILS

A. LS-13 – Item 1

- 1. Minimum Power Rating – 50 kW, 480 Volts
- 3. 200 amp Automatic Transfer Switch – NEMA 4X

B. LS-14 – Item 2

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

C. LS-16 – Item 3

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

Please let me know if you have any questions.

Sincerely,

Andrea Foren
City of Fayetteville, Purchasing Agent
113 W. Mountain
Fayetteville, AR 72753
Phone: 479.575-8220
E-Mail: aforen@ci.fayetteville.ar.us

Please acknowledge receipt of this addendum (Bid 07-40, Addendum 1) by signing below and submitting this document as part of your bid:

By: Greg Esaus

Signature: [Signature]

Printed Name

Name of Firm: UNITED ENGINES

Date: 04.05.07

City of Fayetteville
Bid 07-40, Lift Station Backup Power Generators
Bid Form

*GUARANTEED DELIVERY DATE: JUNE 15TH 2007 IF ORDERED BY APRIL 15TH 2007

F.O.B. Fayetteville Waste Water Treatment Plant, 1400 Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:
1.	<u>LS-13: 50 kW, 480 Volt w/ 200A ATS</u>	<u>1</u>	<u>\$ 19,897⁰⁰</u>
Please Specify for Unit(s) Bid:			

*MANUFACTURER: GENERAC MODEL: QT055

2.	<u>LS-14: 125 kW, 480 Volt w/ 400A ATS</u>	<u>1</u>	<u>\$ 26,689⁰⁰</u>
Please Specify for Unit(s) Bid:			

*MANUFACTURER: GENERAC MODEL: SG130

3.	<u>LS-16: 125 kW, 480 Volt w/ 400A ATS</u>	<u>1</u>	<u>\$ 26,689⁰⁰</u>
Please Specify for Unit(s) Bid:			

*MANUFACTURER: GENERAC MODEL: SG130

TOTAL BID PRICE:

\$ 73,275⁰⁰

EXECUTION OF BID -

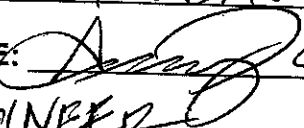
Bidders are requested to indicate by check on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

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Upon signing this Bid, the bidder certifies that:

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

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

*NAME OF FIRM: UNITED ENGINES, LLC
*BUSINESS ADDRESS: 7454 E. 41ST ST.
*CITY: TULSA *STATE: OK *ZIP: 74145
*PHONE: 918-627-8080 FAX: 918-663-0407
*E-MAIL ADDRESS: gesau@unitedengines.com
*BY : (PRINTED NAME) GREG ESAU
*AUTHORIZED SIGNATURE: 
*TITLE: SALES ENGINEER *DATE: 4/5/07

Bid 07-40, Addendum 1

Date: Thursday, March 29, 2007

To: All Prospective Vendors

From: Andrea Foren, Purchasing Agent (575.8220)

RE: Bid 07-40, Lift Station Backup Power Generators



This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. **Bidders should indicate receipt this addendum by signing this form and submitting it with each bid.**

- Please add the following specifications to each item listed in the bidding documents (Section 16263 - J):

8. Sound Attenuated Weather Protective Enclosure

- a. Manufacturer shall have a minimum five years' experience in the design and construction of weather-protected generator-set enclosures.
- b. The enclosure panels shall be assembled with modular, bolt-together construction.
- c. Enclosure shall include the following features:
 - i. Foam insulation on all interior surfaces
 - ii. Sound level not to exceed 68 dba within 7 meters of enclosure surface in any direction
 - iii. All exterior and interior surfaces finished with baked-on powder-coat
 - iv. Bottom flange with multiple mounting holes
 - v. Stainless steel door hardware and lift-off hinges
 - vi. Lockable doors
 - vii. Gasketed access doors

- Section 1.5, Items 1-3 shall be revised with the following modifications for items 1 and 3 on sections A, B, and C :

1.5 GENERATOR DETAILS

A. LS-13 – Item 1

- 1. Minimum Power Rating – 50 kW, 480 Volts
- 3. 200 amp Automatic Transfer Switch – NEMA 4X

B. LS-14 – Item 2

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

C. LS-16 – Item 3

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

Please let me know if you have any questions.

Sincerely,

Andrea Foren
City of Fayetteville, Purchasing Agent
113 W. Mountain
Fayetteville, AR 72753
Phone: 479.575-8220
E-Mail: aforen@ci.fayetteville.ar.us

Please acknowledge receipt of this addendum (Bid 07-40, Addendum 1) by signing below and submitting this document as part of your bid:

By: MIKE MCNABB
Signature: Mike McNabb Printed Name
Name of Firm: RP POWER
Date: 4 / 6 / 07

City of Fayetteville
Bid 07-40, Lift Station Backup Power Generators
Bid Form

*GUARANTEED DELIVERY DATE:

8/1/07

F.O.B. Fayetteville Waste Water Treatment Plant, 1400 Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:
1.	<u>LS-13</u> : 50 kW, 480 Volt	1	\$ <u>21,627.00</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER:	<u>KOHLER</u>	MODEL:	<u>50RZGB/KSP-DMF-0200S</u>
2.	<u>LS-14</u> : 125 kW, 480 Volt	1	\$ <u>28,670.00</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER:	<u>KOHLER</u>	MODEL:	<u>125RZG/KSP-DMTA-0400S</u>
3.	<u>LS-16</u> : 125 kW, 480 Volt	1	\$ <u>28,670.00</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER:	<u>KOHLER</u>	MODEL:	<u>125RZG/KSP-DMTA-0400S</u>

TOTAL BID PRICE:

\$ 78,967.00

EXECUTION OF BID –

Bidders are requested to indicate by check on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

This form continues on the next page. . .

Upon signing this Bid, the bidder certifies that:

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

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

*NAME OF FIRM: RP POWER

*BUSINESS ADDRESS: 7777 NORTH SHORE PLACE

*CITY: NORTH LITTLE ROCK *STATE: AR *ZIP: 72118

*PHONE: 501 604 3038 FAX: 501 604 3033

*E-MAIL ADDRESS: mike@rppower.com

*BY : (PRINTED NAME) MIKE MCNABB

*AUTHORIZED SIGNATURE: Mike McNabb

*TITLE: SALES MANAGER *DATE: 4/6/07

40, Addendum 1

Thursday, March 29, 2007

Prospective Vendors

Andrea Foren, Purchasing Agent (575.8220)

Bid 07-40, Lift Station Backup Power Generators



Miller Power Products Inc

Addendum is hereby made a part of the bid documents to the same extent as though it were included therein. **Bidders should indicate receipt this addendum by signing this form submitting it with each bid.**

Please add the following specifications to each item listed in the bidding documents (Section 16263 - J):

8. Sound Attenuated Weather Protective Enclosure

- a. Manufacturer shall have a minimum five years' experience in the design and construction of weather-protected generator-set enclosures.
- b. The enclosure panels shall be assembled with modular, bolt-together construction.
- c. Enclosure shall include the following features:
 - i. Foam insulation on all interior surfaces
 - ii. Sound level not to exceed 68 dba within 7 meters of enclosure surface in any direction
 - iii. All exterior and interior surfaces finished with baked-on powder-coat
 - iv. Bottom flange with multiple mounting holes
 - v. Stainless steel door hardware and lift-off hinges
 - vi. Lockable doors
 - vii. Gasketed access doors

- Section 1.5, Items 1-3 shall be revised with the following modifications for items 1 and 3 on sections A, B, and C :

1.5 GENERATOR DETAILS

A. LS-13 - Item 1

- 1. Minimum Power Rating - 50 kW, 480 Volts
- 3. 200 amp Automatic Transfer Switch - NEMA 4X

B. LS-14 – Item 2

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

C. LS-16 – Item 3

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

Please let me know if you have any questions.

Sincerely,

Andrea Foren
City of Fayetteville, Purchasing Agent
113 W. Mountain
Fayetteville, AR 72753
Phone: 479.575-8220
E-Mail: aforen@ci.fayetteville.ar.us

Please acknowledge receipt of this addendum (Bid 07-40, Addendum 1) by signing below and submitting this document as part of your bid:

By: Tim TABORSKY

Printed Name

Signature: [Signature]

Name of Firm: Atkinson Products Inc

Date: 4, 5, 07

A. 7
Bid # 07-40 Riggs Power Solutions,
Three Backup Power Generators
Page 20 of 26

City of Fayetteville
Bid 07-40, Lift Station Backup Power Generators
Bid Form

*GUARANTEED DELIVERY DATE: 10-12 weeks ARO

F.O.B. Fayetteville Waste Water Treatment Plant, 1400 Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:
1.	<u>LS-13: 50 kW, 480 Volt</u>	1	\$ <u>26,995</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER: <u>Baldor</u>		MODEL: <u>IGLC 60N-G</u>	
2.	<u>LS-14: 125 kW, 480 Volt</u>	1	\$ <u>35,950</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER: <u>Baldor</u>		MODEL: <u>IGLC 125N-G</u>	
3.	<u>LS-16: 125 kW, 480 Volt</u>	1	\$ <u>35,950</u>
Please Specify for Unit(s) Bid:			
*MANUFACTURER: <u>Baldor</u>		MODEL: <u>IGLC 125N-G</u>	

TOTAL BID PRICE:

\$ 98,895

EXECUTION OF BID -

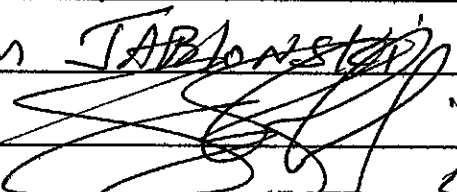
Bidders are requested to indicate by check on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

This form continues on the next page. . .

Upon signing this Bid, the bidder certifies that:

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

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

*NAME OF FIRM: Millenium Products Inc
*BUSINESS ADDRESS: 6346 Heron PARKWAY
*CITY: Clarkston *STATE: MI *ZIP: 48346
*PHONE: 888-901-7430 FAX: 801-469-7778
*E-MAIL ADDRESS: Info @ Millenium Products.net
*BY: (PRINTED NAME) Tim Jablonsky
*AUTHORIZED SIGNATURE: 
*TITLE: PRESIDENT *DATE: 4/5/07

Bid 07-40, Addendum 1



Date: Thursday, March 29, 2007

To: All Prospective Vendors

From: Andrea Foren, Purchasing Agent (575.8220)

RE: Bid 07-40, Lift Station Backup Power Generators

This addendum is hereby made a part of the bid documents to the same extent as though it were originally included therein. **Bidders should indicate receipt this addendum by signing this form and submitting it with each bid.**

- Please add the following specifications to each item listed in the bidding documents (Section 16263 - J):

8. Sound Attenuated Weather Protective Enclosure

- a. Manufacturer shall have a minimum five years' experience in the design and construction of weather-protected generator-set enclosures.
- b. The enclosure panels shall be assembled with modular, bolt-together construction.
- c. Enclosure shall include the following features:
 - i. Foam insulation on all interior surfaces
 - ii. Sound level not to exceed 68 dba within 7 meters of enclosure surface in any direction
 - iii. All exterior and interior surfaces finished with baked-on powder-coat
 - iv. Bottom flange with multiple mounting holes
 - v. Stainless steel door hardware and lift-off hinges
 - vi. Lockable doors
 - vii. Gasketed access doors

- Section 1.5, Items 1-3 shall be revised with the following modifications for items 1 and 3 on sections A, B, and C :

1.5 GENERATOR DETAILS

A. LS-13 – Item 1

- 1. Minimum Power Rating – 50 kW, 480 Volts
- 3. 200 amp Automatic Transfer Switch – NEMA 4X

City of Fayetteville
Bid 07-40, Lift Station Backup Power Generators
Bid Form

***GUARANTEED DELIVERY DATE:** 60 days from receipt of order.

F.O.B. Fayetteville Waste Water Treatment Plant, 1400 Fox Hunter Road, Fayetteville, AR 72701

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:
1.	<u>LS-13: 50 kW, 480 Volt</u>	1	\$ <u>22,931</u>

Please Specify for Unit(s) Bid:

*MANUFACTURER: Cummins/Onan MODEL: 60GGHE/OTPC225

2.	<u>LS-14: 125 kW, 480 Volt</u>	1	\$ <u>31,626</u>
----	--------------------------------	---	------------------

Please Specify for Unit(s) Bid:

*MANUFACTURER: Cummins/Onan MODEL: 125GGLA/OTPC400

3.	<u>LS-16: 125 kW, 480 Volt</u>	1	\$ <u>31,626</u>
----	--------------------------------	---	------------------

Please Specify for Unit(s) Bid:

*MANUFACTURER: Cummins/Onan MODEL: 125GGLA/OTPC400

TOTAL BID PRICE:

\$ 86,183

EXECUTION OF BID -

Bidders are requested to indicate by check on each line of the Technical Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

This form continues on the next page. . .

B. LS-14 – Item 2

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

C. LS-16 – Item 3

1. Minimum Power Rating – 125 kW, 480 Volts
3. 400 amp Automatic Transfer Switch – NEMA 1

Please let me know if you have any questions.

Sincerely,

Andrea Foren
City of Fayetteville, Purchasing Agent
113 W. Mountain
Fayetteville, AR 72753
Phone: 479.575-8220
E-Mail: aforen@ci.fayetteville.ar.us

Please acknowledge receipt of this addendum (Bid 07-40, Addendum 1) by signing below and submitting this document as part of your bid:

By: Terry Hisson Printed Name

Signature: Terry Hisson

Name of Firm: Jack Tyler Engineering of Arkansas

Date: 4 / 9 / 2007

Upon signing this Bid, the bidder certifies that:

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

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

*NAME OF FIRM: Jack Tyler Engineering of Arkansas

*BUSINESS ADDRESS: 1906 North Lowell Rd.

*CITY: Springdale *STATE: AR *ZIP: 72764

*PHONE: (479) 756-3660 FAX: (479) 756-3694

*E-MAIL ADDRESS: Terry@Jteng.com

*BY : (PRINTED NAME) Terry Hissong

*AUTHORIZED SIGNATURE: Terry Hissong

*TITLE: Senior Muni. Sales Rep. *DATE: April 9th 2007

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:

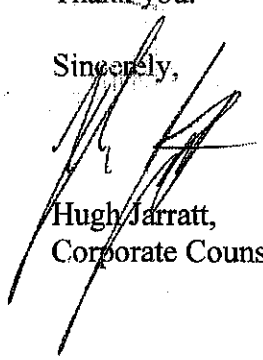
Please treat this letter as a formal request on behalf of The Links at Fayetteville, a Limited Partnership to appeal the Fayetteville Planning Commission decision regarding R-PZD 07-2452, The Links at Fayetteville.

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

*Tabled to 5/15/07 City Council mtg 5/1/07
left on the second reading 4/17/07*

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: 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"

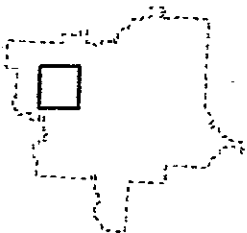
RPZD07-2452

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 Ruple Road and on Wedington, as determined through development review;*
 - b. *Constructing the eastern half of Ruple 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 Ruple 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 Ruple 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 Ruple 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 Ruple 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

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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

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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 Ruppel 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 Ruppel 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 Hamstring 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.

<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:
 - 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 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. ~~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 throughout the development, as opposed to the two main public streets and a number of 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 49.16 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 Ralph 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 therefrom, 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)

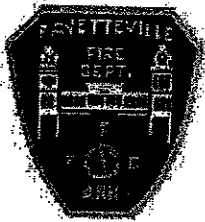
TRAIL COMMENTS

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)

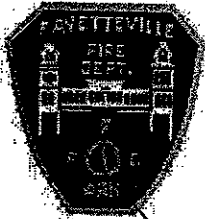
These 1.5 acres are covered by Engine 6 located at 900 S Hollywood. It is .7 miles from the station with an anticipated response time of 2 minutes. The Fire Department does not figure calls for service on properties being re-zoned to C-1, Neighborhood Commercial, but typically this type of development 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 within 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 will 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

B. 1
The Links at Fayetteville Appeal
Page 49 of 74

POLICE DEPARTMENT

RECEIVED
JUL 25 2005
PLANNING DIV.

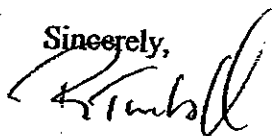
July 25, 2005

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@paradigmwa.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
TOTALS:			14,141	289	637	768	566
<i>*These volumes adjusted to reflect 20% internal capture.</i>							
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
TOTALS:			19,709	563	593	926	966
<i>*These volumes adjusted to reflect 20% internal capture.</i>							
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

FIGURE 10

RECOMMENDED
SCHEMATIC LANE GEOMETRY

THE LINKS AT FAYETTEVILLE

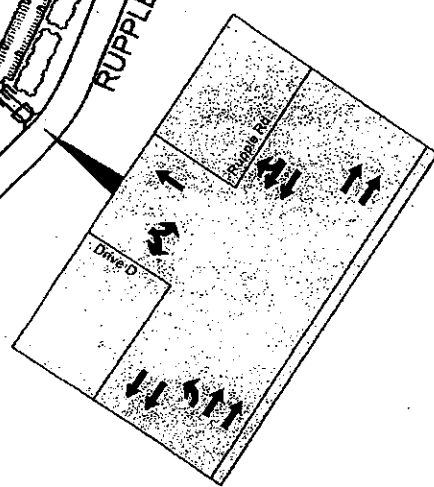
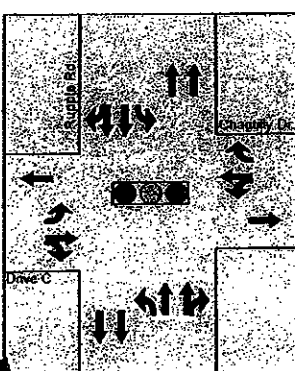
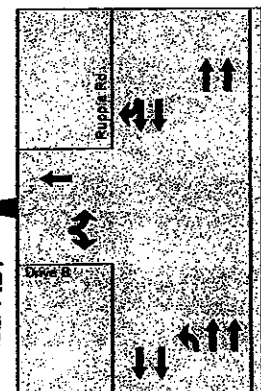
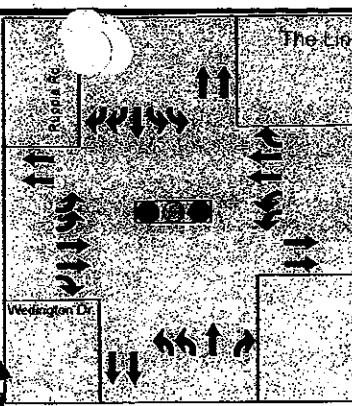
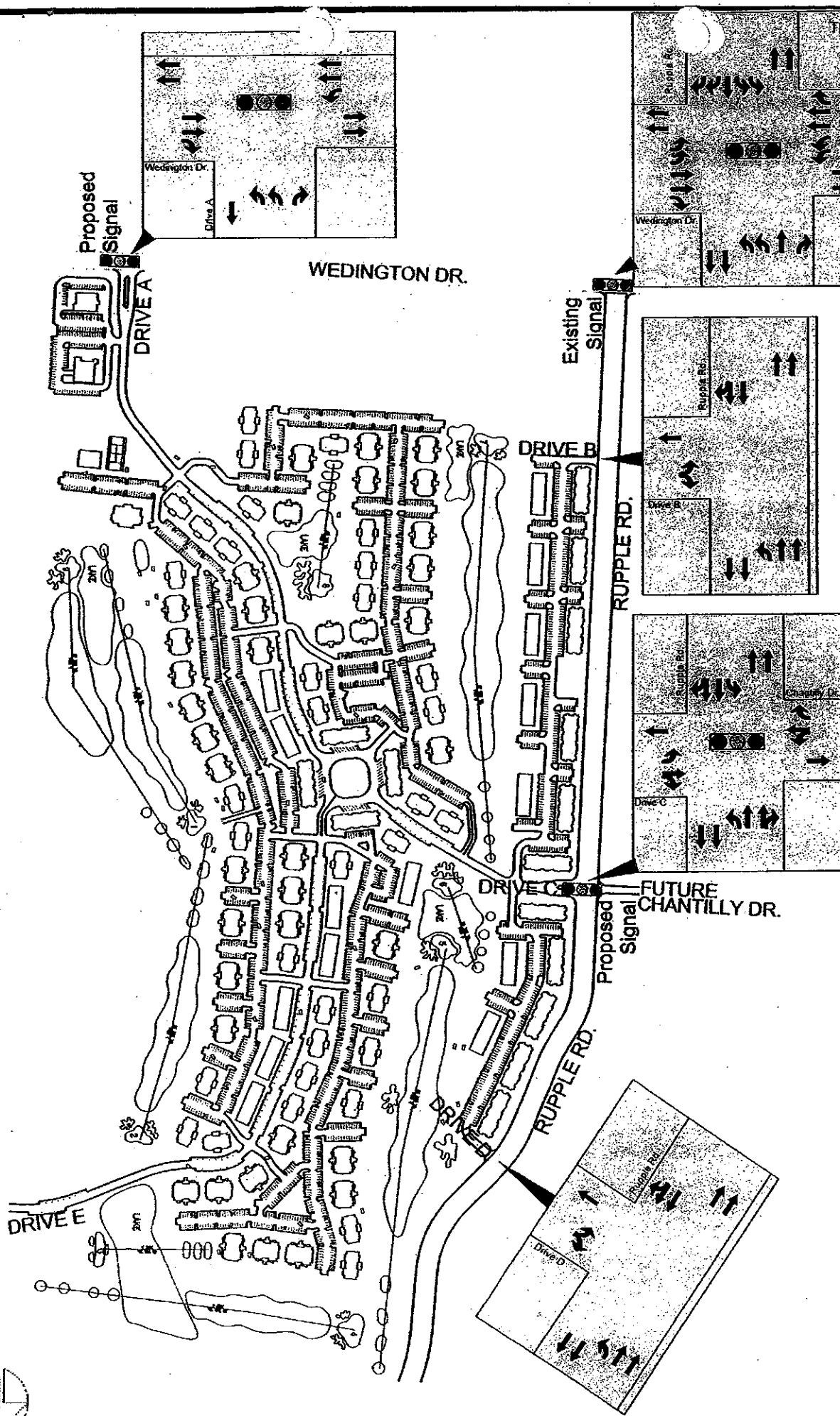
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1258
DATE: 2-14-2007

PETERS & ASSOCIATES
ENGINEERS, INC.

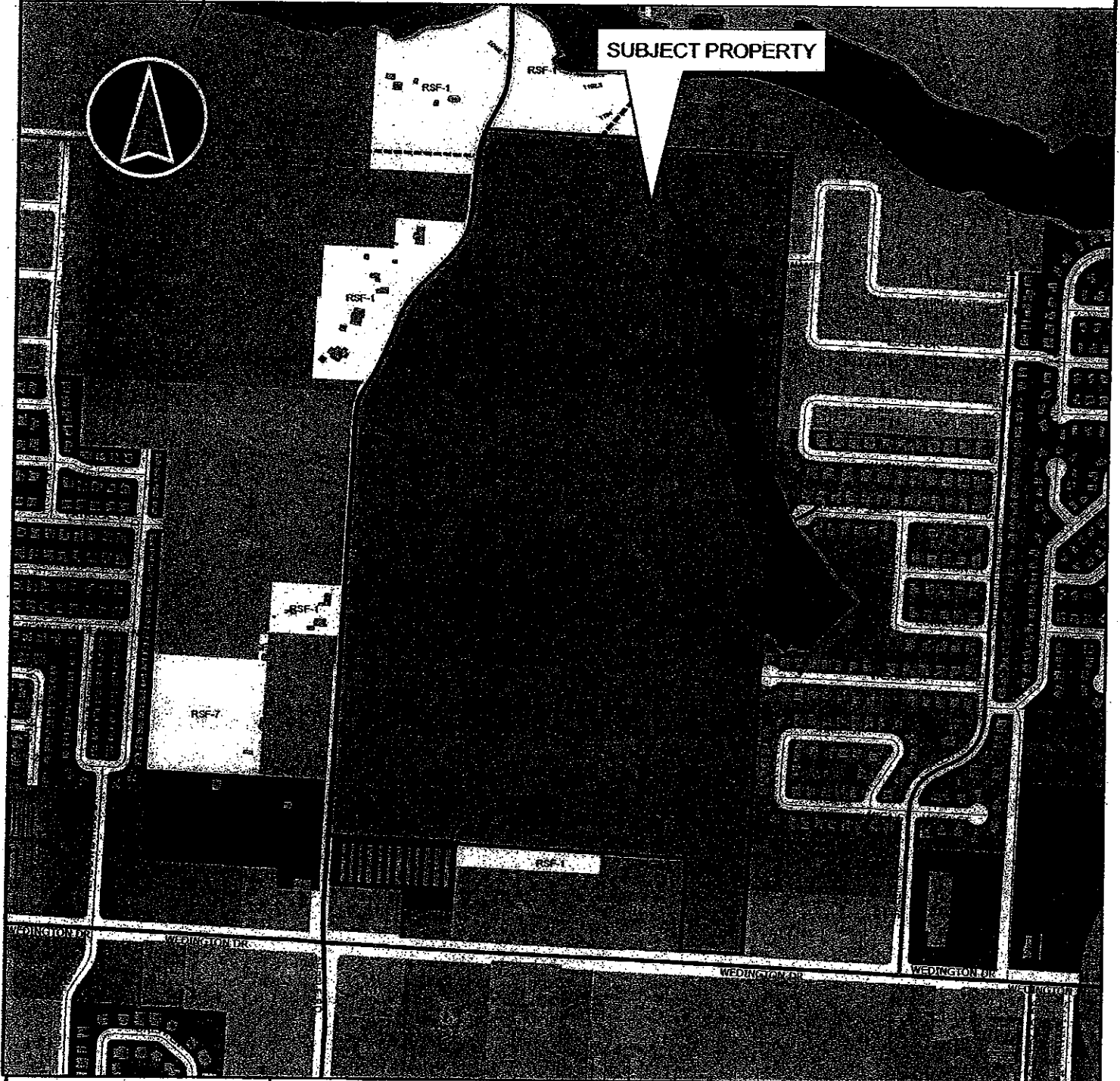
• CIVIL & TRAFFIC ENGINEERING



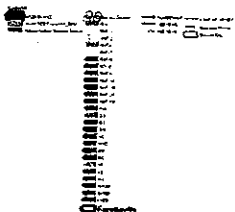
RPZD07-2452

Close Up View

THE LINKS AT FAYETTEVILLE



Overview



0 250 500 1,000 1,500 2,000
Feet

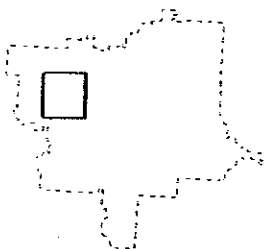
RPZD07-2452

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**

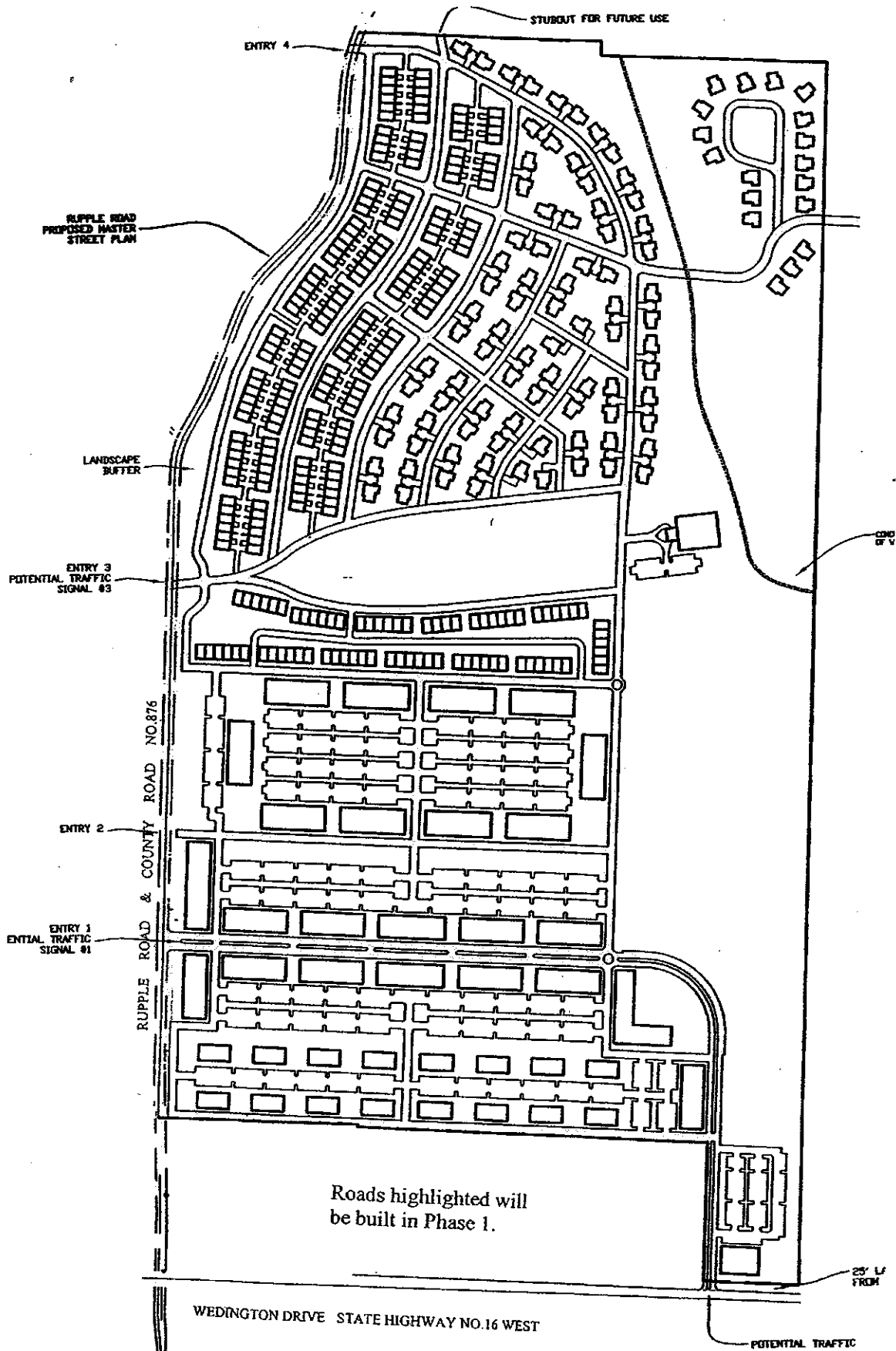
TYPE OF USE	PLANNING AREA	RESIDENTIAL DENSITY (UNITS/ACRE)	RESIDENTIAL UNITS	NON-RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON-RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Multi-family/Golf	PA-3	12.71	1,000	NA	9 hole golf course	78.66	51.67%
Dedicated parks	PA-5	NA	NA	NA	NA	17.32	11.38%
Club House	PA-2	0.19	1	3,170	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%

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

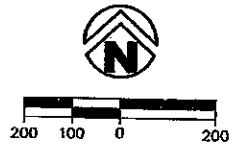
Item of Comparison		Wellspring PZD	Links at Fayetteville PZD
Acreage		152.23 acres	152.23 acres
Total Dwelling Units		1175	1258
	Single Family	150 (13%)	74 (6%)
	Townhome	300 (26%)	75 (6%)
	Mixed Use	225 (19%)	108 (9%)
	Condo/Apartment	500 (43%)	1000 (79%)
Dedicated Parkland		21 acres (14%)	17.32 acres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



Public Streets: Links P20

SITING FROM THE CORE TOWN
WIDE AN AFFORDABLE DETACHED

PLANNING AREA VII
SINGLE FAMILY / GOLF COURSE



> BUILDING ELEVATIONS THAT
I THE DESCRIPTION OF BUILDINGS
BRICK/MASONRY.

PLANNING AREA IV
TOWN CENTER / MIXED USE

PLANNING AREA VI
PARKWAY TOWNHOMES

PLANNING AREA I
MARKET DISTRICT

PLANNING PUBLIC

PLANNING CLUBH

PLANNING AREA III
MULTI FAMILY / GOLF COURSE

PLANNING AREA I
MARKET DISTRICT

WEDDINGTON ROAD

RUPPLE ROAD

SHIP 16 NORTH, RANGE 30 WEST,
TOWNSHIP 16 NORTH, RANGE 31
SHIP 16 NORTH, RANGE 30 WEST,
IP 16 NORTH, RANGE 31 WEST, ALL
I, 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
O A SET IRON PIN, THENCE
S87°02'59"E 209.22' TO THE POINT
RIGHTS-OF-WAY OF RECORD.

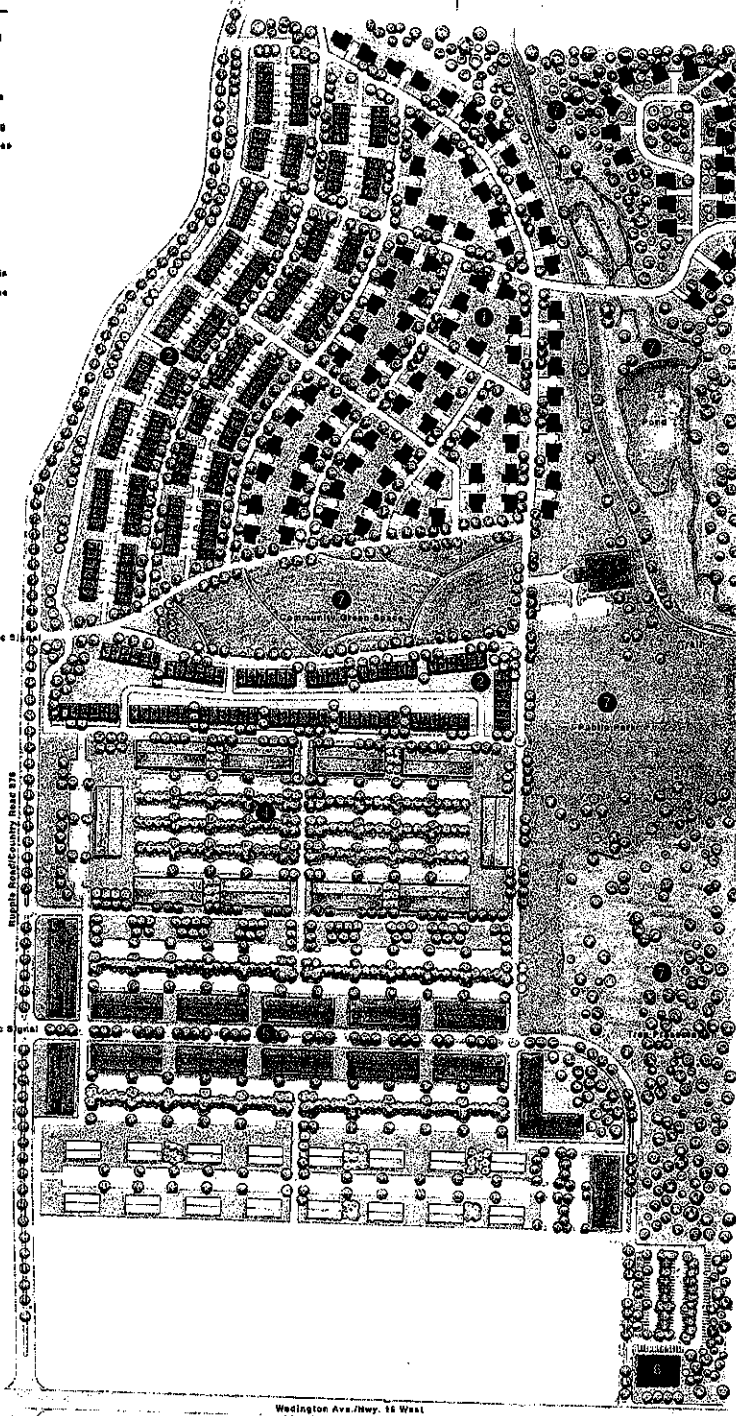
Master Plan

Amenities

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

Large areas of green space 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 Bay and Golf 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 3
- 7 Planning Area 7 - Parks Area, Community Green Space and Tree Preservation Area
-Part of Phase 1



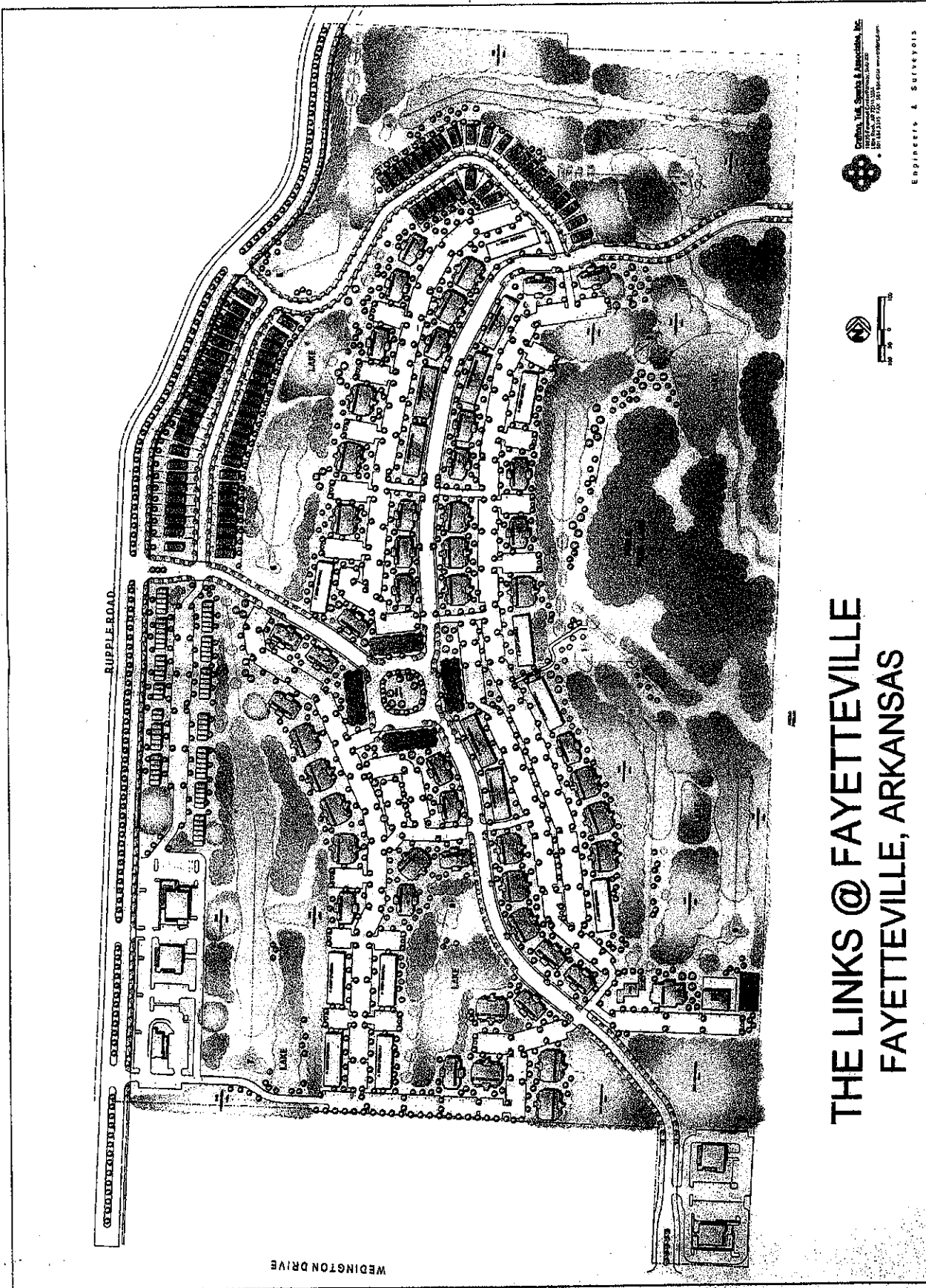
Wellspring Community

Integrating Amenities



WOODER ARCHITECTS

Critical Path Design



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.

B.4. Links at Fayetteville Appeal
Handed out at Council Meeting 5/11/07

WELLSPRING/LINKS COMPARISON

<u>ITEM OF COMPARISON</u>	<u>WELLSPRING</u>	<u>LINKS</u>
ACREAGE	152.23	152.23
TOTAL DWELLING UNITS	1175	1220-1258
DENSITY	7.72 du/ac	8.0 du/ac
DETACHED DWELLING UNITS	150	74
ATTACHED DWELLING UNITS	1025	1185
BUILDING TYPES	6	7
COMMERCIAL SF	548,000 sf	120,888 sf
GREENSPACE/PARKLAND/ TREE PRESERVATION	40ac	103 ac. (49 golf, 56 tree preservation, parks and general open space.)
GREENSPACE	26%	68%
Without golf	26%	37%
EST. VEHICLE TRIPS	19,709 vpd	14,141 vpd

B.4.
The Links at Fayetteville
Appeal
Handed out at Council
Meeting 5/1/07

LINKS AT FAYETTEVILLE TAX IMPACT

ENTITY	TAX RATE	COLLECTED	
Washington County - General	4.7	\$ 64,860.00	
Washington County - Roads	0.22	\$ 3,036.00	
TOTAL			\$ 67,896.00
Fayetteville - Schools	25	\$ 345,000.00	
Fayetteville - Schools Debt Service	18.8	\$ 259,440.00	
TOTAL			\$ 604,440.00
Fayetteville City - General	1.3	\$ 17,940.00	
Fayetteville City - Police	0.4	\$ 5,520.00	
Fayetteville City - Fire	0.4	\$ 5,520.00	
Fayetteville City - Roads	0.88	\$ 12,144.00	
Fayetteville City - Library	1	\$ 13,800.00	
TOTAL			\$54,924.00
GRAND TOTAL	52.7	\$727,260.00	
TOTAL ANNUAL SALES TAX IMPACT OF LINKS AT FAYETTEVILLE (Using IMPLAN 2004)		\$532,332.50	
ANNUAL SALES TAX FOR FAYETTEVILLE			\$ 118,296.00
TOTAL ANNUAL SALES & PROPERTY TAX IMPACT		\$ 1,259,592.50	
FAYETTEVILLE ANNUAL IMPACT (Property Tax plus 2% Sales Tax)			\$173,220.00

Estimated Fees to City of Fayetteville Links at Fayetteville

1 Building Permit Fees

51 Custom / Classic Buildings	3,700.00	=	188,700.00
16 Churchill Buildings	7,400.00	=	118,400.00
4 Multi-Use Buildings	10,600.00	=	42,400.00
71 Townhouse Units	436.00	=	30,956.00
74 Single Family Homes	620.00	=	45,880.00
Total Building Permit Fees			426,336.00

2 Sewer / Water Impact Fees

612 Custom / Classic Units	812.00	=	496,944.00
352 Churchill Units	812.00	=	285,824.00
76 Multi-Use Units	812.00	=	61,712.00
71 Townhouse Units	1,143.00	=	81,153.00
74 Single Family Homes	1,143.00	=	84,582.00
Total Sewer / Water Impact Fees			1,010,215.00

3 Police / Fire Impact Fees

612 Custom / Classic Units	312.00	=	190,944.00
352 Churchill Units	312.00	=	109,824.00
76 Multi-Use Units	312.00	=	23,712.00
71 Townhouse Units	431.00	=	30,601.00
74 Single Family Homes	431.00	=	31,894.00
Total Police Fire Impact Fees			386,975.00

4 Park Fees (Some of these fees to be offset by 17.3 acres park land dedication)

612 Custom / Classic Units	658.00	=	402,696.00
352 Churchill Units	658.00	=	231,616.00
76 Multi-Use Units	658.00	=	50,008.00
71 Townhouse Units	658.00	=	46,718.00
74 Single Family Homes	658.00	=	48,692.00
Total Park Fees			779,730.00

Estimated Total Fees Paid to City of Fayetteville \$2,603,256.00

Proposed Subcontractor List

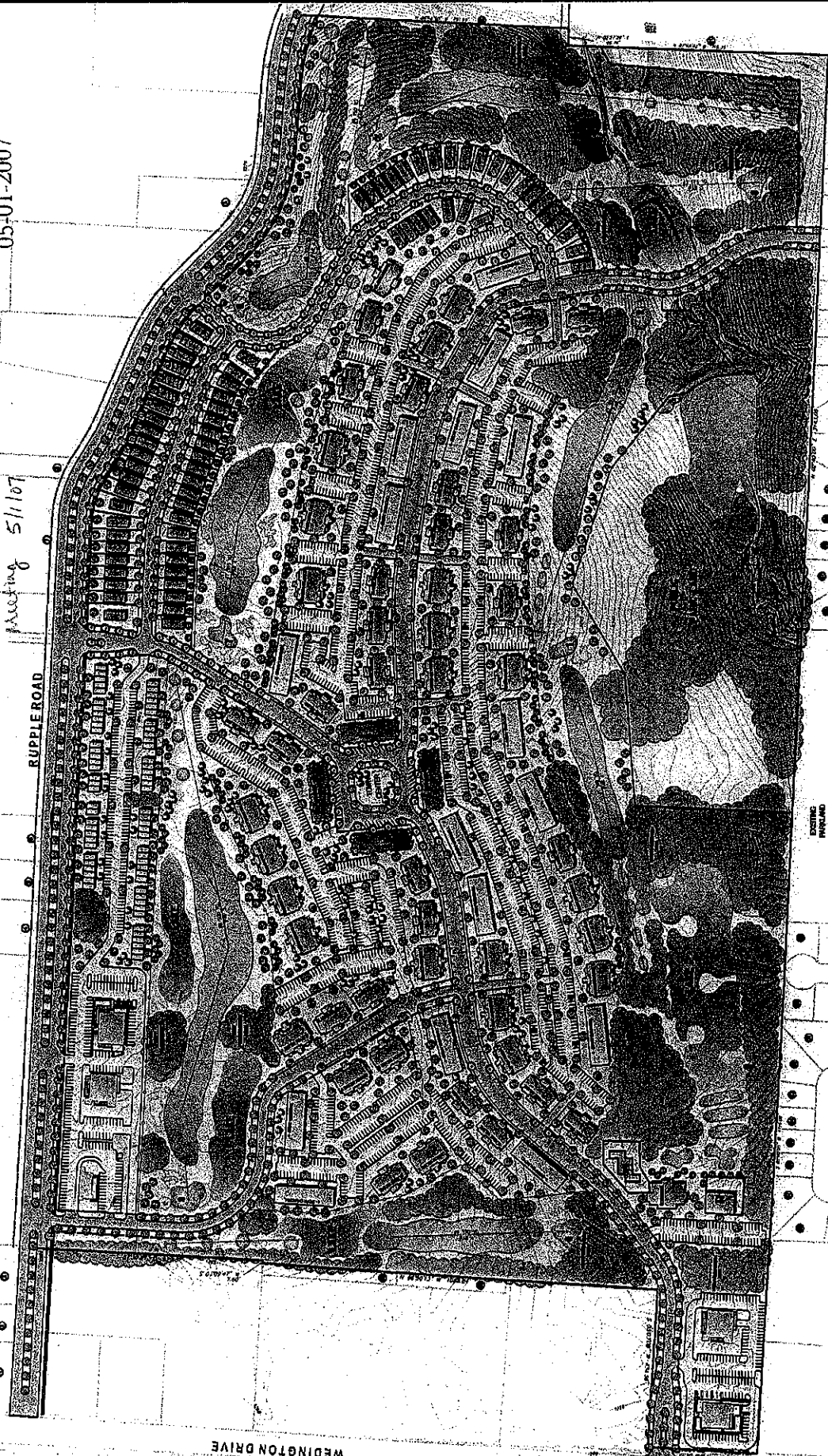
Links at Fayetteville

1220 Units

Area of Work	Company Name	Owner / Representative	Employees Involved in Project	Total Estimated Sales Tax
1 General Contractor	Lindsey Construction	Jim Lindsey	30	150,000.00
2 Utilities	Fochtman Enterprises	Earl Fochtman	52	130,250.00
3 Concrete Finishing	Westlin Concrete	John Westlin	20	13,500.00
4 Concrete Materials	Tune Concrete	Dennis Tune	70	333,000.00
5 Pretreatment	AB TriState	Ross Odom	25	8,000.00
6 GypCrete	Gypsum Floors	Dan Pinner	28	20,700.00
7 Stairs / Columns	Westark Steel	Don Staley	22	60,000.00
8 Framing	Hines Construction	Tom Hines	80	12,200.00
9 Lumber Materials	National Home Centers / Ridout	D Newman / W Ridout	55	515,750.00
10 Trusses Materials	LATCO	Dick Latta	65	120,250.00
11 Carpentry Trim	ARRHK Trim	Harold Randolph	20	8,000.00
12 Plumbing	FVY Mechanical	Bill Kisor	45	162,000.00
13 HVAC	FVY Mechanical	Bill Kisor	30	67,710.00
14 Electrical	Northwest Electric	Delano Cotton	22	145,000.00
15 Roofing	Pick It Construction	Nathan Ogden	34	53,400.00
16 Masonry	Bond Masonry	Jimmy Bond	70	18,500.00
17 Brick Materials	Acme Brick	Jerry Jones	15	105,000.00
18 Insulation	Burns Insulation	Ann Burns	15	34,000.00
19 Drywall	JR Ball Contracting Group	JR Ball	110	280,000.00
20 Painting	JR Ball Contracting Group	JR Ball	18	-
21 Paint Materials	Spectrum Paint	Ralph Smittipeters	10	42,000.00
22 Appliances	GE Direct	Chris Burnley	12	166,500.00
23 Cabinets	Kitchen Distributors	Dave Albert	72	90,200.00
24 Carpet	National Home Centers	Darrell Swopes	20	108,200.00
25 Gutters	Burns Insulation	Ann Burns	4	12,200.00
26 Mini Blinds Materials	Drapery Manufacturers Inc.	Max Myers	6	11,800.00
27 Mirror Materials	Dotson Glass	Ray Dotson	4	11,300.00
28 Handrails	Wilson Contracting	Rod Wilson	12	22,570.00
29 Street Improvements	Sweetser Construction	Billy Sweetser	50	138,750.00
30 Dryvit	Synthetic Design	Mark Diehl	12	7,600.00
31 Shower Doors Materials	Alumax	Jimmy Parker	8	12,400.00
32 Fuel Supplier	Fuels and Supplies	John Johnson	6	23,125.00
33 Rental Equipment	Riggs Tractor		14	62,000.00
			1056	\$ 2,945,905.00

* This does not include sales tax revenue from subs employees buying gas, food, lodging, etc.

B.4- Links at Fayetteville Appeal REVISIONS
Handled Out of the Council
Submitted for City Council Review
05-01-2007



THE LINKS @ FAYETTEVILLE FAYETTEVILLE, ARKANSAS



Engineers & Surveyors

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

5/15/2007

City Council Meeting Date

Tim Conklin

Submitted By

Planning and Development Mgt.

Division

Operations

Department

Action Required:

A PUBLIC HEARING REGARDING THE CITY OF FARMINGTON'S DESIRE TO ANNEX 25.44 ACRES
CURRENTLY IN THE CITY LIMITS OF FAYETTEVILLE.

Cost of this request

\$

-

Category / Project Budget

Program Category / Project Name

Account Number

\$

-

Funds Used to Date

Program / Project Category Name

Project Number

\$

-

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

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:

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody
Fayetteville City Council
FROM: Tim Conklin, Planning and Development Management Director *T. C.*
DATE: April 26, 2007

**SUBJECT: A PUBLIC HEARING REGARDING THE CITY OF
FARMINGTON'S DESIRE TO ANNEX 25.44 ACRES
CURRENTLY IN THE CITY LIMITS OF FAYETTEVILLE**

PUBLIC HEARING

A.C.A. 14-40-2101 requires the City to conduct a public hearing within 60 days for the simultaneous detachment of territory from Fayetteville to Farmington. Following the public hearing, the City Council may bring the proposed ordinance up for a vote to concur in the detachment and annexation at the June 5, 2007 City Council meeting.

The Farmington City Council passed Ordinance No. 2007-8 to detach seven parcels containing 25.44 acres at their April 9, 2007 Farmington City Council meeting.

Five of seven parcels were previously voted on by the Fayetteville City Council on March 20, 2007 and the motion to approve the ordinance failed by 3-4 vote.

BACKGROUND

The property owners have included two additional parcels for a total of seven parcels and have requested to detach from the Fayetteville to Farmington.

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

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



Doc ID: 011055930004 Type: REL
Recorded: 04/17/2007 at 01:22:02 PM
Fee Amt: \$17.00 Page 1 of 4
Washington County, AR
Bette Stamps Circuit Clerk
File # 2007-00014338

ORDINANCE 2007-08

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PASSED AND APPROVED THIS 9th DAY OF April, 2007.



Ernest L. Penn, Mayor

Attest:

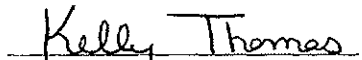
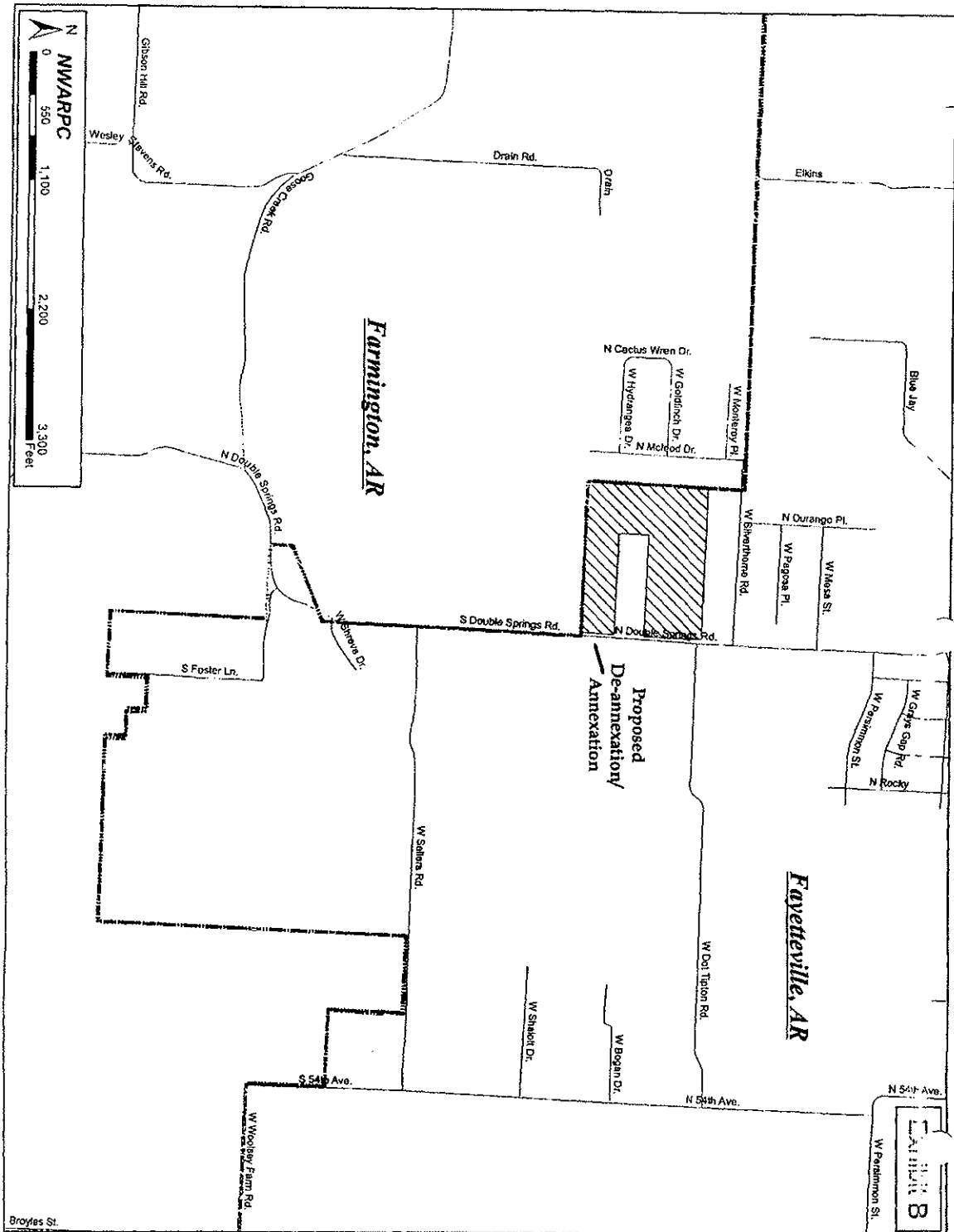

Kelly Thomas, City Clerk

Exhibit A

De-Annexation/Annexation – Fayetteville to Farmington

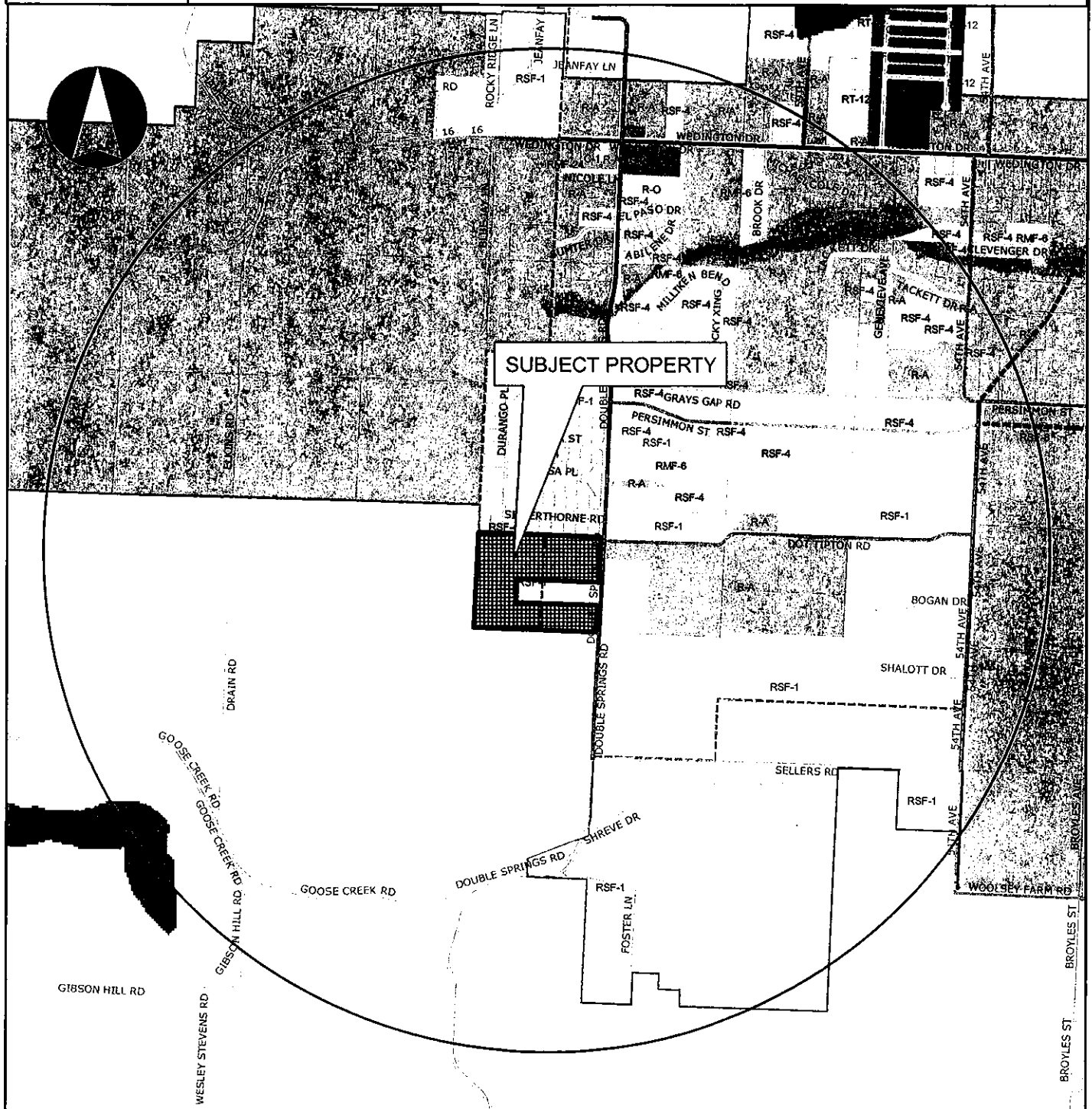
A part of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of S15, T16N, R31W, Washington County Arkansas; being more particularly described as: Beginning at the Southwest corner of Said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$; thence N02°38'07"E 1024.77 feet; thence S87°50'00"E 1296.75 feet; thence S02°28'18"W 484.70 feet; thence N87°57'44"W 868.22 feet; thence S02°22'58"W 252 feet; thence S87°57'45"E 864.05 feet; thence S02°57'47"W 285.52 feet; thence N87°59'35"W 1294.22 feet; to the Point of Beginning and containing 25.442 Acres, more or less.



ADM07-2571

One Mile View

MICHELLE WEEKS



Overview



Legend

Subject Property

ADM07-2571

Boundary

Planning Area

Overlay District

Outside City

Legend

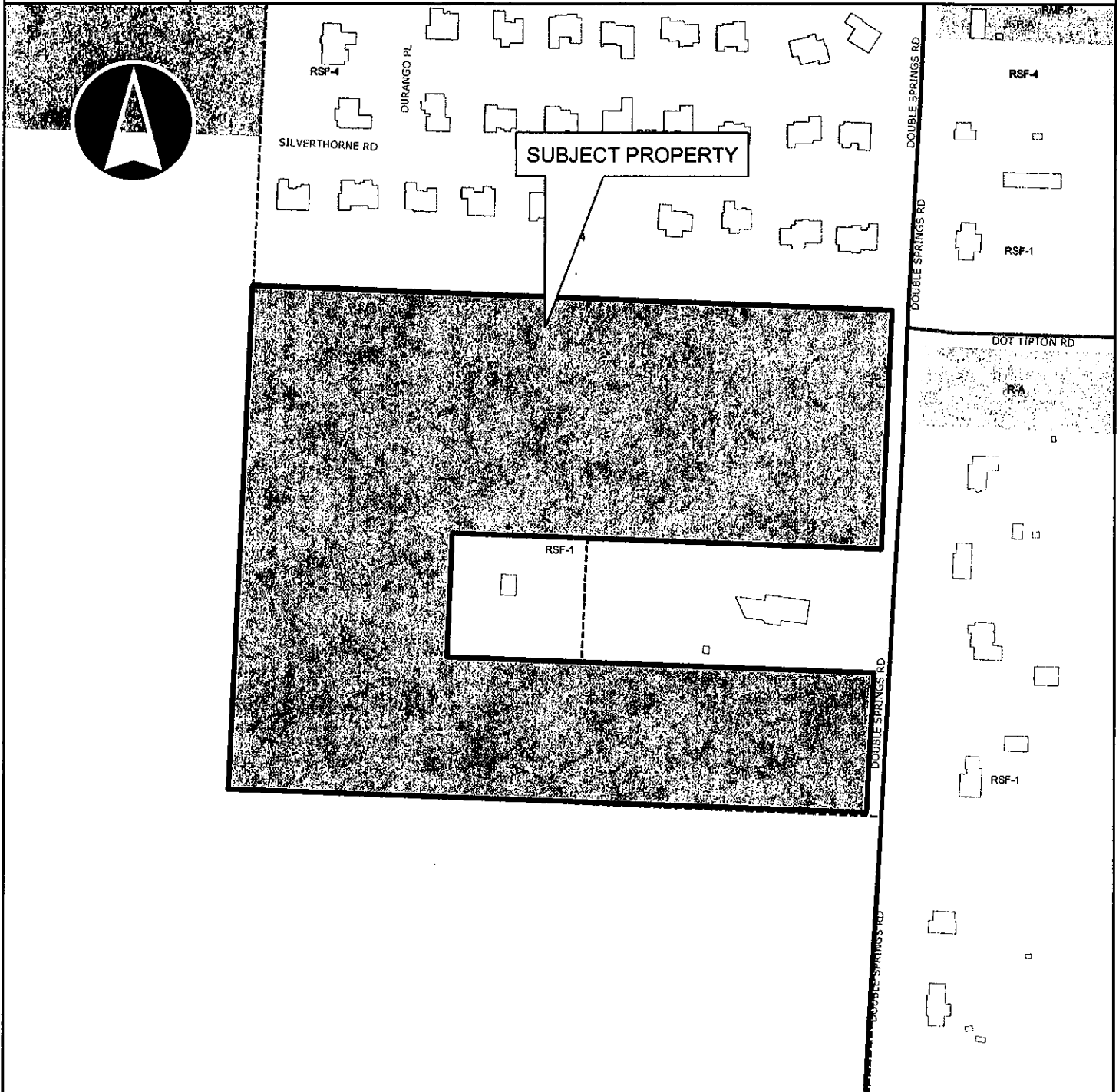
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

ADM07-2571

Close Up View

MICHELLE WEEKS



Overview



0 75 150 300 450 600 Feet



MATHIAS, SAM; BARNES, BLEAUX & 6683
MATHIAS, SAM; BARNES, BLEAUX & 6655
MATHIAS, SAM; BARNES, BLEAUX & 6627
MICHAEL & ROBIN GASSMAN, VINCE JR & AMBERLY MCCUTCHEON, JOHN & JACKIE ROBERTS, PATRICIA
6541
ROGERS, BRIAN DANIEL & LORI A.
6509
MORAN, ANDREW B. & ANDREA DOWNAL
6477
JAMES E & MARY C
6451
TILLMAN, WILLARD & EDITH
6423
TIPTON, ROBERT BRADFORD TTEE OF 258

MATHIAS, SAM; BARNES, BLEAUX &

121

BLEW, CHARLES B & LORI R

WEEKS, LARRY C. & MICHELLE B

173

ANDERSON, H.B. & EMILY; CARMACK,

DEARING, JOSEPH M. & WHITNEY D.

LARSEN, JONATHAN JAMES & MARY

135

LANGSTON, NATHAN M, SR

MATHIAS, SAM; BARNES, BLEAUX &

KAISER, KERRY L OR TANYA

117

MATHIAS, SAM; BARNES, BLEAUX &

RANKIN, MAURICE; TTEE MAURICE
105
109

MATHIAS, SAM; BARNES, BLEAUX &

DORMAN, HERBERT E

WOODY, GEORGE C. & BARBARA R.
25

PINNELL, CHRISTOL

PETREE, JOSH & DEANNA

RED CANYON DEVELOPMENT, LLC

0 50 100 200 300 400 Feet

COULTER, WILLIAM & NANCY A. COULTER

258

TIPTON, ROBERT BRADFORD TTEE OF

JRJBGS, LLC

YOUNG, THEODORE L. & MARILYN

LAFRANCE, EDWARD D & BETTY L

76

BARNES, LESLIE D. & KAREN A.

20

PFALZGRAF, KELLY E. & CHARLOTTE

BURNETT, WALTER II

62

City Attorney Kit Williams: I think the one I read was your second version. Where you included existing structures that exceed three stories or 45 feet shall be grandfathered in and not considered nonconforming structures. It is two sections of our code Section 161.21 and Section 161.22 one of them being the Main Street Center and the other being the Downtown General.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 4-3. Alderman Lucas, Jordan, Cook and Allen voting yes. Alderman Ferrell, Gray and Thiel voting no. Alderman Rhoads was absent. (Mayor Coody chose not to vote).

City Attorney Kit Williams: Any ordinance or resolution requires affirmative votes to pass no matter how many members of the City Council are here. It had four votes and the Mayor has a vote only when it is necessary to pass an item. He can choose to vote yes and the item would pass or he does not vote at all. My not voting the item failed because it does not have the five affirmative votes needed to pass.

This ordinance failed.



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

City Attorney Kit Williams: The City Council asked me at agenda session to draft an ordinance that would de-annex the five family lots that sought de-annexation and went through Farmington. There were two other families that signed the petition but they never went through Farmington so they can not be considered tonight.

City Attorney Kit Williams read the ordinance.

This is totally a decision of the City Council to decide if you feel like it is in the best interest to detach this property. I think some of the property owners are here tonight.

Larry Weeks, Fayetteville Businessman: WE have asked to be de-annexed back to Farmington. It started out as a hometown loyalty issue, all of our children went to Farmington schools, and we were raised in that community. Later on it got to be an issue of services provided one unparticular is our trash service. If I am going to take trash out I have to transport it a third of a mile to get trash service. My neighbor has to transport his a fourth of a mile and so do three other families there. Farmington has coupled with independent contractors. We have private drives and the trucks that you have are actually too heavy to come down our roads. If we are to have trash service we were asked to provide a turn around for the truck, which we are going to incur an expense, we are asked to keep up that road; we are going to incur expense. So right now we are paying for trash service that we don't get. It is a good deal for you it is not a very good deal for us. We are on septic systems and we were informed that we were going to have to pay sewer because Fayetteville did not recognize septic. I don't know if that is the cause or not.

Mayor Coody: That is not the case.

Larry Weeks: We are just asking to be de-annexed back to Farmington.

Alderman Ferrell: Did you say that right now you are paying Fayetteville trash pickup.

Larry Week: Yes sir.

Alderman Ferrell: You already paid that and they are not picking up the trash.

Larry Weeks: That is right.

Mayor Coody: I think the issue is if they could write us a wavier to where we could drive down their driveway. We did not want to do that without their permission.

Larry Weeks: Actually that is not the case Mayor.

Mayor Coody: Is that right. I'm sorry.

Larry Weeks: The trash service sent someone out to our house and said the truck could not turn in our driveway and then we would have to sign a waiver for any damage that was done by truck; I think they weight about 55,000 pounds. We were also going to have to provide a turn around in our yards. I have five acres and my neighbor has three so they are all private drives back to those properties. We are going to have to incur some expense to have trash or we are going to have to haul it ourselves. Rather than carry mine a third of a mile down to Double Springs Road, I am Fayetteville businessman so I throw it in the back of my pickup and haul it myself. I am not in the trash hauling business and all of our time is valuable. We are just so limited for time as you are tonight you are here until 10:00 already. I commend you on your efforts I couldn't do what you do.

Alderman Ferrell: Is in fact the main reason that you don't want to be a part of Fayetteville is because of your historic ties to Farmington.

Larry Weeks: That is what this began as. We had already asked Farmington to annex us before your island annexation. Farmington didn't get that done and then Fayetteville came along and annexed us. We had petitioned Farmington and that was in the works.

Alderman Jordan: Mr. Weeks what did you do for trash service before?

Larry Weeks: Farmington couples with independent trash services. They have smaller trucks. They brought a one ton truck to my house and picked up my trash and drove to my door and picked it up. So I didn't have to mess with it.

Alderman Jordan: That does seem somewhat unfair.

Gary Dumas: All this property was in the county and it was served by various independent haulers that service the county. Farmington has a contract with Waste Management whether they will serve on a private drive or not, I don't know. Service is provided to everyone within the City of Fayetteville however if you have a private drive we ask that you sign a waiver in case

the truck damages your drive that we are not responsible for that. We are not asking for a waiver if the road damages the truck just if the truck damages the drive. We asked for a turnaround otherwise the truck would have to back either a third or a quarter of a mile as you just heard stated.

Alderman Lucas: Do you have a turn around for other people that come down to your house?

Larry Weeks: I do for cars.

Alderman Lucas: So you do have a turn around.

Larry Weeks: It is in my driveway. I don't have a turnaround per say. I have a place that a car can back out of my driveway but it would not be suitable for a truck of that size.

Mayor Coody: The other folks that wanted to de-annex but they did not go through the Farmington process yet have they done that?

City Attorney Kit Williams: I don't know if they have even petitioned Farmington. I have not seen any ordinance or anything.

Tim Conklin: I have not heard or seen anything regarding the other two families from Farmington.

Larry Weeks: There were seven of us that petitioned Farmington originally and then when we came to the meeting here the other two families we could not get in touch with that evening so we brought a petition signed by the five families that we could get in touch with at that time. There were seven families that originally petitioned. It was stated in the paper there was seven families to begin with and now there are only five families. That seemed to be an issue so we went back again to the other two families and got them to sign that document. It was after it had been submitted to Farmington the second time. The original document to Farmington there was seven families that petitioned. In this process we have actually submitted two petitions, the first was the five of us and then we got the other two to sign.

City Attorney Kit Williams: I think the petition has been in your packet but it is nothing that we can consider because by state law we can only consider the five that went through the process at Farmington and are now before you.

Tim Conklin: Have the other two individuals gone to Farmington and has Farmington passed an ordinance because I am not aware of that.

Mayor Coody: Apparently they have not. The question is the original five.

Bud Anderson: We petitioned at one time and we took all our paperwork to Farmington and at that time they were changing Mayor's and the paperwork got lost. When we went back to get them signed again one of our neighbors was in a divorce and they could not sign because the property wasn't clear. When we got ready to get them signed again to bring back to you the other property was cleared and they were able to sign the paper work. That is the reason that we didn't have the seven.

Mayor Coody: So you are not one of the original five them?

Bud Anderson: I am one of the original five.

Mayor Coody: You are? So you are one of the ones that Farmington has in their resolution.

Alderman Lucas: There is one property owner that wants to stay in that is in the middle of these properties.

Tim Conklin: It is my understanding that Mr. Rankin wants to remain in Fayetteville.

Alderman Lucas: Yes, so it makes the boundary lines very jagged.

Tim Conklin pointed out Mr. Rankin's property on the map.

Alderman Jordan: is it going to create an island or a peninsula?

Tim Conklin: It would create peninsulas of property to the west of Double Springs Road in its current configuration.

Alderman Jordan: One of the problems I have with this is it creates some peninsulas that I think is a problem. At one time Shirley and I brought forward an ordinance to bring in the islands within the City of Fayetteville. I have a difficult time having brought forward an ordinance like that to create something like that.

Bud Anderson: That really wouldn't create an island.

Mayor Coody: He means to create a peninsula which it would. This Council is nothing if not flexible so I think if we wanted to let these people out it might create a little bit of a peninsula. We have annexed 1,400 acres and we would give up 14 or something like that.

Tim Conklin: It is about 21 acres.

Alderman Lucas: some points were brought up that their children go to Farmington school well we have people in the City of Fayetteville that their children go to Springdale and receive their mail in Springdale.

They are not charged sewer and trash pickup could be available if they wanted to sign a waiver. It makes the boundary very jagged which makes it very hard for our police and fire. This was what we were trying to square up, our boundaries with this annexation. Even Farmington was talking about when they annexed they were squaring up their boundaries. I think this is creating something that is going to cause us problems in the future with our fire and police and knowing where the boundaries are.

Alderman Ferrell: I have been thinking about this a lot since the first night and I think we had some questions for Mrs. Weeks. You might have believed as I did that if you wanted out you could get out. Although I don't particularly like peninsulas and we have tried to stop doing that, I have some reservations. I think you had the idea that you could get out if you wanted out.

Michele Weeks: I did and I have been talking to mayor Penn of Farmington about this and I know if our other two neighbors went to Farmington then I am almost positive that Farmington would accept them and that would even up the boundaries more.

Mayor Coody: I remember when we spoke months ago I spoke to staff to put this through the process and let them de-annex. I never perceived it to be a problem based on our conversations back months ago.

Michele Weeks: We didn't know exactly how to proceed so we sit on it for about three weeks or so. I talked to our Alderman and I also talked to Farmington and they were trying to figure out to start the process. They were communicating with Rogers when Rogers had a thing with Lowell and so they had to wait until they could tell Farmington what to do and how to proceed on it.

Mayor Coody: I fully was supportive and we said in good faith if you wanted to get out we didn't think we would have any problem letting you out. That's why we got with Tim and he was going to start the process to do that. I think the hang up came when other people joined you in that process.

Michele Weeks: I didn't know that we were going to exclude Mr. Rankin which I am glad we can. I don't want to make him go to Farmington with us if he doesn't want to. When I turned in the signatures I thought a majority would do it. When I read the statement in the paper saying I didn't have seven, I didn't deceive you I just did not pursue getting those other two, That's why I came back with those other two. That's why Farmington didn't have those other two when they passed theirs.

Mayor Coody: We don't feel deceived, don't worry about that.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance failed 3-4. Alderman Ferrell, Gray and Thiel voting yes. Alderman Lucas, Jordan, Cook and Allen voting no. Alderman Rhoads was absent.

This ordinance failed.

Mayor Coody: You guys are Fayetteville residents it looks like.

Larry Weeks: Is there a process that we can appeal this?

Mayor Coody: Is there a process Kit?

City Attorney Kit Williams: I don't believe so. I think this is really just a totally discretionary decision by the Fayetteville City Council. I am not aware if it can be appealed but you might want to talk to your own attorney. I don't want to try to give you legal advice.

Larry Weeks: Sure. As my wife stated on the first meeting that we had here it was indicated to us we did not object to that island annex then there would be no problem with this., That is how we proceeded all along in good faith. It is just real disappointing. We will try to appeal this.

Alderman Allen: Has Mr. Weeks been given some misinformation?

Larry Weeks: The information was when my wife came here the first time we met it was stated that all we had to do was go through this process. We were led to believe all we had to do was go through this process and we would be de-annexed.

Mayor Coody: That's exactly right.

Larry Weeks: That there was no problem. It was stated that it had been done in Springdale. That information was given to us and it was indicated to us that there would be no problem with this. All we had to do was go through this process.

Alderman Lucas: I think it was mentioned that both Council's Farmington and Fayetteville would have to approve this. You may have assumed that it would automatically approved but I think it was mentioned and I think I even mentioned it to Mrs. Weeks when I talked to her that it had to be approved by both the Council's Farmington and Fayetteville.

Mayor Coody: Did Farmington approve what this is right here Kit?

City Attorney Kit Williams: Yes they have approved it, since the Weeks were the first ones to come up and we basically told them that they could go through a process.

Alderman Lucas: I didn't tell them that.

Alderman Jordan: I didn't tell them that, you told them that.

Mayor Coody: it was on camera at a City Council meeting, maybe you weren't there.

Alderman Jordan: Oh we were there but we didn't say that.

Mayor Coody: it looks like you are out of luck. I am sorry.

Alderman Thiel: Who can make a motion to reconsider?

Mayor Coody: Someone who voted the majority.

Alderman Thiel: Who voted in the majority?

City Attorney Kit Williams: Anybody who voted no.

City Clerk Sondra Smith: The no votes were Lucas, Jordan, Cook and Allen.

Alderman Thiel: So the no votes would need to make a motion.

Mayor Coody: They would have to make a motion to reconsider. Is there any interest in that?

Alderman Allen: I just hate for a citizen to be forced to live in the city they don't want to live in. I am really torn about our ordinances and regulations about the islands as opposed to his desire to not live in the city. I guess I don't know what trumps what exactly.

Alderman Ferrell: Nancy the reason I questioned Mrs. Weeks was because that was my understanding too. I could see how they thought it was going to be a perfunctory deal and I did too at first. That is they agreed to this then they could opt out after it was done. That's the way I remember it.

Mayor Coody: I know we were at a Council meeting and that's the way I saw it too.

Larry Weeks: That was our understanding. We live in the far corner and a 55,000 pound truck on my driveway that's going to cost me a lot of money to just keep my driveway up. Then it is going to cost me money to build him a turn around that will support a 55,000 pound truck as it will Mr. Anderson. So we are going to incur expenses to live in the city that we shouldn't have to incur. The city should buy a smaller truck and come out and haul that trash.

Alderman Gray: How long is your driveway?

Larry Weeks: It is a third of a mile from Double Springs Road to my house.

Alderman Gray: We carry ours to the end of the driveway. It is not quite that long but that would be an alternative to the end of the driveway,

Larry Weeks: That is my driveway.

Alderman Gray: Could they pick it up without having to get on your driveway?

Larry Weeks: If I carried it a third of a mile yes. I just prefer not to carry trash a third of a mile. I leave early in the morning and get home after dark.

Alderman Gray: I was just trying to think of an alternative.

Larry Weeks: I have an alternative. I am hauling my own trash. I prefer not to do that also if I pay for the trash service.

Mayor Coody: I understand. I am sorry it did not work out for you tonight. I am distracted because I just feel like it is more important to keep this guy in the city than it is to basically fulfill our promise but that is a dead issue it is behind us.

Alderman Jordan: Mayor neither one of us said anything that night. We didn't necessarily agree with that. We have a right of representatives of that ward to do what we think is best.

Mayor Coody: You are exactly right but I was left with the impression that once they annexed they could just come back through and we would let them go.

Alderman Jordan: Well know you know.

City Attorney Kit Williams: I explained that night that both City Councils would have to affirmatively approve that and that you as a Mayor really can't make promises for the City Council.

Mayor Coody: No I did not make promises. I was not making promises but it was clearly the impression that if we forced them to come in and they wanted out, that if they went through the steps, which they have done that we would let them out. Obviously for several of us here it must have been just miscommunicated.

Alderman Jordan: Obviously.

NEW BUSINESS:

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

City Attorney Kit Williams: Mayor, I presented this resolution. Section one of the resolution is blank because I am not the policy maker for the City of Fayetteville, this body is and therefore I need direction from the City Council. With this agenda item is a copy of the City's initial petition for leave to intervene. That has been slightly amended to allege that the power line goes over Dickson Street and other city streets. We submitted that to the Arkansas Public Service Commission and they have allowed us to intervene. The City is now a party to this particular case. Before they said we had not alleged enough to intervene but we have now intervened appropriately.

Should also report what happened at the State Legislative today. The State Senate with a single Senator voting no approved SWEPCO's bill which would mean in a situation like this they would not have to ever get a Certificate of Public Convenience and Necessity even if they were replacing short poles with tall towers as long as their easement is not widened which is not usually the concern that people have, they are looking up at the towers. That passed, it had already passed the house at a 70 to 20 vote and passed almost unanimously at the State Senate with only a single Senator voting against it.

Mayor Coody: That's why they call them the power company. Did our Senator Sue Madison must have voted for this bill?

Alderman Jordan: She supported it.

City Attorney Kit Williams: There was a single no vote and it was not hers.

Alderman Lucas: So then we have no recourse.

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September 5, 2006
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Alderman Cook: Has there been any comment from the owners? Has there been any discussion with the owners? Have they responded to the city at all?

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

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

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

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

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

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

Mayor Coody closed the Public Hearing.

Mayor Coody opened the Public Hearing.

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

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

City Attorney Kit Williams read the ordinance.

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

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

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

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

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

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

Mayor Coody: Anything else?

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

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

Alderman Lucas: Okay.

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

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

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

Mayor Coody: Any other questions or comments?

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

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

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

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

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

Mayor Coody: Any other questions or comments?

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

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

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

Mayor Coody: Kit, is that the right date?

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

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

Mayor Coody: I think that it is the case.

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

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

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

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

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

Mayor Coody: De-annexing?

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

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

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

Mayor Coody: You may.

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

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

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

Alderman Lucas: That's our understanding.

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

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

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

City Council Meeting Minutes
September 5, 2006
Page 9 of 71

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

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

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

Alderman Ferrell: Within the 40 acres?

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

Alderman Ferrell: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Coody: Does that sound reasonable?

Michelle Weeks: Sure.

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

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

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

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

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

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

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

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

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

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

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

Mayor Coody: Existing uses get grandfathered when we annex.

Kit Williams: Right.

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

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

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

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

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

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

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

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

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

This ordinance was left on the second reading.

Mayor Coody closed the Public Hearing.

Mayor Coody opened the Public Hearing.

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

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

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

City Attorney Kit Williams read the ordinance.

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

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

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

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

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

This ordinance was left on the second reading.

Mayor Coody closed the Public Hearing.

OLD BUSINESS:

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

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

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

~~**Animal Services Building Contract:** A resolution approving a contract with Roberts-McNutt, Inc. in the amount of \$43,817.00 to re-roof the Animal Services Building; and approving a project contingency in the amount of \$4,282.00.~~

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

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

UNFINISHED BUSINESS:

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

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

City Attorney Kit Williams read the ordinance.

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

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

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

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

City Council Meeting Minutes
September 19, 2006
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Alderman Ferrell: The task force did a tremendous amount of work in preparing this and they have recommended it to the Council for approval.

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

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

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

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

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

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

City Attorney Kit Williams read the ordinance.

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

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

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

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

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

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

15-May-07
City Council Meeting Date

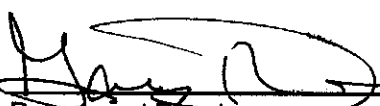
Ron Petrie Submitted By Engineering Division Operations Department

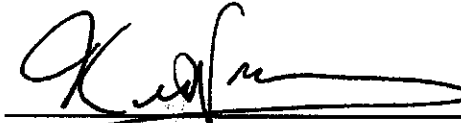
Action Required:

Resolution to accept three recommended options for transportation improvements associated with the Fayetteville Expressway Economic Development Corridor project. *Presentation at Agenda Session.*

\$0.00	\$ 24,496,473.00	FEEDC Project
Cost of this request	Category/Project Budget	Program Category / Project Name
4520.9520.5809.00	\$ 839,504.00	Street Improvements
Acct Number	Funds Used to Date	Program / Project Category Name
06035.0607	\$ 23,656,969.00	2006A Sales Tax Construction
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 5-2-07
Department Director Date

 5-2-07
City Attorney Date

 5-2-07
Finance and Internal Service Director Date

Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City ~~CLERK~~ Office


Received in Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Ron Petrie, City Engineer 

Date: May 1, 2007

Subject: A resolution to accept three recommended options for transportation improvements associated with the Fayetteville Expressway Economic Development Corridor Project

RECOMMENDATION

Staff recommends approval of this resolution to accept the options as prepared and presented by Carter & Burgess for the Fayetteville Expressway Economic Development Corridor (FEEDC) project.

BACKGROUND

The successful efforts of Mayor Dan Coody lead to a \$9 million dollar federal earmark to be included in the 2005 Federal Transportation Bill (SAFETEA-LU) to improve access to the regional commercial & medical facilities near the Fulbright Expressway. The following is a summary of the available funds for this project:

Total Federal Funds in Act:	\$9,000,000.00
Obligation Limitation:	<u>\$1,340,150.00</u> (15% as dictated by FHWA)
Total Federal Funds for Design/Build:	\$7,659,850.00
City Transportation Bond:	<u>\$1,914,963.00</u> (20% local match)
Total Available Funds for Design/Build:	\$9,574,813.00

The City Council approved an engineering contract with Carter & Burgess on September 5, 2006 to study the traffic in an area that is bounded by I-540 to the west, College Avenue to the East, Fulbright Expressway to the south, and the City of Johnson's Main Street to the north. In addition, the Study also required that a master plan of this area be developed and to provide recommendations for improvements that can be built with the available funds. This master plan was presented to the City Council's Street Committee

on February 12, 2007 which recommended a total of \$125 million of transportation improvements within the study area.

CURRENT STATUS

On March 30, 2007 the Street Committee was presented recommendations of transportation improvements contained within the Master Plan that could be built with the \$9.57 million in available funds. Carter & Burgess proposed to improve three areas that are summarized below:

- A. FULBRIGHT EXPRESSWAY/COLLEGE AVENUE INTERCHANGE:
Construction of a grade separated flyover for northbound on College to access westbound lane on Fulbright Expressway including a connection to Mall Avenue. Estimated Cost is \$3.8 million.
- B. GREGG STREET INTERCHANGE: Construction of an additional off-ramp lane at North Hills Boulevard and the replacement of the existing four-way intersection of Futrall and North Hills with a traffic circle. Estimated cost is \$1.5 million.
- C. WESTERN STUDY AREA: Construction of one-half (two lanes) of Van Asche Boulevard from Gregg Street to Garland Avenue (AR Hwy 112). Estimated cost is \$4.0 million.

The Street Committee recommended that the proposed options be presented to the full City Council for approval with a favorable recommendation.

BUDGET IMPACT

The City currently has \$9,574,813.00 available for funding of this project. The attached resolution will not encumber any funds at this time.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE THE THREE RECOMMENDED
OPTIONS FOR TRANSPORTATION IMPROVEMENTS IN THE
FAYETTEVILLE EXPRESSWAY ECONOMIC DEVELOPMENT
CORRIDOR PROJECT**

WHEREAS, Mayor Coody in concert with Senators Pryor and Lincoln and Congressman Boozman was able to secure a Nine Million Dollar federal earmark within the 2005 Federal Transportation Bill to improve access to the Northwest Arkansas Mall area; and

WHEREAS, the City has committed and has available if required 20% local match of \$1,914,963.00 for this project yielding total available funds for the design and construction of these projects in the amount of \$9,574,813.00; and

WHEREAS, the City Council approved an engineering contract with Carter & Burgess on September 5, 2006, to study traffic needs in this area and provide a Master Plan for traffic improvements; and

WHEREAS, the City Council Street Committee considered the Master Plan during its March 30, 2007 meeting and recommended approval of the three options to the full City Council.

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 three options (shown below) recommended within the Master Plan by Carter & Burgess for the Fayetteville Expressway Economic Development Corridor and further studied and recommended by the Aldermen Street Committee during its meeting of March 30, 2007:

- A. **FULBRIGHT EXPRESSWAY/COLLEGE AVENUE INTERCHANGE:**
Construction of a grade separated flyover for northbound on College to access westbound land on Fulbright Expressway including a connection to Mall Avenue; Estimated cost is \$3.8 million.
- B. **GREGG STREET INTERCHANGE:**
Construction of an additional off-ramp lane at North Hills Boulevard and the replacement of the existing four-way intersection of Futrall and North Hills with a traffic circle; Estimated cost is \$1.5 million.
- C. **WESTERN STUDY AREA:**
Construction of one-half (two lanes) of Van Ache Boulevard from Gregg Street to Garland Avenue (AR Hwy. 112); Estimated cost is \$4.0 million.

PASSED and APPROVED this 15th day of May, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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







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

15-May-07

City Council Meeting Date

Jeremy Pate *[Signature]*
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2520: (Karas, 439): Submitted by Robert Karas for property located at 4041 W. Wedington Drive. The property is zoned R-A, Residential Agricultural and contains approximately 1.50 acres. The request is to rezone the subject property to R-O, Residential Office.

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

[Signature]
Department Director

4-25-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature]
City Attorney

4-25-07

Original Contract Number: n/a

Paula A. Buh
Finance and Internal Service Director

4-26-07
Date

Received in City Clerk's Office

ENTERED
4/25/07
[Signature]

[Signature]
Mayor

4/27/07
Date

Received in Mayor's Office

ENTERED
4/26/07
[Signature]

Comments:

City Council Meeting of May 15, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: April 24, 2007

Subject: Rezoning for Karas (RZN 07-2520)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of rezoning the subject property from R-A, Residential Agricultural to R-O, Residential Office for approximately 1.5 acres located on Wedington Drive west of Ruppel Road in west Fayetteville.

BACKGROUND

The property under review consists of 1.5 acres on Wedington Drive west of Ruppel Road. The property contains one residential structure. The property is zoned R-A and is bordered by the Catfish Hole Restaurant to the east, undeveloped land to the west and north zoned R-O, and the Meadowlands residential subdivision to the south.

A request to rezone the subject property from R-A, Residential Agricultural to C-1, Neighborhood Commercial (**Mariscal 06-2201**) was brought before the Planning Commission on August 28, 2006. Staff recommended denial of the rezoning request, finding that the rezoning request was not consistent with the Interim Future Land Use Plan, which designated the subject property for Residential Use. Additionally, staff had concerns with rezoning the property to C-1 as it could encourage "strip-center-type development," which would not be consistent with the existing land use policies. The Planning Commission voted to forward the request to the City Council with a recommendation for approval; however, the request was denied by the City Council on October 6, 2006.

DISCUSSION

This item was heard at the regular Planning Commission on April 23, 2007. The Planning Commission voted 9-0-0 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 07-2520, FOR APPROXIMATELY 1.50 ACRES, LOCATED AT 4041 WEST WEDINGTON DRIVE FROM R-A, RESIDENTIAL AGRICULTURAL TO R-O, RESIDENTIAL OFFICE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to R-O, Residential Office, 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"

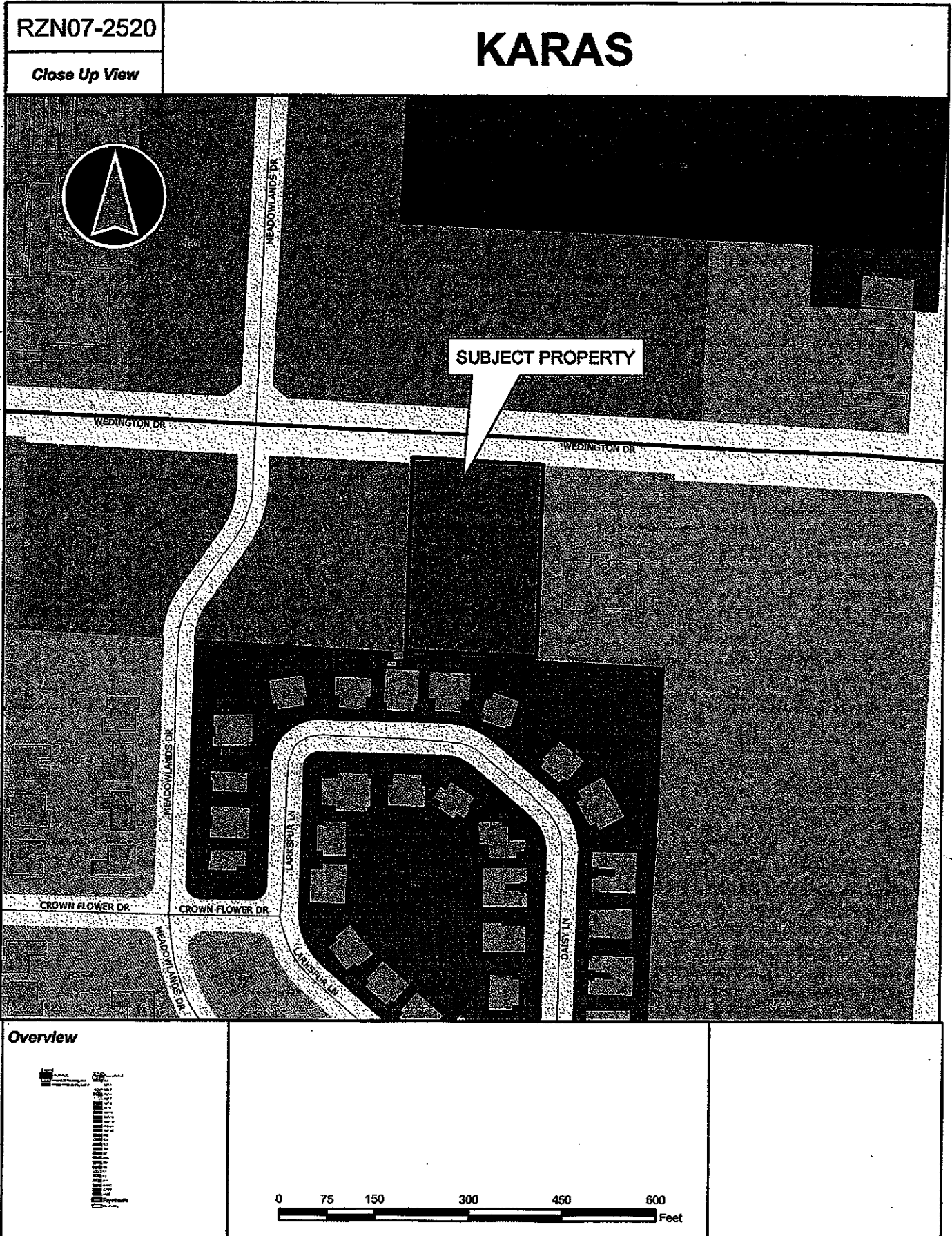


EXHIBIT "B"
RZN 07-2520

PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHEAST CORNER OF THE NW1/4 OF THE SE1/4 OF SAID SECTION 12; THENCE SOUTH 0°53'42" WEST 40.67 FEET; THENCE NORTH 88°26'50" WEST 647.08 FEET TO A FOUND IRON PIN ON THE SOUTH RIGHT-OF-WAY LINE OF ARKANSAS HIGHWAY NO. 16, THENCE ALONG SAID RIGHT-OF-WAY NORTH 88°25'58" WEST 210.08 FEET; THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 0°05'19" EAST 311.73 FEET; THENCE SOUTH 89°18'53" EAST 210.00 FEET TO A FOUND IRON PIN; THENCE NORTH 0°05'11" WEST 308.50 FEET TO THE POINT OF BEGINNING CONTAINING 1.50 ACRES, MORE OR LESS.



PC Meeting of April 23, 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: April 18, 2007 Updated April 24, 2007

RZN 07-2520: (KARAS, 439): Submitted by ROBERT KARAS for property located at 4041 W. WEDINGTON DRIVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.50 acres. The request is to rezone the subject property to R-O, RESIDENTIAL OFFICE.

Planner: Jesse Fulcher
Property Owner: Robert Karas

RECOMMENDATION:

Staff recommends approval of the requested rezoning to R-O, Residential Office, based on the findings included as part of this report.

PLANNING COMMISSION ACTION:			Required	<u>YES</u>
Motion: Trumbo				
Second: Graves				
Vote: 9-0-0				
Date: April 23, 2007		☒ Forwarded	☐ Approved	☐ Denied
CITY COUNCIL ACTION:			Required	<u>YES</u>
			☐ Approved	☐ Denied
Date: May 15, 2007 (1 st reading if recommended)				

Comments:

BACKGROUND:

Property Description: The property under review consists of 1.5 acres on Wedington Drive west of Ruppel Road in west Fayetteville. The property contains one residential structure. The property is zoned R-A, Residential Agricultural. As depicted on *Table 1*, the property is bordered to the east by the Catfish Hole Restaurant, undeveloped land to the west and north zoned R-O, and the Meadowlands residential subdivision to the south.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	R-O, Residential-Office
South	Meadowlands residential subdivision	RT-12, Residential Two and Three Family
East	Catfish Hole restaurant	C-1, Neighborhood Commercial
West	Undeveloped	R-O, Residential-Office

Previous Rezoning Request (Mariscal 06-2201): A request to rezone the subject property from R-A, Residential Agricultural to C-1, Neighborhood Commercial was brought before the Planning Commission on August 28, 2006. Staff recommended denial of the rezoning request, finding that the rezoning request was not consistent with the Interim Future Land Use Plan, which designated the subject property for Residential Use. Additionally, staff had concerns with rezoning the property to C-1 as it could encourage "strip-center-type development," which would not be consistent with the existing land use policies. The Planning Commission voted to forward the request to the City Council with a recommendation for approval; however, the request was denied by the City Council on October 6, 2006.

Proposal: The applicant proposes a rezoning of the subject property to allow for the development and operation of a physicians office on the property.

Request: The request is to rezone the subject property from R-A, Residential Agricultural to R-O, Residential Office.

INFRASTRUCTURE:

Streets: Currently the site has access to Wedington Drive. At the time of development, this street will need to be brought up to current standards along the property frontage. These improvements may include right-of-way dedication, pavement, curb and gutter, storm drainage and sidewalks.

Water: The site has access to public water. The nearest water main is an 18" main located along the northern property line along Wedington.

Sewer: Sanitary sewer is available on the site. There is a 6" sewer main at the northwest corner of the property. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer service will need to

be extended within the property at the time of development.

Fire: The subject property is located 0.6 miles from Fire Station # 7. Fire response time is approximately 2 minutes.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

LAND USE PLAN: The Future Land Use Plan 2025 Map designates this site as a City Neighborhood Area.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed rezoning is consistent with future land use planning objectives, principles, and policies for City Neighborhood Areas. While a City Neighborhood Area is primarily residential in character, the subject property is located along a 5-lane state highway. Rezoning the property to R-O will allow for the development of an appropriate land use buffer between the highway and the existing homes to the south, while also allowing for the flexibility for some type of residential development on the property. Guiding policies within the City Neighborhood area that may apply to this application include the following:

- Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with property mitigation measures that address scale, massing, noise, appearance, lighting, drainage, and effects on property values.
- 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.
- Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances.
- Limit uses within City Neighborhood areas to those that primarily serve residents of Fayetteville rather than a regional population.

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 at this time. The applicant's stated intent is to rezone the property to allow for a new medical office building. Staff finds that a medical office building in this location is compatible with the surrounding

residential and commercial land uses. Additionally, the property is currently a nonconforming lot of record as it does not meet the minimum bulk and area requirements of the R-A zoning district. Redevelopment of the property is not possible without rezoning the property or applying for variances from the bulk and area requirements.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The size of the subject property and the nature of the development within the R-O zoning designation, generally office type uses, will limit a great increase in traffic danger and congestion, due to the size of development generated by 1.5 acres. However, traffic volumes in this area are high, and increasing. Planning of any future development on this site must address safe access and cross access concerns. Wedington Drive (State Highway 16), a Principal Arterial, exists along the northern property frontage. At the time of development, improvement to this street may be required; and ingress/egress evaluated carefully.

Police – It is the opinion of the Fayetteville Police Department that this rezoning will not create an appreciable increase in traffic danger and congestion in the area.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning will not substantially alter the population density in the area, based on the R-O zoning requested. Public service providers have responded accordingly:

Police – It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter the population density nor will it create an undesirable increase on police services.

Fire – Response time to the subject property (actual drive time) is approximately 2 minutes (approximately 0.6 miles) from station #7.

Engineering - Public water is adjacent to the site. There is an 18" waterline along Wedington. Water service will need to be extended within the property at the time of development.

Sanitary sewer is available on the site. There is a 6" sewer main at the northwest corner of the property. Improvements to the sewer system may be required dependent upon the demand placed by the development. Sewer

service will need to be extended within the property at the time of development.

The site has access to Wedington Drive. Wedington Drive is a state highway. The Arkansas Highway Transportation Department will be widening this roadway this year to a 5-lane highway.

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: Staff is recommending approval of the subject request.

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
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(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no

maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.16 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(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 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*

(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Townhouses & apartments:	
No bedroom	1,000 sq. ft.
One bedroom	1,000 sq. ft.
Two or more bedrooms	1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24
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(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft.
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

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

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06)

Date 3/7/07

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **RZN 07-2520: (Karas,439):** submitted by **Robert Karas** for property at 4041 W. Wedington Drive would substantially alter the population density and thereby increase the load on public services and create an appreciable increase in traffic danger and congestion. The property is **zoned R-A and contains approximately 1.50 acres.** The request is to **rezone the subject property to R-O.**

It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density or create an undesirable increase in the load on police services. It **will not** create an appreciable increase in traffic danger and congestion in the area.

Sincerely

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Suzanne Morgan, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Asst Chief Bud Thompson
From: Captain Dale Riggins
Date: April 5, 2007
Re: April 4, 2007 Zoning Review – Fire Department Comments

PZD 07-2531 (PAH Facility)

This 1.5 acres is covered by Engine 4 and Ladder 4 located at 3385 N Plainview. It is 4.4 miles from the station with an expected response time of 11 minutes. Once the new Station 5, located at Old Wire and Crossover, opens the response time will be reduced to 5 minutes.

The Fire Departments anticipates 6 (4 EMS – 2 Fire/Other) calls for service per year when the facility is opened and at maximum capacity. There should be no adverse effects on our call volume or response time.

PZN 07-2520 (Karas)

This 1.5 acres is covered by Engine 7 at 835 Ruppel Road.

It is .6 miles from the station with an expected response time of 2 minutes.

Measured Hydrant Flow in this area is 1532 gallons/minute.

We do not figure anticipated calls for service on properties that are to be zoned C-1 although typically this kind of development does not adversely affect our call volume.

RZN 07-2547 (Windsor S/D)

This 34.4 acres are covered by Engine 7 at 835 Ruppel Road.

It is 3.4 miles from the station with an expected response time of 7.5 minutes to the beginning of this development. This response time is above our goal of having the first unit on the scene within 6 minutes, 90% of the time, and our goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time.

The Fire Department anticipates 36 (22 EMS – 14 Fire/Other) calls for service per year once the development is built and maximum build out has occurred.

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.

Please feel free to contact me if you have any questions concerning the comments

Dale Riggins

Captain Dale Riggins
Fayetteville Fire Department



PZD 07-2531: Planned Zoning District (P.A.H. FACILITY, 21): Submitted by CITY OF FAYETTEVILLE for property located at IVEY LANE, 1/4 MILE E OF HWY 265. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.50 acres. The request is for a residential facility with 5677 s.f. and associated parking.

Planner: Jesse Fulcher

Public water is located along Ivey Road. This property is served by the City of Springdale for water service. Water service will need to be extended to the property at the time of development.

~~Sanitary sewer is not available on the site. A septic system is proposed for this development.~~

~~The site has access to Ivey Lane. Ivey Lane is an unimproved, narrow roadway in this location. This public street is located within the City of Springdale.~~

~~Standard improvements and requirements for drainage will be required for the development.~~

4. RZN 07-2520: (KARAS, 439): Submitted by ROBERT KARAS for property located at 4041 W. WEDINGTON DRIVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.50 acres. The request is to rezone the subject property to R-O, Residential Office.

Planner: Jesse Fulcher

Public water is located adjacent to the site. There is an 18" waterline along the south side of Wedington Drive. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available on the site. There is a 6" sewer main through the property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

The site has access to Wedington Drive. Wedington is an improved 4 lane state highway in this location.

Standard improvements and requirements for drainage will be required for the development.

RZN 00-2547: (WINDSOR S/D, 513): Submitted by JORGENSEN & ASSOC for property located at 6350 SELLERS ROAD. The property is zoned RSF-2, SINGLE FAMILY - 2 UNITS/ACRE and contains approximately 34.44 acres. The request is to rezone lot 34-67 to RSF-4, Residential Single Family, 4 units per acre. Lots 1-33 to remain the current designated zoning of RSF-2.

Planner: Andrew Garner

Public water is located adjacent to the site. There is an 8" waterline along Double Springs Road. Water service has been extended through the property at the time of development.

~~Sanitary sewer will be available on the site. There is a proposed sewer lift station on the property to the northeast of this development. There are currently discussions between the~~

#5 I am the current owner of the property. I purchased the property in January of 2007. There are no proposed or pending property sales of the property. I would like to rezone the property and put my medical practice there. I think this would be better land use for the people in this part of town. I don't believe it would increase traffic. As far as appearance and signage I will be hiring an experienced architect to create a beautiful and environmentally friendly building that will add value to surrounding properties. There are adequate sewer and water lines on the north side of the property running parallel to Wedington. The water line is an 18 inch and the sewer line is a 6 inch.

#6 I believe a physicians office is consistent with the land use planning objective for this section of town. The rezoning is needed in order to put in a medical office. All surrounding properties on Wedington are zoned from RO to C1. This piece of property is the only one in the area to still be zoned R. I don't believe the proposed zoning change will noticeably increase traffic flow and it will not alter the population density. Also, I don't believe it is practical to use the property for only residential as it is a major feeder artery with too much road noise.

LAKESIDE LAND SURVEYING

15538 E. HIGHWAY 12
ROGERS, ARKANSAS 72756

PHONE: 925-7940 OR
756-1320
-AX: 925-7941

BOUNDARY SURVEY FOR:
CARL BARTHOLOMEW

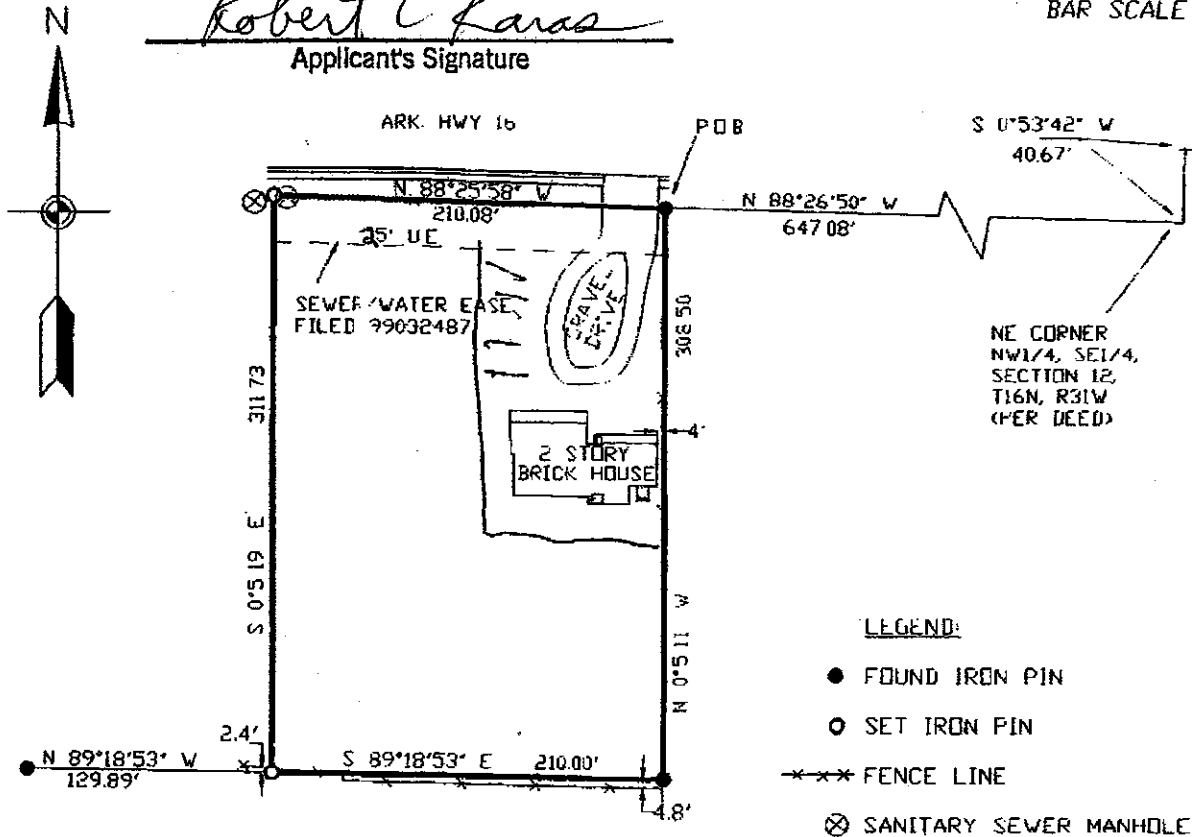
W.D. 000429
FB 6/83, 84

EXHIBIT "A"
PROPERTY TO BE REZONED
AS SUBMITTED BY THE APPLICANT

Robert C. Karas

Applicant's Signature

Scale: 1"=100'
0 25 50 100
BAR SCALE

SURVEY DESCRIPTION:

Part of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) of Section 12, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commencing at the Northeast corner of the NW1/4 of the SE1/4 of said Section 12; thence South 0°53'42" West 40.67 feet; thence North 88°26'50" West 647.08 feet to a found iron pin on the South right-of-way line of Arkansas Highway No. 16, thence along said right-of-way North 88°25'58" West 210.08 feet; thence leaving said right-of-way South 0°51'19" East 311.73 feet; thence South 89°18'53" East 210.00 feet to a found iron pin; thence North 0°51'11" West 308.50 feet to the POINT OF BEGINNING containing 1.5 acres, more or less.

First Submittal as:
RZN07-2520
close good
3/14/2007
75

RZN07-2520

REGISTERED
STATE OF
ARKANSAS
NO. 10728

THIS SURVEY WAS COMPLETED UNDER MY SUPERVISION ON
APRIL 5TH, 2000, AND IS FOR THE SOLE USE OF THE PARTIES
STATED HEREIN

RZN07-2520

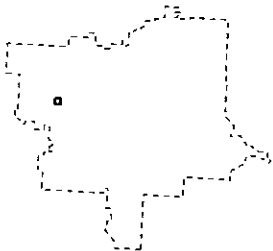
Future Land Use

KARAS

SUBJECT PROPERTY

Civic and Private Open Space/Parks
Civic Institutional

Overview



Legend

Subject Property

RZN07-2520

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

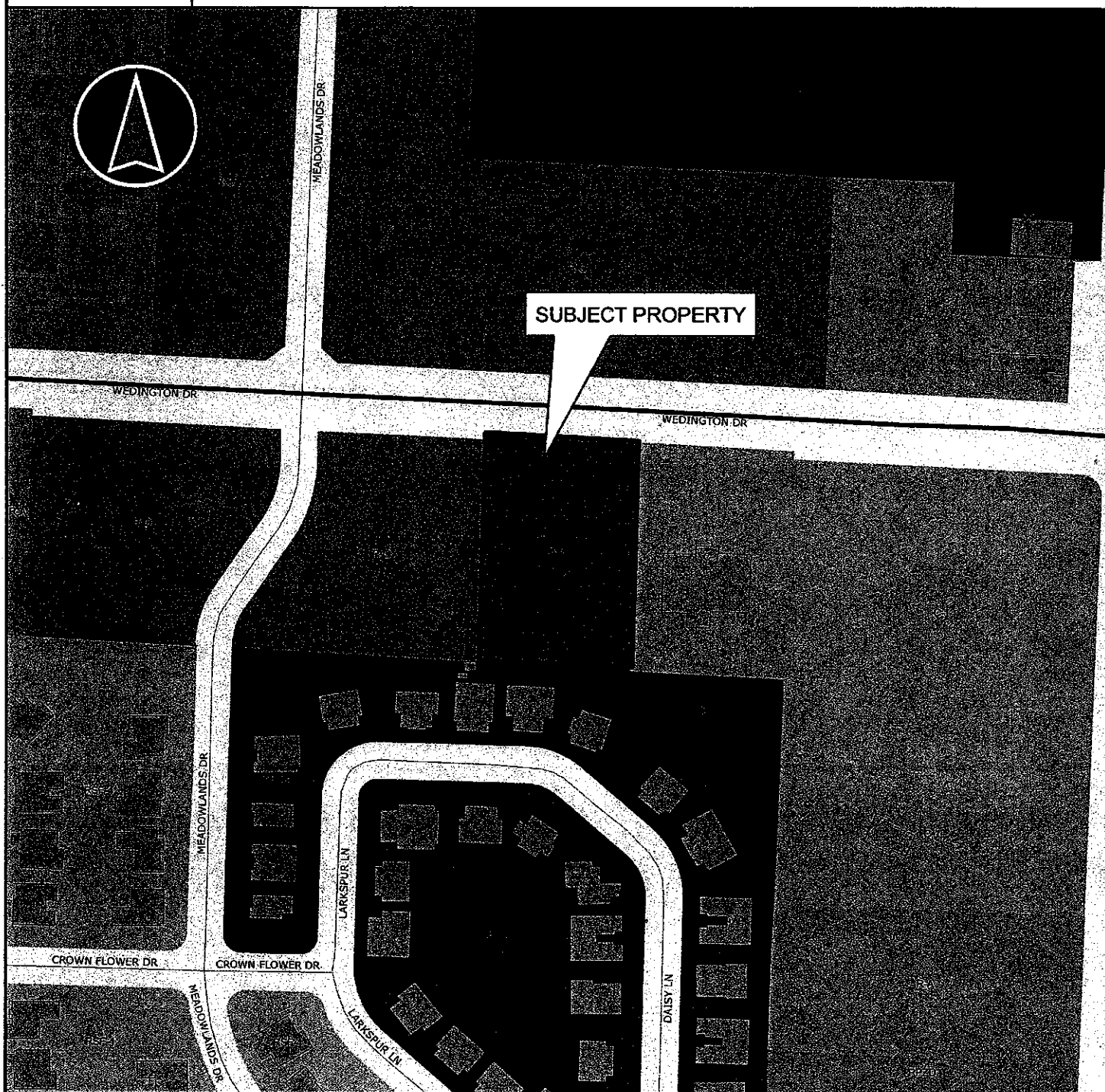
Legend

0 75 150 300 450 600 Feet

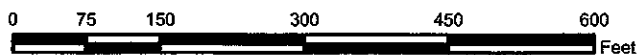
RZN07-2520

Close Up View

KARAS



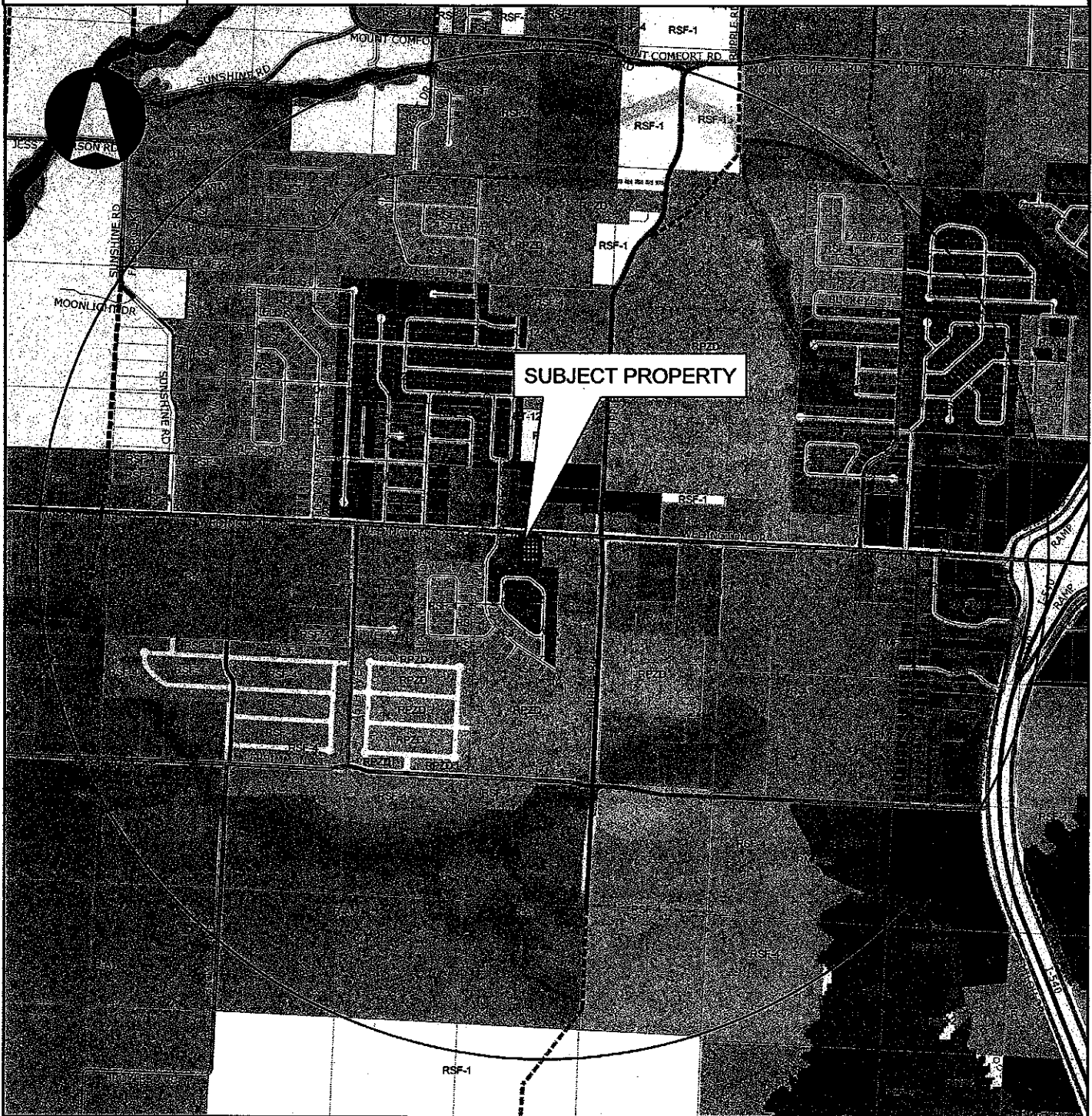
Overview



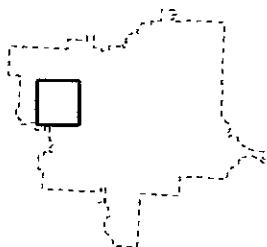
RZN07-2520

KARAS

One Mile View



Overview



Legend

Subject Property
RZN07-2520

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

15-May-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2519: (Milver Investments, 523): Submitted by Milver Investments, LLC for property located at 500 west Prairie Street. The property is zoned DG, Downtown General and contains 0.20 acres. The request is to vacate un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director

4-25-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

4-25-07
Date

Paul A. Babin
Finance and Internal Service Director

4-26-07
Date

Received in City Clerk's Office
ENTERED
4/25/07 up

[Signature]
Mayor

4/27/07
Date

Received in Mayor's Office
ENTERED
4/27/07
PK

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: April 24, 2007

Subject: Right-of-way Vacation for Milver (VAC 07-2519)

RECOMMENDATION

The Planning Commission and staff recommend approval of an ordinance vacating unconstructed right-of-way located on the west side of Gregg Avenue, and un-constructed right-of-way bisecting the subject property at 500 Prairie Street.

BACKGROUND

This property is located at the northwest corner of West Avenue and Prairie Street, Block 22 of Ferguson's Addition, and is adjacent to the City's Frisco Trail. This property was originally developed in the 1920's by the American Milling Company. The old mill and grain buildings have been recently torn down. There is excess right-of-way along the property's West Avenue frontage, and an un-built street right-of-way bisecting the property. These areas of right-of-way are proposed to be vacated in order to redevelop the property. The subject area of right-of-way is not anticipated to be needed by the City for transportation purposes because 40' of required right-of-way for West Avenue would remain in accordance with the Master Street Plan's designation of the West Avenue as an ST-40 Street. The un-constructed right-of-way bisecting the property is not feasible for a street connection along any point of this block because of existing development.

The applicant requests the City to vacate 0.20 acres of right-of-way at 500 West Prairie Street, as indicated in the attached maps and legal description.

DISCUSSION

The Planning Commission voted 9-0-0 to forward this item to the City Council with a recommendation for approval. Notification was provided to all appropriate utility representatives and property owners. Consent forms to vacate the subject right-of-way were signed by all property owners on the block that would be affected by the vacation.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2519 SUBMITTED
BY MILVER INVESTMENTS, LLC FOR PROPERTY LOCATED AT 500
WEST PRAIRIE STREET, VACATING AN UN-CONSTRUCTED RIGHT-OF-
WAY ALONG THE WEST SIDE OF WEST AVENUE AND UN-
CONSTRUCTED RIGHT-OF-WAY BISECTING 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 right-of-way is not required for corporate purposes;

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

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

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.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

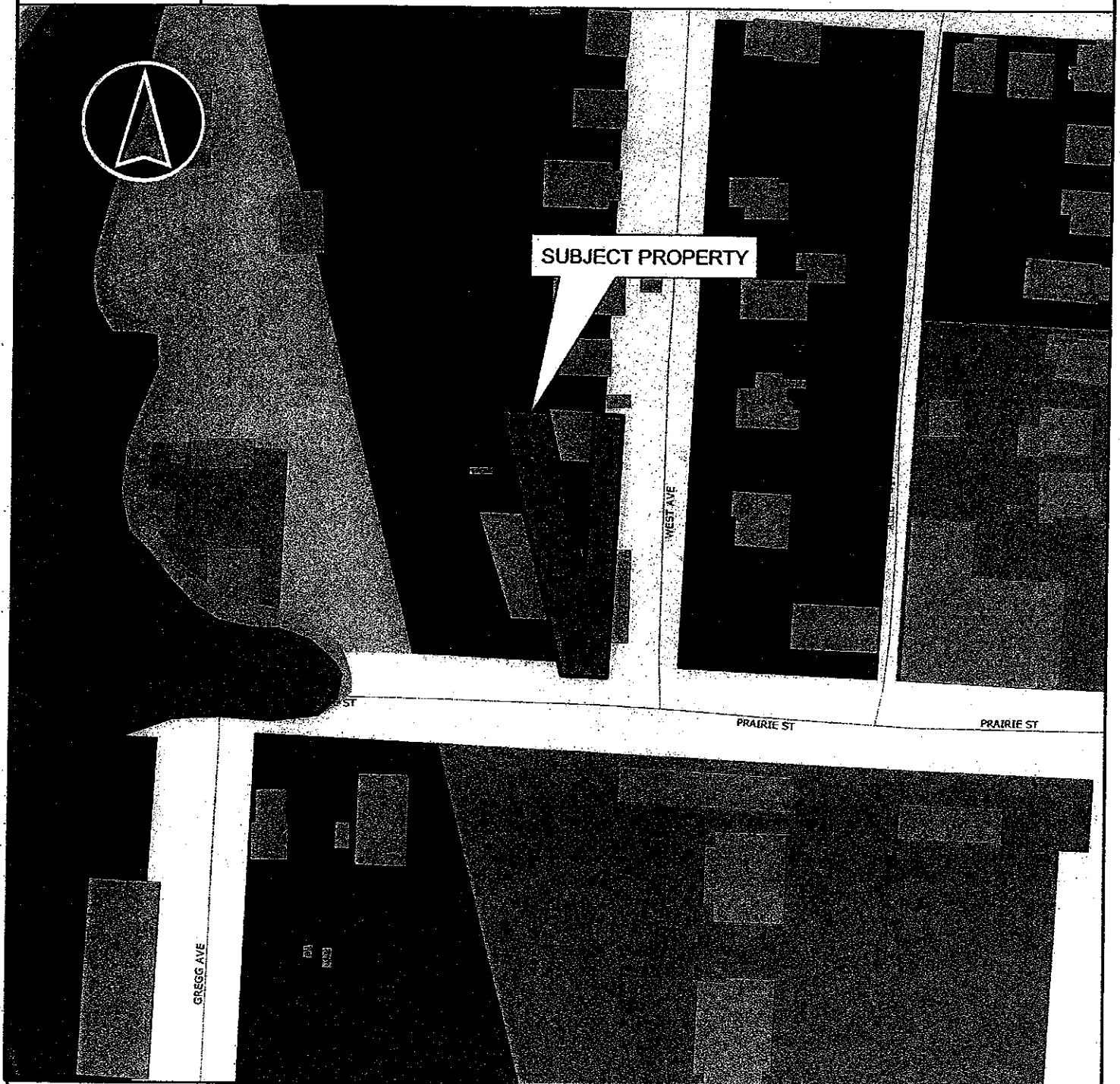
By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

VAC07-2519

Close Up View

MILVER INVESTMENTS



Overview

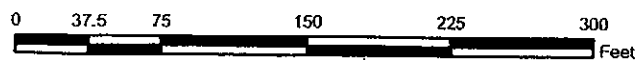


EXHIBIT "B"
VAC 07-2519

A PART OF LOT NUMBERED THREE (3) IN BLOCK NUMBERED TWENTY-TWO (22) IN FERGUSON'S ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A SET 1/2" IRON REBAR WHICH IS S00°05'12"W 178.00 FEET FROM THE NORTHEAST CORNER OF SAID LOT THREE (3), SAID POINT BEING FORTY (40) FEET WEST OF THE EAST RIGHT OF WAY LINE OF WEST AVENUE; THENCE S00°05'12"W 180.62 FEET TO A SET 1/2" IRON REBAR ON THE NORTH RIGHT OF WAY LINE OF PRAIRIE STREET; THENCE S89°08'20"W 31.28 FEET ALONG SAID RIGHT OF WAY LINE TO A POINT ON THE WEST BOUNDARY OF A THIRTY (30) FOOT WIDE PUBLIC RIGHT OF WAY, THENCE LEAVING THE NORTH RIGHT OF WAY LINE OF PRAIRIE STREET, N16°01'30"W 188.43 FEET ALONG THE WEST BOUNDARY OF SAID THIRTY (30) FOOT WIDE PUBLIC RIGHT OF WAY TO A POINT WHICH IS 178.00 FEET SOUTH OF THE NORTH LINE OF SAID LOT THREE (3); THENCE S89°59'19"E 31.21 FEET TO A POINT ON THE EAST BOUNDARY OF SAID THIRTY (30) FOOT WIDE PUBLIC RIGHT OF WAY; THENCE S16°01'30"E 116.60 FEET ALONG THE EAST BOUNDARY OF SAID THIRTY (30) FOOT WIDE PUBLIC RIGHT OF WAY TO A POINT ON THE PLATTED WEST RIGHT OF WAY LINE OF WEST AVENUE AS SHOWN ON THE PLAT OF FERGUSON'S ADDITION; THENCE N00°05'12"E 112.08 FEET ALONG THE PLATTED WEST RIGHT OF WAY LINE OF WEST AVENUE TO A POINT WHICH IS 178.00 FEET SOUTH OF THE NORTH LINE OF SAID LOT THREE (3); THENCE S89°59'19"E 20.00 FEET TO THE POINT OF BEGINNING, CONTAINING .20 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON CONTY, ARKANSAS.



PC Meeting of April 23, 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: April 18, 2007 Updated April 24, 2007

VAC 07-2519: (MILVER INVESTMENTS, 523): Submitted by MILVER INVESTMENTS, LLC for property located at 500 WEST PRAIRIE STREET. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.20 acres. The request is to vacate un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.

Property Owner: Milver Investments, LLC
Planner: Andrew Garner

Findings:

April 24, 2007 Update: On the day of the April 23, 2007 Planning Commission meeting the applicant provided all of the necessary consent signatures from adjacent property owners. These consent documents have been attached to this report.

Update: At the time of publication of this report, the applicant had yet to obtain all the necessary consent signatures from adjacent property owners in order to meet the requirements as noted in the attached documents. Having received no objections, staff would recommend approval of the vacation request, in accordance with the reviews conducted by all utility representatives and no concerns being noted. However, absent all consent forms, the City Attorney has stated this is "fatal" to a vacation application. Staff recommends tabling this item indefinitely, until such time as the applicant or the City is able to acquire consent signatures to the vacation from request from all affected property owners on the subject block.

Property Description and Background: This property is located at the northwest corner of West Avenue and Prairie Street, Block 22 of Ferguson's Addition, and is adjacent to the City's Frisco Trail. This property was originally developed in the 1920's by the American Milling Company. The old mill and grain buildings have been recently torn down. There is excess right-of-way along the property's West Avenue frontage, and an un-built street right-of-way bisecting the property. These areas of right-of-way are proposed to be vacated in order to redevelop the property. A conceptual site plan for this

redevelopment along with architectural renderings of the proposed buildings has been submitted by the applicant and is *attached* to this report.

- (1) The **West Avenue** right-of-way is located north of Prairie Street on the west side of West Avenue in front of properties formerly addressed 500 Prairie Street and 309 West Avenue. This right-of-way is an approximately 20' wide and 170' long strip of un-constructed right-of-way adjacent to the existing West Avenue (*see attached exhibit*).
- (2) The **un-constructed right-of-way** bisecting the subject property was originally platted to be a 30' wide street. This street was never built and now bisects a block of residences and the subject property. The right-of-way enters the property at the corner of West and Prairie and traverses in a northwestern angle from the corner approximately 178' across the property (*see attached exhibit*).

The total acreage of the two areas of right-of-way is 0.20 acres. Neither of these areas is anticipated to be needed by the City for transportation purposes because:

- (1) 40' of required right-of-way for **West Avenue** would remain in accordance with the Master Street Plan's designation of the street as an ST-40 street; and
- (2) the **un-constructed right-of-way** bisecting the property is not a feasible for reasonable street connection along any point of this block because of existing development.

Request: The applicant is requesting to vacate 0.20' acres of right-of-way within Block 22 of Ferguson's Addition.

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

UTILITIES

RESPONSE

Ozarks Electric

No Objections

Cox Communications

No Objections

Southwestern Electric Power Company

No Objections

Arkansas Western Gas

No Objections

Southwestern Bell Telephone

Relocation of existing utilities shall be at the owner/developer's expense including the possible need for utility easements.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer	No Objections
Transportation	No Objections
Solid Waste	No Objections
Engineering	No Objections

Public Comment: No objections to the project have been received.

Recommendation: Staff does not have an objection to the requested right-of-way vacation based on the responses noted above. However, as discussed in the attached memorandum from the City Attorney, written consent should be provided from all property owners that would be directly affected from the loss of right to ingress and egress their property from a right-of-way vacation request. The applicant has not provided written consent from all of the owners directly adjacent to the un-constructed right-of-way bisecting the property and continuing north to South Street.

Staff recommends tabling (VAC 07-2519) until such a time that the applicant provides written consent to vacate the subject right-of-way from all property owners on this block with direct access to the subject right-of-way.

Should the applicant desire to proceed without written consent from all adjacent property owners having direct access to this right-of-way staff recommends denial of the vacation request based on the memorandum and recommendation from the City Attorney.

Staff has discussed this issue with the applicant who indicated that they have not been able to contact all adjacent property owners, some of whom are businesses from out of state.

CITY COUNCIL ACTION: Required **PLANNING COMMISSION ACTION: Required**

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: April 23, 2007

Motion: Lack

Second: Graves

Vote: 9-0

Comments: _____

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

By

Title

Date

Need signed forms of
consent/no objection from
these property owners.

WEST

SOUTH

PRAIRIE

STRE

AVENUE

Block 23

Block 20

Block 14

Part of 1
20' Bike Trail Easement

05508
Rosewicz 22

182.28'
21

05506
19

18

17

16

15

14

05486
Littell 17

05485
Ragsdale 16

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Kochting 15

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Search Results

Record 1 to 1 of 1

Parcel: **765-05526-000** S-T-R: **21-16-30** Type: **RI** Assessed Value: **6,830**

Location Address: **301 WEST AVE FAYETTEVILLE**

¹ Owner Name: **KOVACH, DUANE K. & ELIZABETH R.**

Mailing Address: **1744 Green Acres Cir Springdale AR 72764-0204**

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ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-10-07

Address / location of vacation: 500 W. Prairie

Adjacent property address: 301 West

Lot: _____ Block: _____ Subdivision: _____

REQUESTED VACATION:

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

(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:

Duane & Bette Korach
Name of Adjacent Property Owner (printed)
Duane & Bette Korach
Signature of Adjacent Property Owner

Milver Investments
Applicant Name

Search Results

Record 1 to 1 of 1

Parcel: **765-05527-000** S-T-R: **21-16-30** Type: **RI** Assessed Value: **7,410**
Location Address: **303 S WEST AVE FAYETTEVILLE**
1 Owner Name: **HARRIS, RAYMOND E. & BOBBIE JEAN**
Mailing Address: **14979 Joline Rd Fayetteville AR 72701-0393**

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ADJACENT PROPERTY OWNER NOTIFICATION FORM

**FOR RIGHT-OF-WAY, ALLEY, AND
EASEMENT VACATION REQUESTS**

Date: 3-12-07

Address / location of vacation: 500 W. Prairie

Adjacent property address: 303 S. West

Lot: _____ Block: _____ Subdivision: _____

REQUESTED VACATION:

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

(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:

Raymond + Bobbie J. Harris
Name of Adjacent Property Owner (*printed*)

Ray E. Harris - Bobbie J. Harris
Signature of Adjacent Property Owner

Applicant Name _____

Search Results

Record 1 to 1 of 1

Parcel: **765-05529-000** S-T-R: **21-16-30** Type: **RI** Assessed Value: **10,890**
Location Address: **305 WEST AVE FAYETTEVILLE**
1 Owner Name: **BALL, KATHY L.**
Mailing Address: **C/O ARVEST MTG CO. PO BOX 399 LOWELL AR 72745**

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ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT- OF- WAY, ALLEY, AND
EASEMENT VACATION REQUESTSDate: 3/12/07Address / location of vacation: 500 W. PrairieAdjacent property address: 305 West

Lot: _____ Block: _____ Subdivision: _____

REQUESTED VACATION:

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

Kathy BallName of Adjacent Property Owner (*printed*)Kathy Ball

Signature of Adjacent Property Owner

Burt Box, Milver Investments

Applicant Name

Search Results

Record 1 to 1 of 1

Parcel: **765-05532-000** S-T-R: **21-16-30** Type: **RI** Assessed Value: **6,955**
Location Address: **327 WEST AVE FAYETTEVILLE**
1 Owner Name: **KELLEY, DOROTHY**
Mailing Address: **26 Palmer Fayetteville AR 72701**

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ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-10-07

Address / location of vacation: 500 West Prairie

Adjacent property address: 327 West Ave

Lot: Port of 3 Block: 22 Subdivision: Ferguson Add.

REQUESTED VACATION:

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

(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:

DOROTHY KELLEY
Name of Adjacent Property Owner (printed)

Dorothy Kelley by Margaret Heathcock Daughter
Signature of Adjacent Property Owner

Milver Investments
Applicant Name

Search Results

Record 1 to 1 of 1

Parcel: **765-05530-000** S-T-R: **21-16-30** Type: **RI** Assessed Value: **5,989**
Location Address: **357 S WEST AVE FAYETTEVILLE**
1 Owner Name: **JOHNSTON, DAVID A**
Mailing Address: **357 S West Ave Fayetteville AR 72701-5849**

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ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-10-07

Address / location of vacation: 500 W. Prairie

Adjacent property address: 357 S. West Ave

Lot: _____ Block: _____ Subdivision: _____

REQUESTED VACATION:

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

(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:

DAVID ALAN JOHNSTON
Name of Adjacent Property Owner (*printed*)

David A. Johnston
Signature of Adjacent Property Owner

Milver Investments / Bert Bax
Applicant Name

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

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

FROM: **Kit Williams, City Attorney**

DATE: **April 3, 2007**

RE: **Vacations of streets and alleys**

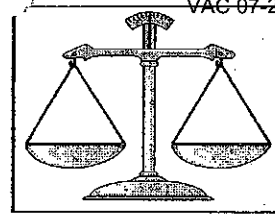
I am sorry that I did not see that an abutting property owner had not only failed to consent in writing to the proposed vacation of a portion of the alley abutting his property, but actually objected. This lack of written consent by an abutting property owner is fatal to a vacation request.

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

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

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: Jeremy Pate, City Planner

FROM: Kit Williams, City Attorney

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

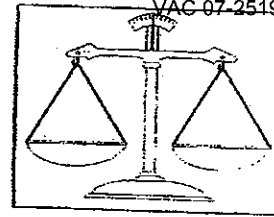
DATE: May 2, 2005

RE: Statutory Vacation of dedicated streets and alleys

Attached is my memo to Tim on this subject dated February 6, 2003. When drafting vacation of dedicated streets or alleys, I recommend you use the language in the ordinance you drafted for VAC 05-1453 (St. James Missionary Baptist).

We may have the statutory power to vacate streets or alleys through A.C.A. §14-54-104 "not for the time being by required for corporate purposes" However, in light of the unpublished Bateman v. City of Paragould case, I would use the procedure in A.C.A. §14-301-301 et. seq. whenever possible. Then the ordinance could refer to both A.C.A. sections and their appropriate language.

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: Tim Conklin, Planning Department

FROM: Kit Williams, City Attorney

DATE: February 6, 2003

RE: Vacation of dedicated streets and alleys

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

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

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

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

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

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

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

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

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

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

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

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

The Arkansas Court of Appeals has held:

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

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

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

CONCLUSION

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

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

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

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

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

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

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

DATE: 1/29/07

UTILITY COMPANY: Ozarks Electric

APPLICANT NAME: Stan Johnson
REQUESTED VACATION:

APPLICANT PHONE: (479) 442-5287

☐ Utility Easement☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.☐ Alley☒ Street right-of-wayI have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:General location / Address (referring to attached document- must be completed**)
West side of Gregg Ave. between 6th St. and Prairie St.

**

*(ATTACH legal description and graphic representation of what is being vacated-
SURVEY)*

UTILITY COMPANY COMMENTS:

☒ ~ No objections to the vacation(s) described above.

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

~ No objections provided the following conditions are met:

Mike Phipps
Signature of Utility Company RepresentativeSystem STAKING Tech
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 2/5/07UTILITY COMPANY: Cox Communications 479/APPLICANT NAME: Burt Dorr / Milver Investments APPLICANT PHONE: 283-8279
REQUESTED VACATION (applicant must check all that apply):

~ Utility Easement

☒ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

~ No objections provided the following conditions are met:

Michael Smith
Signature of Utility Company RepresentativeSurveyor
Title

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 2-2-07UTILITY COMPANY: SWEPcoAPPLICANT NAME: Burt Box - Milver Investments APPLICANT PHONE: 283-8279
REQUESTED VACATION (applicant must check all that apply):☐ Utility Easement☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.☐ Alley☐ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 500 W. Prairie, Fayetteville, AR

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

☒ No objections to the vacation(s) described above.☐ No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)☐ No objections provided the following conditions are met:Kenny Sullivan
Signature of Utility Company RepresentativeSWEPco Right of Way Associate
Title

UTILITY APPROVAL FORM

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

DATE: 2-2-07

UTILITY COMPANY: Arkansas Western Gas

APPLICANT NAME: Burt Box - Milver Investments APPLICANT PHONE: 479-527-6898

REQUESTED VACATION (applicant must check all that apply):

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

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

General location / Address (referring to attached document- must be completed**)

** 500 W. Prairie, Fayetteville, AR

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:

Burt Box
Signature of Utility Company Representative

NORTHWEST REGIONAL MANAGER
Title

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

DATE: 2-2-07UTILITY COMPANY: SWBTAPPLICANT NAME: Burt Box Milver Investments APPLICANT PHONE: 283 8279
REQUESTED VACATION (applicant must check all that apply):☐ Utility Easement☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.☐ Alley☐ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 500 W. Prairie Fayetteville, AR

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

No objections provided the following conditions are met:

RELOCATION OF EXISTING FACILITIES WILL BE @ THE
OWNER/DEVELOPER'S EXPENSE INCLUDING THE
POSSIBLE NEED FOR UTILITY EASEMENTSSusan K. Clouser
Signature of Utility Company RepresentativeMANAGER - ENG. DESIGN
TitleFebruary 2006
Page 3

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

DATE: 2/27/07

UTILITY COMPANY: Water & Sewer // City of Fayetteville

APPLICANT NAME: Bart Bax/Milver Investments APPLICANT PHONE: 283-3279
REQUESTED VACATION (*applicant must check all that apply*):

☐ Utility Easement

☒ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.

☐ Alley

☐ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

**500 W. Prairie

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:


Signature of Utility Company Representative

W+S Ops Mgr
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 2/27/07UTILITY COMPANY: Transportation Division/City of FayettevilleAPPLICANT NAME: Burt Box/Milver Investments APPLICANT PHONE: 283-3279
REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address (referring to attached document- must be completed**)

**500 W. Prairie*(ATTACH legal description and graphic representation of what is being vacated-SURVEY)*

UTILITY COMPANY COMMENTS:

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

- ☐ No objections provided the following conditions are met:

Signature of Utility Company Representative

Title

Ray Sullivan 2/28/07
Transportation Dept
Transportation Division
City of Fayetteville

515 8227

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 2/27/07UTILITY COMPANY: Solid Waste Division of City of FayettevilleAPPLICANT NAME: Burt Box/Milver Investments APPLICANT PHONE: 283-3279REQUESTED VACATION (*applicant must check all that apply*):

~ Utility Easement

XX~ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

**500 W. Prairie(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

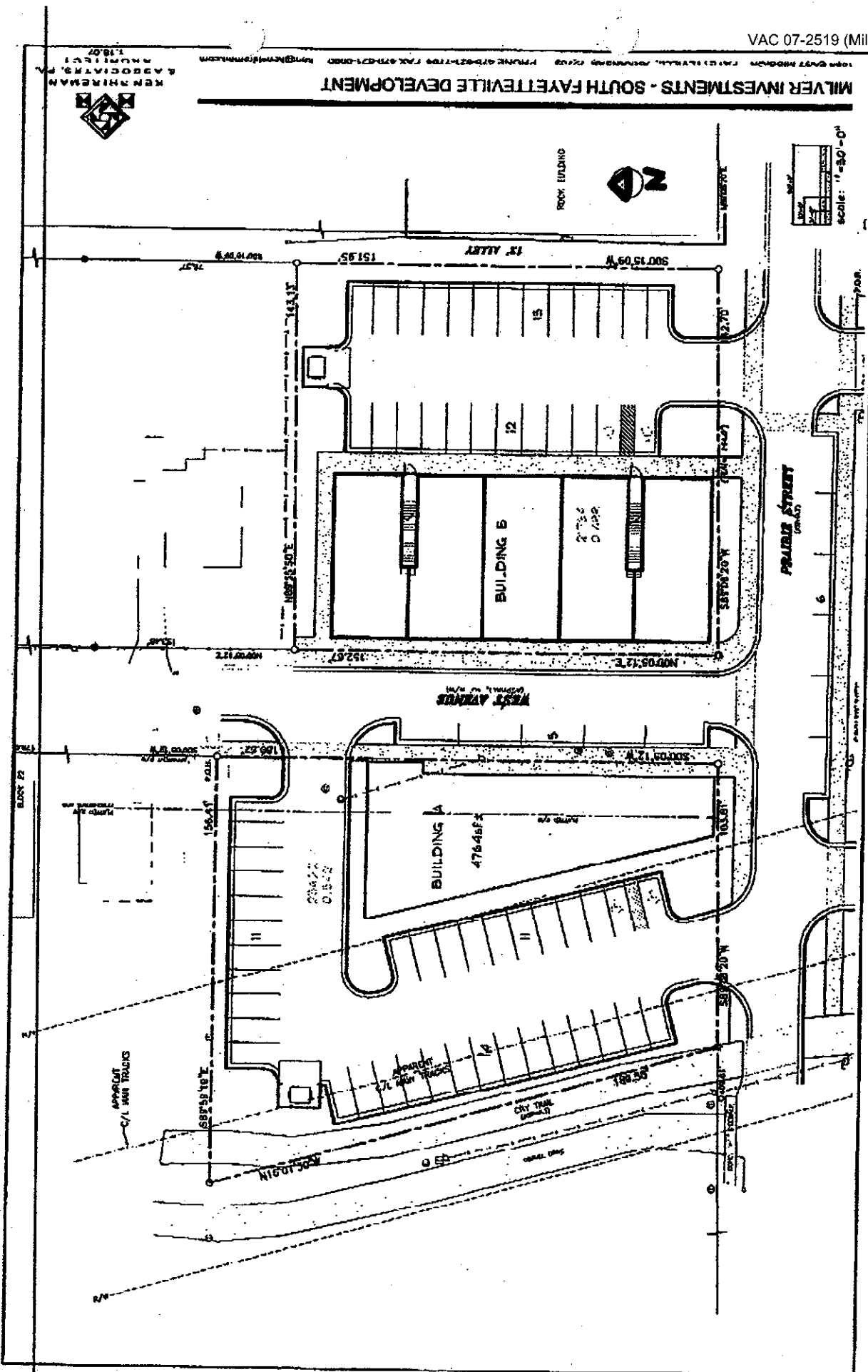


No objections to the vacation(s) described above.

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

- No objections provided the following conditions are met:

Brian Pugh
Signature of Utility Company RepresentativeWaste Reduction Coordinator
Title



MILVER INVESTMENTS - SOUTH FAYETTEVILLE DEVELOPMENT

100% CIVIL ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURE, AND SURVEYING
FAYETTEVILLE, ARKANSAS 72701-1100 FAX 479-425-0000
KEN SHIREMAN
ASSOCIATES, P.A.
FAYETTEVILLE, ARKANSAS 72701-1100



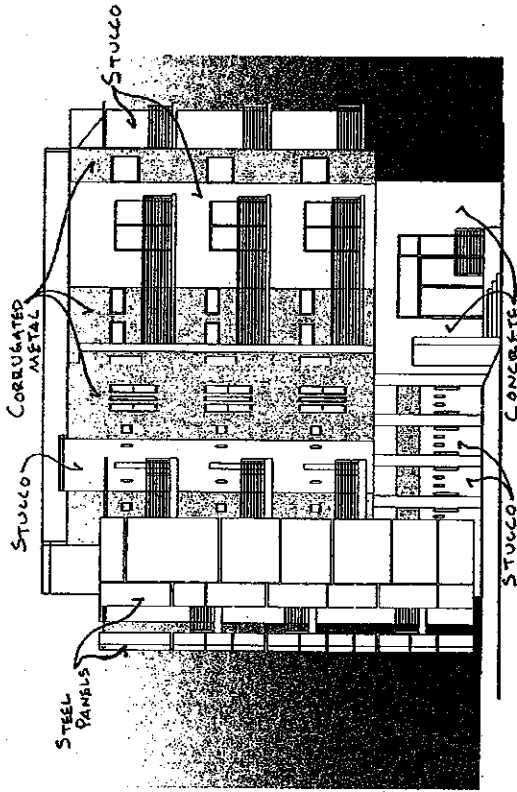
Scale: 1" = 30'-0"
Date: 01/29/2007
Sheet: 35 of 44

MILL AT WEST END

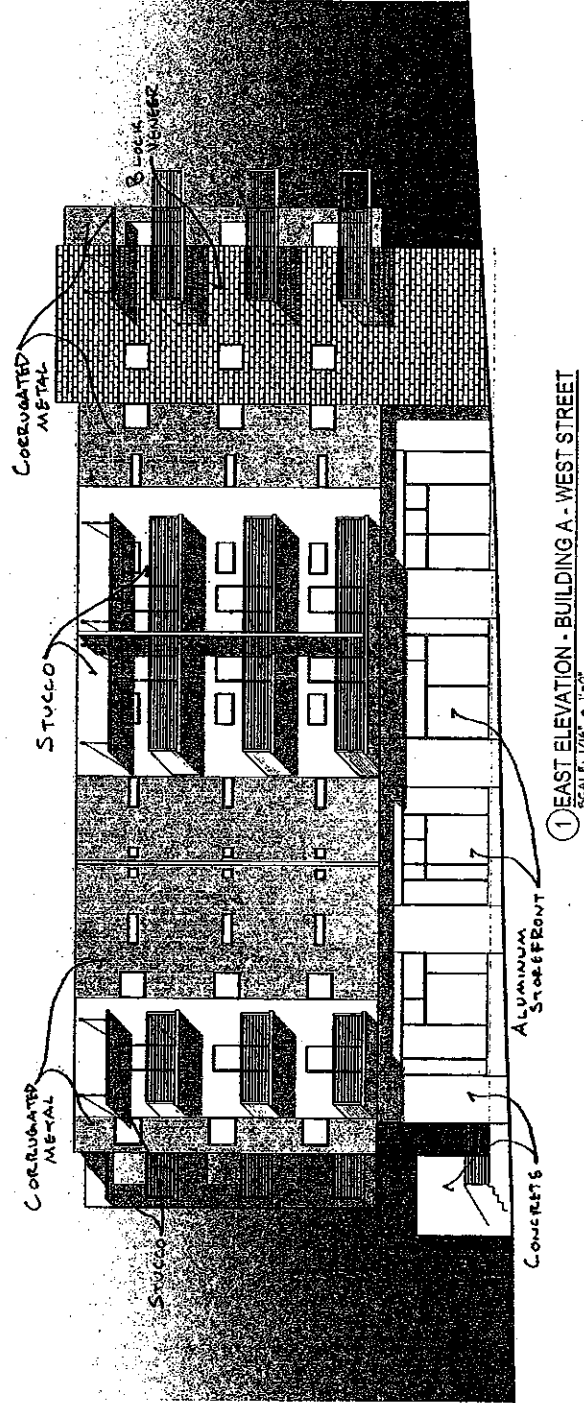
7-16097-2519

KEN SHIREMAN & ASSOCIATES - 16097-2519
ST. MISSION BLD. FAYETTEVILLE, ARKANSAS 72703
PHONE 479-521-7794 FAX 479-521-0660 ken@kenshireman.com

KEN SHIREMAN
& ASSOCIATES, P.A.
ARCHITECTS
2282007



② SOUTH ELEVATION - BUILDING A
SCALE: 1/16" = 1'-0"

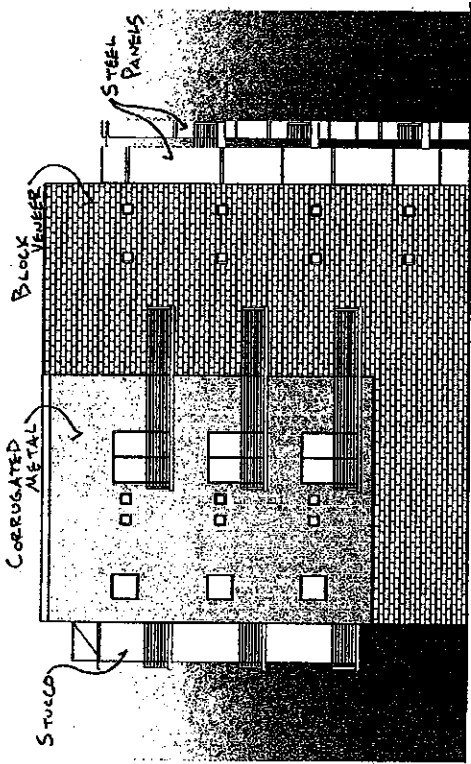


① EAST ELEVATION - BUILDING A - WEST STREET
SCALE: 1/16" = 1'-0"

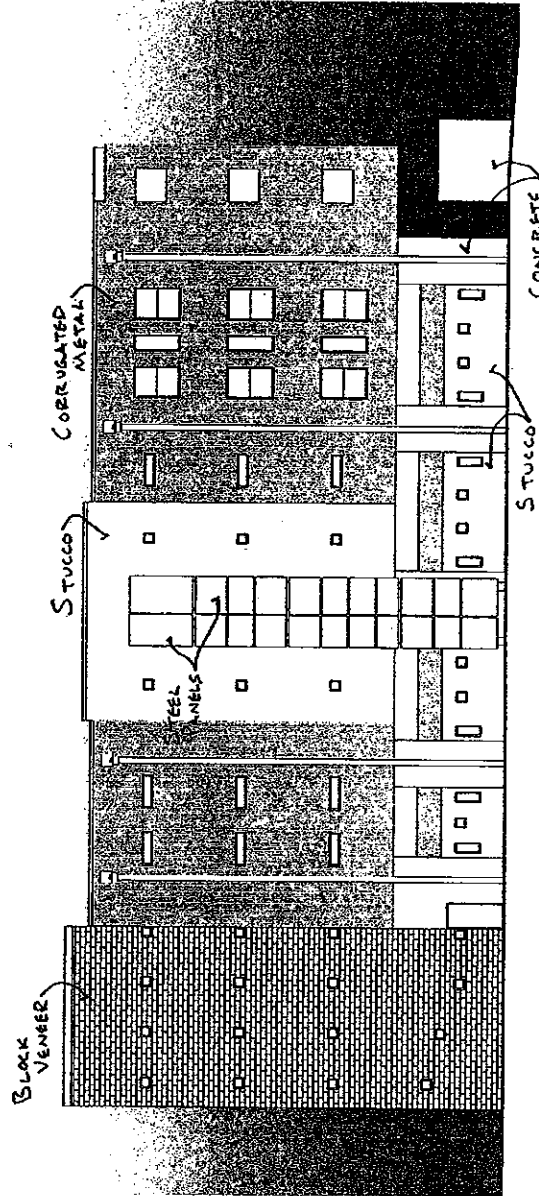
MILL AT WEST END

KEN SHIREMAN & ASSOCIATES - 1801 EAST MISSION BLVD. FAYETTEVILLE, ARKANSAS 72703 PHONE 479-521-7794 FAX 479-521-0660 ken@kenshireman.com

KEN SHIREMAN
& ASSOCIATES, P.A.
ARCHITECTS
2282002



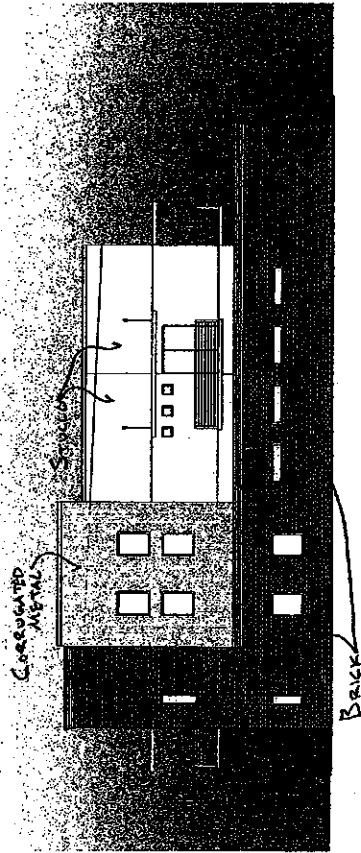
② NORTH ELEVATION - BUILDING A
SCALE: 1/8" = 1'-0"



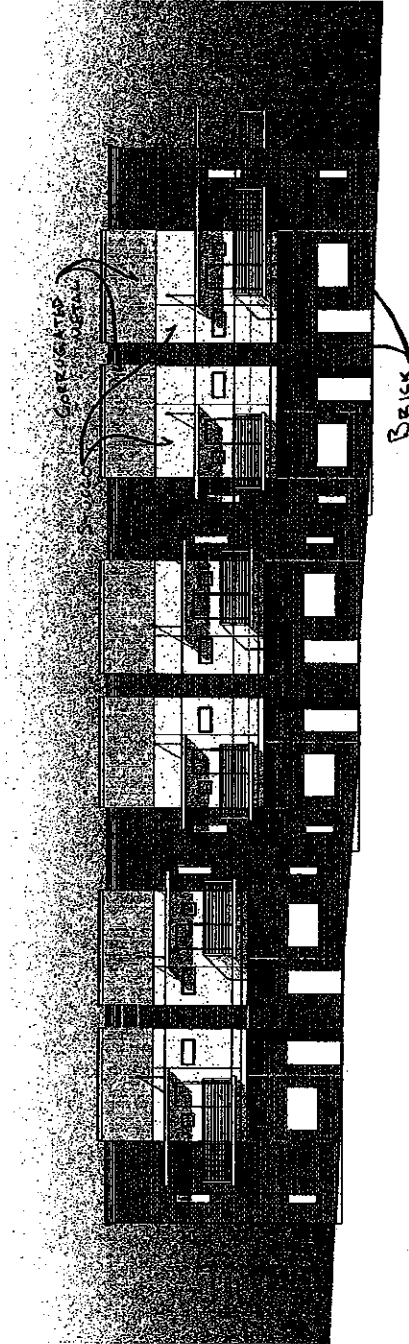
① WEST ELEVATION - BUILDING A
SCALE: 1/8" = 1'-0"

MILL AT WEST 7ND

KEN SHIREMAN & ASSOCIATES - 168 EAST MISSION BLVD. FAYETTEVILLE, ARKANSAS 72703 PHONE 479-521-7794 FAX 479-521-0660 ken@kenshireman.com
KENS SHIREMAN & ASSOCIATES, P.A. ARCHITECTS 23.2007



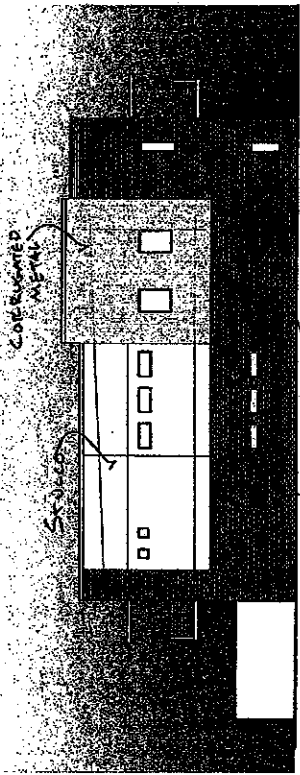
② SOUTH ELEVATION - BUILDING B
SCALE: 1/8" = 1'-0"



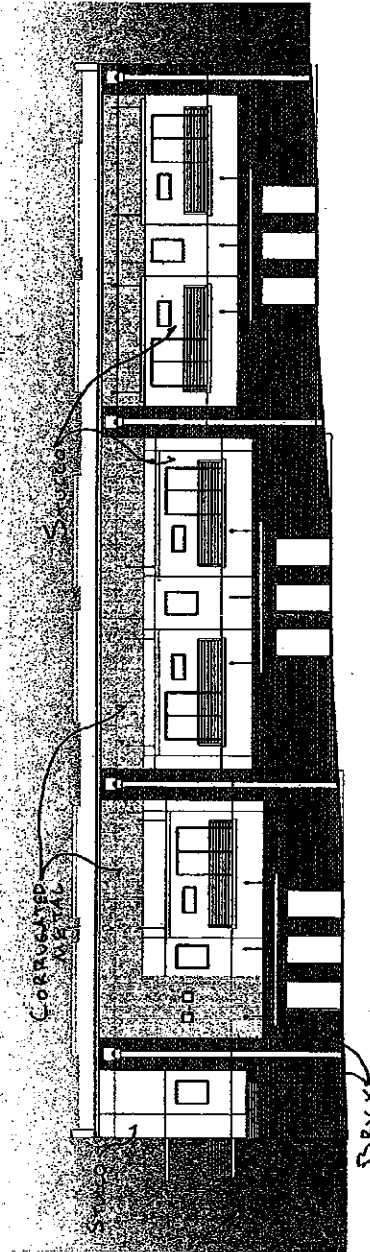
① WEST ELEVATION - BUILDING B - WEST STREET
SCALE: 1/8" = 1'-0"

MILL AT WEST END

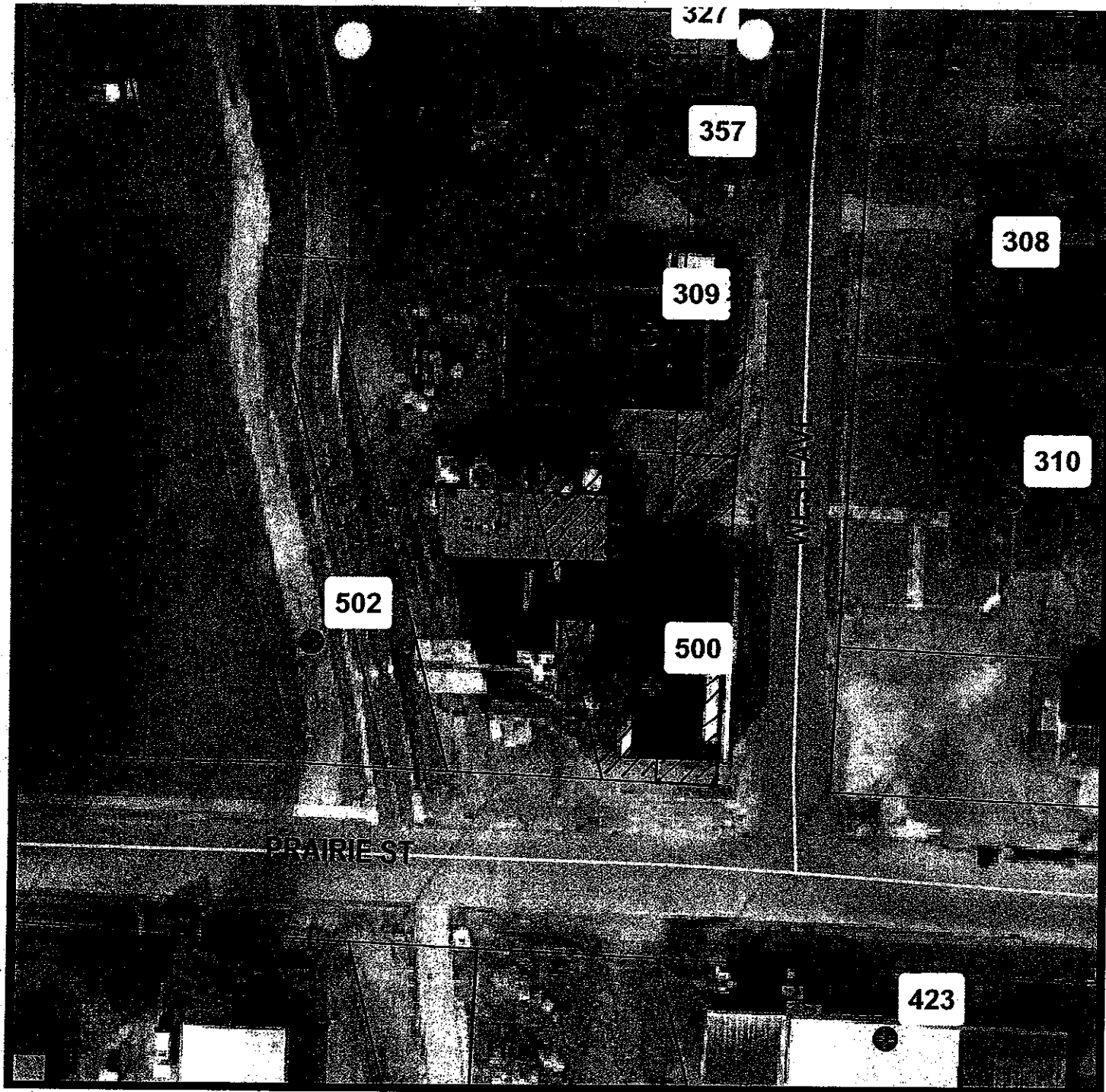
KEN SHIREMAN & ASSOCIATES - 1689 EAST MISSION BLVD. FAYETTEVILLE, ARKANSAS 72703 PHONE 479-521-7794 FAX 479-521-0560 ken@kenshireman.com
KEN SHIREMAN & ASSOCIATES, P.A. ARCHITECTS 22A200



② NORTH ELEVATION - BUILDING B
SCALE: 1/16" = 1'-0"



① EAST ELEVATION - BUILDING B
SCALE: 1/16" = 1'-0"



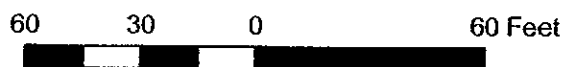
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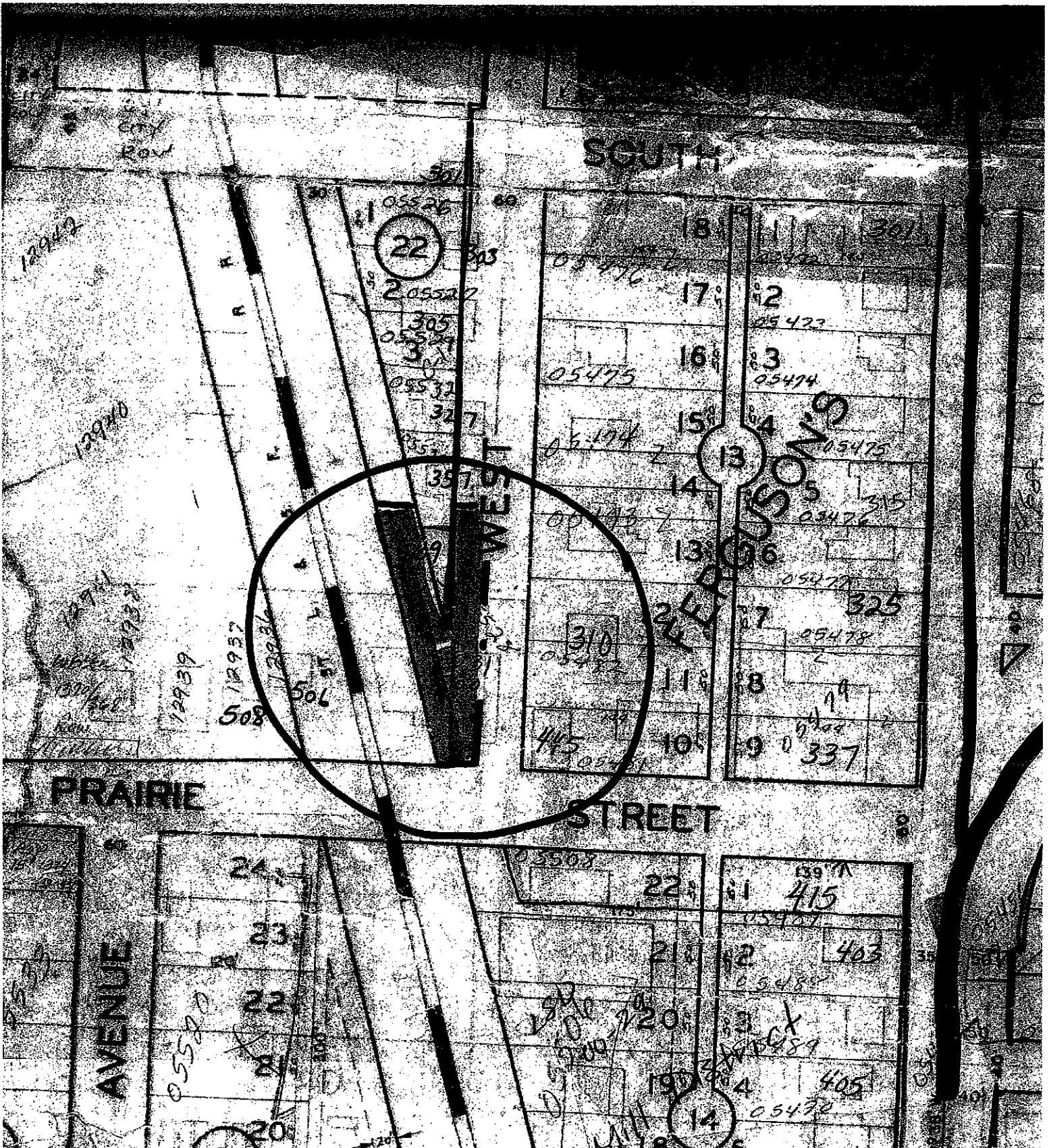
VAC 07-2519 (Milver Investments)



= Proposed right-of-way vacation area

1 inch equals 50 feet

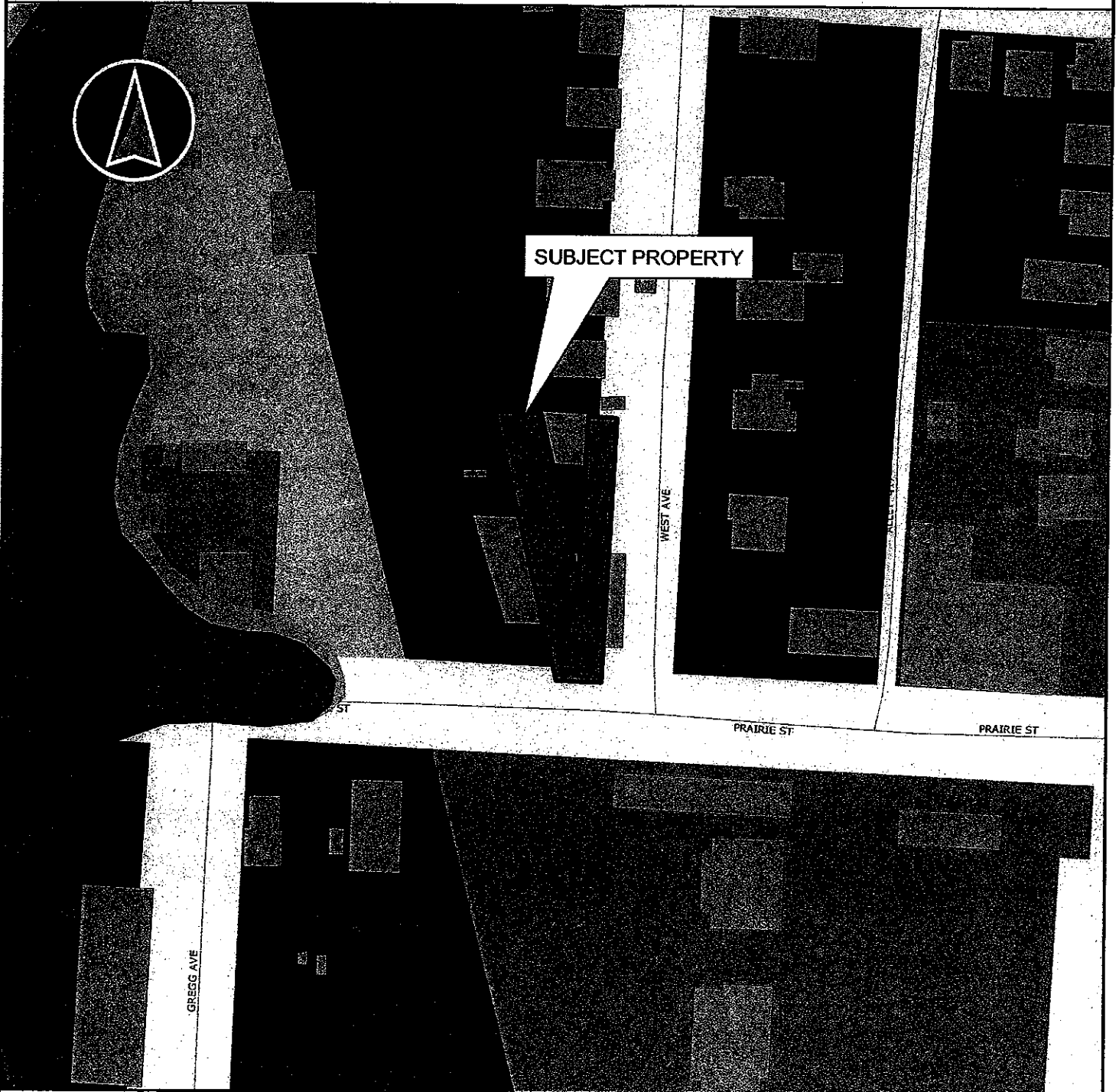




VAC07-2519

Close Up View

MILVER INVESTMENTS



Overview



0 37.5 75 150 225 300 Feet

VAC07-2519

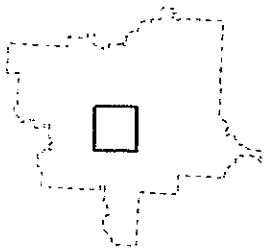
One Mile View

MILVER INVESTMENTS

SUBJECT PROPERTY



Overview



Legend

Subject Property

VAC07-2519

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

5/15/2007

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

VAC 07-2573: Submitted by the City of Fayetteville for Chestnut I Apartments located at the northeast corner of Poplar and Chestnut streets. The request is to vacate a 4,676 square foot multi-use trail portion of an existing 25' wide water/sewer and multi-use trail easement with the water/sewer easement remaining as is. This vacation is contingent on the property owner granting of a new 2,558 square foot multi-use trail easement as shown on exhibit "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

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

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:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer 

Date: April 30, 2007

Subject: VAC 07-²⁵⁷³~~2558~~ Chestnut I Apartments

RECOMMENDATION

Staff requests that the City Council approve VAC 07-2573 and vacate a 4,676 square foot multi-use trail portion of an existing 25' wide water/sewer and multi-use trail easement located on Chestnut I Apartments Property with the following two conditions. The existing water/sewer easement shall remain as is and the property owner shall grant a new 2,558 square foot multi-use trail easement to the City of Fayetteville as shown on Exhibit "A".

BACKGROUND

As part of the WSIP sewerline project, the City of Fayetteville was granted a water/sewer and multi-use trail easement on March 15, 2006 from Chestnut I Apartments. Language for a multi-use trail was included with the water/sewer easement for the construction of Scull Creek Trail. Now that the detailed design is complete for this section of Scull Creek Trail, it was realized that the trail will need to take a different alignment than the sewer line to avoid a parking lot along the south side of the property near Poplar Street. In order to realign the trail a new multi-use trail easement is necessary and the unneeded portion of the original multi-use trail easement through the parking lot can be vacated as shown in Exhibit "A".

DISCUSSION

The City of Fayetteville Water and Sewer Division is the only utility authorized to use this easement and they have no objections to the vacation.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2573 SUBMITTED FOR PROPERTY LOCATED AT CHESTNUT I APARTMENTS AT CHESTNUT AVENUE AND POPLAR STREET, VACATING A 4,676 SQUARE FOOT MULTI-USE TRAIL EASEMENT AND REPLACING IT WITH A REALIGNED 2,558 SQUARE FOOT MULTI-USE TRAIL EASEMENT AS DESCRIBED AND DEPICTED HEREIN.

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 multi-use trail easement is not required for corporate purposes; and

WHEREAS, a realigned multi-use trail easement will best facilitate the use of the property by the property owner and also meet the intent of establishing the trail corridor in the area to serve the public;

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 multi-use trail 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.

1. The existing water/sewer easement shall remain as it is currently situated, and shall not be vacated.
2. The property owner shall grant a new 2,558 square foot multi-use trail easement to the City of Fayetteville in the realigned manner as indicated in Exhibit "A."

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

D-4
1/10/10
(Chestnut Apartments)
Page 5 of 10

CHESTNUT AVENUE

PARKER'S PLAT
OF VALLEY VIEW ACRES
BLOCK 4 LOT 7

EXISTING 25' WIDE
WATER/SEWER & MULTI-USE
TRAIL EASEMENT

PROPOSED VACATION OF 4,676 SF
OF THE EXISTING MULTI-USE TRAIL
EASEMENT
WATER/SEWER EASEMENT
TO REMAIN

PROPOSED 2,558 SF
MULTI-USE TRAIL EASEMENT

POPLAR STREET

EXHIBIT "B"

VAC 07-2573

AREA TO BE VACATED FOR TRAIL PURPOSES:

A part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block 4 (being the point of intersection of the East right-of-way of Chestnut Avenue and the North right-of-way of Poplar Street), thence with the East right-of-way of Chestnut Avenue North 02° 51' 16" East 37.35 feet, thence leaving said East right-of-way South 87° 08' 44" East 20.13 feet to the Point of Beginning; thence North 02° 53' 39" East 25.00 feet; thence South 87° 55' 05" East 105.99 feet; thence North 51° 08' 18" East 106.24 feet; thence South 26° 17' 52" West 38.16 feet; thence South 35° 35' 52" West 14.84 feet; thence South 43° 45' 25" West 11.02 feet; thence South 52° 39' 36" West 28.73 feet; thence South 25° 01' 50" West 9.86 feet; thence South 51° 08' 18" West 18.14 feet; thence North 87° 55' 05" West 115.68 feet, to the Point of Beginning and containing 4,675 square feet (0.107 acres), more or less.

PETITION

PETITION TO VACATE A MULTI-USE TRAIL EASEMENT LOCATED IN LOT 6&7, BLOCK 4 OF PARKERS PLAT OF VALLEY VIEW ACRES, CITY OF FAYETTEVILLE, ARKANSAS

TO: The Fayetteville City Council

We, the undersigned, being all the owners of the real estate holding the easement hereinafter sought to be abandoned and vacated, lying in lot 6&7, block 4, of Parkers Plat of Valley View Acres, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate a multi-use trail easement, which is described as follows:

A part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block 4 (being the point of intersection of the East right-of-way of Chestnut Avenue and the North right-of-way of Poplar Street), thence with the East right-of-way of Chestnut Avenue North 02° 51' 16" East 37.35 feet, thence leaving said East right-of-way South 87° 08' 44" East 20.13 feet to the Point of Beginning; thence North 02° 53' 39" East 25.00 feet; thence South 87° 55' 05" East 105.99 feet; thence North 51° 08' 18" East 106.24 feet; thence South 26° 17' 52" West 38.16 feet; thence South 35° 35' 52" West 14.84 feet; thence South 43° 45' 25" West 11.02 feet; thence South 52° 39' 36" West 28.73 feet; thence South 25° 01' 50" West 9.85 feet; thence South 51° 08' 18" West 18.14 feet; thence North 87° 55' 05" West 115.68 feet, to the Point of Beginning and containing 4,675 square feet (0.107 acres), more or less.

That the real estate affected by said abandonment of the alley are 6&7, block 4, of Parkers Plat of Valley View Acres, 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.

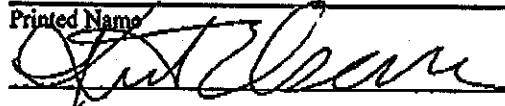
The petitioners pray that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject, however, to the existing utility easements and sewer easements as required, and that the above described real estate be used for their respective benefit and purpose as now approved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

The petitioners further pray that the above described real estate be vested in the 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 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 ____ day of _____, 20 ____.

Printed Name



Signature

Printed Name

Signature

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR RIGHT-OF-WAY, ALLEY, AND EASEMENT VACATION REQUESTS

Date: 4-12-07

Address / location of vacation: Chestnut I Apartments - 650 W. Poplar Street, Fayetteville AR 72703

Adjacent property address: Easement is completely within the above property

Lot: 6 & 7 Block: 4 Subdivision: Parkers Plat of Valley View Acres

REQUESTED VACATION:

I have been notified of the petition to vacate the following easement, described as follows:

A part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block 4 (being the point of intersection of the East right-of-way of Chestnut Avenue and the North right-of-way of Poplar Street), thence with the East right-of-way of Chestnut Avenue North 02° 51' 16" East 37.35 feet, thence leaving said East right-of-way South 87° 08' 44" East 20.13 feet to the Point of Beginning; thence North 02° 53' 39" East 25.00 feet; thence South 87° 55' 05" East 105.99 feet; thence North 51° 08' 18" East 106.24 feet; thence South 26° 17' 52" West 38.16 feet; thence South 35° 35' 52" West 14.84 feet; thence South 43° 45' 25" West 11.02 feet; thence South 52° 39' 36" West 28.73 feet; thence South 25° 01' 50" West 9.86 feet; thence South 51° 08' 18" West 18.14 feet; thence North 87° 55' 05" West 115.68 feet, to the Point of Beginning and containing 4,675 square feet (0.107 acres), more or less.

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:

Name of Adjacent Property Owner (printed)



Signature of Adjacent Property Owner

Applicant Name

UTILITY APPROVAL FORM

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

DATE: 4-13-07

UTILITY COMPANY: City of Fayetteville Water and Sewer Division

APPLICANT NAME: Matt Mihalevich, Trails Coordinator APPLICANT PHONE: 444-3416

REQUESTED VACATION (*applicant must check all that apply*):

- X 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 multi-use trail *easement* described as follows:

General location / Address (referring to attached document- must be completed**)

Chestnut I Apartments

650 W. Poplar St. Fayetteville AR, 72703

A part of Block Four (4) of Parker's Plat of Valley View Acres, to the City of Fayetteville, Washington County, Arkansas, being more particularly described as follows: From the Southwest corner of Lot 6 of said Block 4 (being the point of intersection of the East right-of-way of Chestnut Avenue and the North right-of-way of Poplar Street), thence with the East right-of-way of Chestnut Avenue North 02° 51' 16" East 37.35 feet, thence leaving said East right-of-way South 87° 08' 44" East 20.13 feet to the Point of Beginning; thence North 02° 53' 39" East 25.00 feet; thence South 87° 55' 05" East 105.99 feet; thence North 51° 08' 18" East 106.24 feet; thence South 26° 17' 52" West 38.16 feet; thence South 35° 35' 52" West 14.84 feet; thence South 43° 45' 25" West 11.02 feet; thence South 52° 39' 36" West 28.73 feet; thence South 25° 01' 50" West 9.86 feet; thence South 51° 08' 18" West 18.14 feet; thence North 87° 55' 05" West 115.68 feet, to the Point of Beginning and containing 4,675 square feet (0.107 acres), more or less.

UTILITY COMPANY COMMENTS:

- ① • No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)
-
- No objections provided the following conditions are met:
-

4-16-07
Signature of Utility Company Representative

Water & Sewer Ops Mgr
Title

City of Fayetteville Staff Review Form

D. 5
Amend Chapter 173 and 155
Public Nuisance
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

May 15 2007

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Approval of Ordinance amending §§ 173.02 (B) and 173.08 of the UDC

0

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Received in City
Clerk's Office

ENTERED

Received in
Mayor's Office

ENTERED

Mayor

Date

Staff Recommends approval of Ordinance amending §§ 173.02 (B) and 173.08 of the UDC

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, Community Resources Director
Date: April 24, 2007
Subject: Ordinance amending §§ 173.02(B) and 173.08 of the UDC

Time limits for 1 & 2 family building permits. Definition and abatement of property nuisances.

Intent:

To provide a mechanism to address 1 & 2 Family building projects that are unfinished.

Background:

Presently, a building permit is valid unless work has not started for 6 months or if the work has stopped for a period 6 months. When either 6 month period has lapsed, the applicant has the option to extend the permit (with approval) for another 6 months. Additional extensions may be granted

Abandoned projects create unfinished and often unsecured structures. Building Safety has authority while the permit is active but little leverage if the project has been abandoned. At this time Code Compliance has no authority to deal with the unfinished project situations.

Proposed amendments:

There are two parts to the proposed ordinance amendments.

In **Exhibit A**, we are proposing to establish some prescribed times for completion of the major stages of construction which we defined as "substantial progress". To establish the timeframes, we researched our building data and found the average time it takes to complete the footing, framing and certificate of occupancy (final) inspections. We have incorporated a liberal amount for the proposed completion timeframes. We propose that the Building Official may grant extensions for up to 90 days. All additional extensions would be heard and decided by the CBAA (Construction Board of Adjustments and Appeals).

In **Exhibit B**, we are proposing a method for the determination of a "property nuisances" to be added to the Unsafe Buildings section of the UDC. This section includes a list of conditions that constitute a property nuisance.

Conclusion:

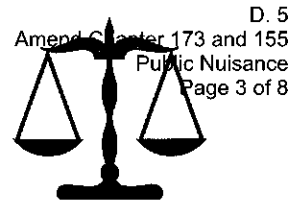
The proposed ordinance amendments will establish the authority to address 1 & 2 Family building projects that are not completed in a timely manner. If construction does not progress according to proposed amendment in exhibit A, Code Compliance will be able to address these situations as a "property nuisance" through the court system.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

CC: **Yolanda Fields**, CR/CC Director
Steve Cattaneo, Building Safety Director
Tim Conklin, Planning & Development Management Director
Jeremy Pate, Director of Current Planning

FROM: **Kit Williams**, City Attorney

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

DATE: **April 30, 2007**

RE: **Unsafe Buildings & Property Nuisances**

In order to achieve the goals referred to by Yolanda Fields in her memo and the policies set forth by the Ordinance Review Committee, I had to modify and redraft Exhibits A & B and add Exhibit C (for an appeal to City Council). I believe these proposed changes to the Unified Development Code (to be submitted for City Council consideration during its May 15th meeting) will now accomplish the goals to require timely completion of single family houses and duplexes (and to prevent unfinished houses from becoming property nuisances and unsafe structures).

Violators of these provisions can face fines (if prosecuted) or City Council abatement actions. The goal is to prevent neighboring properties from being adversely affected by "abandoned" unfinished structures.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 173 AND CHAPTER
155 OF THE UNIFIED DEVELOPMENT CODE TO REGULATE
UNFINISHED HOUSES AS PROPERTY NUISANCES AND
ALLOW AN APPEAL TO THE CITY COUNCIL**

WHEREAS, if a builder fails without good cause to finish construction of a house or duplex within a reasonable period of time such that the Construction Board of Adjustments and Appeals denies extending the building permit, such unfinished house or duplex may become a nuisance to adjoining or nearby property and damage their value and habitability.

**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 enacts a new subsection 173.02 (B)(4) as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby repeals §173.08 **Unsafe Buildings** and enacts a replacement §173.08 **Unsafe Buildings and Property Nuisances** as shown in Exhibit "B" attached hereto and made a part hereof.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby enacts a new §155.08 **Appeals From The Construction Board of Adjustments and Appeals** as shown in Exhibit "C" attached hereto and made a part hereof.

PASSED and APPROVED this 15th day of May, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

(4)(a) Building permit duration for house and duplex.

Every permit issued for new construction of or additions to One and Two family dwellings shall become invalid and the building may be declared a property nuisance unless the work authorized by such permit demonstrates substantial progress.

Substantial progress shall be defined as:

- All footing and slab inspections completed and approved no later than 90 days from the date the permit is issued.
- All rough-in inspections completed and approved no later than 180 days from the date the permit is issued.
- All work completed and approved including Certificate of Occupancy no later than 365 days from the date the permit is issued.

The Building Official is authorized to grant, in writing, an extension of up to 90 days in time based on the complexity of the project. Extensions of time exceeding 455 days may only be granted by the Construction Board of Adjustments and Appeals for good cause shown by the builder.

(b) Issuance of new building permit for unfinished project.

No new building permits may be issued for property for which a building permit has expired unless approved by the Construction Board of Adjustments and Appeals for good cause shown by the applicant and adequate assurance that the project will be completed within the time frame authorized by the Construction Board of Adjustments and Appeals.

173.08 Unsafe Buildings and Property Nuisances

- (A) No person or persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the city which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.
- (B) *Property nuisances.* It is unlawful for any person having charge or possession of any property to maintain it in such a manner that it is determined by the City, after a due process hearing, that a property nuisance exists upon such property. A property nuisance shall exist whenever any of the following findings are made by the City Council after a public, due process hearing:
- (1) The condition of the property endangers the life, health, property safety of welfare of the public or occupants of the property.
 - (2) The condition of the property is so dilapidated as to cause a diminution of the enjoyment, use or property values of neighboring properties.
 - (3) The condition of the property is detrimental to the public health, safety and general welfare.
 - (4) Unoccupied. Buildings or structures not properly secured, locked, or closed.
 - (5) Unfinished. Buildings or structures which are unfinished subject to the conditions of 173.02 (B) (4).
 - (6) Inadequate sanitation, light or ventilation. Occupied buildings or structures which lack hot and cold running water to plumbing fixtures or lack the minimum amounts of natural light and ventilation as required by this code.
 - (7) Structural hazards. Buildings or structures which have such defective, deteriorated or inadequate foundations; flooring and/or floor support; wall, partition, or other vertical support; ceiling, roof, or other horizontal support; fireplace or chimney as to result in unsafe conditions.
 - (8) Inadequate or hazardous wiring. All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
 - (9) Inadequate or faulty plumbing. All plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross connections.
 - (10) Inadequate Means of Egress. All means of egress and related components except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition.
 - (11) Inadequate Fire Suppression and Alarm systems. All fire suppression and alarm systems except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition.
 - (12) Dilapidated Exterior. Dilapidated roof coverings; dilapidated or unfinished exterior wall coverings; broken or missing doors and/or windows.
- (C) *Abatement procedures for Unsafe Buildings and Property Nuisances; raze and removal and lien authorized.*
- (1) *City Prosecution Authorized.* The rules and procedures of the Code Compliance Program for abatement of Unsafe Buildings and Property Nuisances should be followed. If the results of such efforts are unsatisfactory, the Code Compliance Division Director may forward the matter for prosecution to the City Prosecutor and/or to the City Council for consideration of a raze and removal Resolution.
 - (2) *City Council determination whether property nuisance exists.* Upon referral from the Code Compliance Division, the City Council shall hold a public hearing to determine whether or not the subject building is a property nuisance for any of the reasons specified in §173.08(B) or otherwise unsafe, dilapidated, unsanitary or a detriment to the public welfare.

- (3) *Raze and removal order.* Upon the City Council's determination that the subject building is so unsafe, dilapidated, or unsanitary or such a nuisance that its raze and removal is necessary to protect the public health, safety, or welfare, the City Council shall by Resolution order the owner of the building to completely abate said nuisance or to raze and remove the unsafe or nuisance building within not less than 30 days.
- (4) *Lien on the property.* If the owner fails to comply with the Resolution to completely abate this nuisance or to raze and remove the unsafe or nuisance building within the allowed period of time, the City of Fayetteville has the power to raze and remove the unsafe or nuisance building. If the City of Fayetteville razes and removes the unsafe or nuisance building, the City Council shall hold a public hearing to determine the fair and true costs to the City for this raze and removal and shall place a lien in that amount upon the subject property to be enforced pursuant to the lien enforcement procedures of §95.03 of the Fayetteville Code.

EXHIBIT "C"

155.08 Appeals from the Construction Board of Adjustments and Appeals

If the Construction Board of Adjustments and Appeals refuses to extend a building permit pursuant to §173.02 (B)(4) or to issue a new building permit for property for which a building permit has expired pursuant to §173.02 (B)(4), the owner may appeal to the City Council.

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

15-May-07
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

Approval of an ordinance waiving the requirements of formal competitive bidding and approval of a cost share agreement with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road at the intersection with Salem Road and approval of a budget adjustment in the amount of \$13,100.

		Street/ROW/Intersection
\$50,000.00	\$ 240,698.00	Cost Sharing
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5809.00	\$ 203,784.48	Street Improvements
	Funds Used to Date	Program / Project Category Name
02116	\$ 36,913.52	Sales Tax - Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☒

[Signature] 5-1-07
Department Director Date

[Signature] 5/1/07
City Attorney Date

Paul A. Becker 5-1-07
Finance and Internal Service Director Date

[Signature] 5/1/07
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office
ENTERED
5/1/07

Received in Mayor's Office
ENTERED
5/1/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RSP*

Date: April 27, 2007

Subject: Proposed ordinance waiving the requirements of formal competitive bidding and approving a cost share agreement with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road at the intersection with Salem Road and approval of a budget adjustment in the amount of \$13,100.00.

BACKGROUND

Holcomb Heights is a 105 unit single-family residential subdivision located at the southwest corner of Weir Road and Salem Road. This project has been designed as a traditional neighborhood design with rear alley access, an interior neighborhood green, and multiple pedestrian connections.

On February 26, 2007 the Planning Commission approved the PZD request for the first phase of this project which consists of 68 single family units. On March 20, 2007 the City Council approved this same request. These approvals required the following street improvements:

- A. *Weir Road shall be reconstructed to create a 4-way intersection with Gypsum Drive and Salem Road. A turn lane shall be installed providing 100' of stacking depth from the intersection. The newly constructed Weir Road shall be constructed to Master Street Plan requirements for a collector street with a 28' street section, curb and gutter, 6' sidewalks and storm drains.*
- B. *Remove asphalt surface and base from the old section of Weir Road and construct new residential driveways from the north right-of-way to the new roadway section, within access easements.*
- C. *6' sidewalks shall be constructed along the property's frontage at the Master Street Plan right-of-way, on Weir Road and Salem Road.*
- D. *Salem Road shall be improved along the property frontage with a 14' from centerline section, including turn lanes at the intersection of Weir/Salem/Gypsum and appropriate transition areas. All designs shall be subject to Engineering approval.*
- E. *All interior streets and alleys shall be constructed to City design standards, inspected and approved by the Engineering Division.*
- F. *All parallel parking provided along Salem and Weir shall be constructed to city standards and shall be coordinated with the Fire Department and Solid Waste Division prior to submittal of construction drawings.*

DISCUSSION

On April 16, 2007 the applicant submitted a proposal to the City Council's Street Committee to cost share with the City for the street improvements that were required in association with this development. In exchange for this cost share, the applicant has proposed the inclusion of "affordable homes" within the development. The Street Committee voted unanimously "that this cost share agreement be forwarded to the City Council with a positive recommendation." The applicant has included the specifics of this proposal in an attached letter. The specifics of this letter have also been inserted into the standard cost share agreement.

Cost estimates have been provided to the City for these street improvements by the developer's engineer as follows:

Developer's Share (with on-street parking)	\$ 135,304.00
City's Share	\$ 50,000.00
Total (with on-street parking)	\$ 185,304.00
 Developer's Share (without on-street parking)	 \$ 46,093.00
City's Share	\$ 50,000.00
Total (without on-street parking)	\$ 96,093.00

BUDGET IMPACT

The funds for this street cost share project will come from the Street ROW/ Intersection/ Cost Sharing Fund. Currently there is \$36,913.52 available in this account. A budget adjustment is requested in the amount of \$13,100 from the Kings Drive project which has \$102,960.48 in remaining funds.

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

D. 6
Nock-Broyles Land Development, LLC
Page 4 of 16

Budget Year 2007	Department: Sales Tax Capital Improvements Division: Program:	Date Requested	Adjustment Number
-------------------------	---	----------------	-------------------

Project or Item Added/Increased: \$13,000 is requested in the Street Row / Intersection / Cost Sharing project.	Project or Item Deleted/Reduced: \$13,000 from the Kings Drive Improvements project.
--	---

Justification of this Increase: Additional funds are needed in this account to cover a cost share with Nock - Broyles Land Development, LLC	Justification of this Decrease: Kings Dr. proj. #05030 has been bid, is underconstruction, and has a contingency in the approved funding. The excess funds in the account are not necessary for completion.
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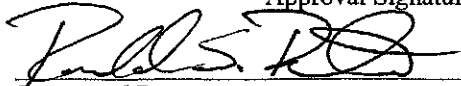
Increase Expense Budget (Decrease Revenue Budget)

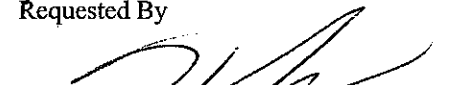
Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	13,100	02116	1

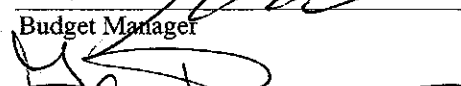
Decrease Expense Budget (Increase Revenue Budget)

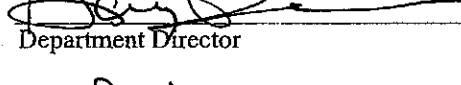
Account Name	Account Number				Amount	Project Number	
Street improvements	4470	9470	5809	00	13,100	05030	1

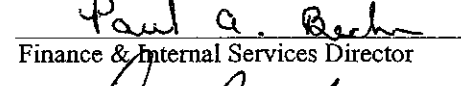
Approval Signatures

Requested By  5/1/07
Date

Budget Manager  5-1-07
Date

Department Director  5-1-07
Date

Finance & Internal Services Director  5-1-07
Date

Mayor  5/1/07
Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger Initial Date

Posted to Project Accounting Initial Date

Entered in Category Log Initial Date

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING; APPROVING A COST-SHARE AGREEMENT WITH NOCK-BROYLES LAND DEVELOPMENT, LLC IN THE AMOUNT OF \$50,000.00 FOR THE RELOCATION OF WEIR ROAD AT THE INTERSECTION WITH SALEM ROAD; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$13,100.00.

WHEREAS, the City of Fayetteville has required the relocation of Weir Road as a condition of approving the residential development that Nock-Broyles Land Development, LLC is currently developing at the southwest corner of Weir Road and Salem Road; and,

WHEREAS, entering into a cost-share agreement with Nock-Broyles Land Development, LLC and utilizing their engineer and contractor to relocate Weir Road will avoid the added cost and unnecessary duplication of effort which would arise from the formal competitive bidding process.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$13,100.00.

PASSED and APPROVED this 15th day of May, 2007.

APPROVED:

ATTEST:

By: _____

DAN COODY, Mayor

By: _____

SONDRA E. SMITH, City Clerk/Treasurer

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and Nock-Broyles Land Development, LLC, Witnesseth:

WHEREAS, Nock-Broyles Land Development, LLC is constructing a 105 unit single-family residential development at the intersection of Weir Road and Salem Road; and

WHEREAS, Nock-Broyles Land Development, LLC will be relocating a portion of Weir Road to line up with Gypsum Drive as a part of this development; and

WHEREAS, it will benefit the City of Fayetteville to participate in the relocation of this existing City road and to participate in providing the City of Fayetteville with attainable housing.

NOW, THEREFORE, the City of Fayetteville and Nock-Broyles Land Development, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Street Cost-Share, the City of Fayetteville agrees to:
 - A. Pay a maximum-not-to-exceed cost of \$50,000.00 for the afore mentioned street construction.
 - B. Make all efforts to provide payment to Nock-Broyles Land Development, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Nock-Broyles Land Development, LLC agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable street installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the street construction.
 - C. Provide 5% of the neighborhood (6 units) as attainable housing priced no greater than \$120,000.00.
 - D. Construct the attainable housing units with similar building materials as the other homes in the development.
 - E. Distribute the attainable housing units throughout the development.
 - F. Provide deed-restrictions that require the attainable housing to be owner occupied.

3. It is further understood that the contract for construction is between Nock-Broyles Land Development, LLC and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$50,000.00 for the street construction.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

Nock-Broyles Land Development, LLC

By: _____
DAN COODY, Mayor

By: _____

Nock-Broyles Land Development, LLC

4921 Clear Creek Blvd
Fayetteville, AR 72704

hank@broylesdevelopment.com
Phone: 479.442-5766
Fax: 479.442-5440

March 20, 2007

Good Afternoon Ron,

The city's obligation of the cost-sharing on Weir Rd. will be capped at \$50,000. The estimates have been provided and the actual costs will be approved by the city before any payments are made.

There are numerous reasons for the city to partner with the developer on the relocation of Weir Rd. One major justification is that Weir Rd. is a perimeter street of Holcomb Heights, not an interior one. Holcomb Heights has agreed to align Weir with Gypsum at the city's request, even though it is a major cost both financially and in land.

Another is the promise by Holcomb Heights to provide 5% of their homes at \$120,000. There have been several questions regarding the attainable housing:

- What will be the price?
- How many?
- Will the attainable homes be obviously cheaper construction?
- Will the attainable homes be tucked away all together off to one side?
- How will the homes remain in the attainable price range after they are resold?
- Can we keep these from becoming rentals?
- How do to keep investors away?

We will try to clear the air and provide what our intentions are as for the best way to provide attainable housing to the city of Fayetteville.

- We have committed to do attainable houses at a price of \$131,900. If the cost-share is approved that will enable us to provide houses at a much lower price of \$120,000.
- We are committed to do 5% of the neighborhood as attainable. 5% of 105 units is 5.25, which we will round up to 6 units.
- Our goal is to have the attainable housing be as indistinguishable as possible. Therefore they will have similar exterior building materials as their neighbors.
- In keeping with the homes not being conspicuous as attainable, they will be sprinkled throughout the neighborhood, not ostracized to one area.

Nock-Broyles Land Development, LLC

4921 Clear Creek Blvd
Fayetteville, AR 72704

hank@broylesdevelopment.com

Phone: 479.442-5766

Fax: 479.442-5440

- The only way to keep the homes in an attainable range after they are sold over and over again is for them to be at market price. In other words, we have to build a house that is worth roughly \$120,000 at market value. Otherwise, if we sell a \$150,000 house for \$120,000, then the first buyer recoups the discount as profit and sells the house at its market value. Now we have a \$150,000 house that is no longer in the attainable range and the city is back where it started – needing attainable housing. Instead, Holcomb Heights is providing nice homes in a very nice traditional neighborhood at an attainable price, something no one else is doing.
- The attainable homes will be deed-restricted to be owner-occupied. This along with the market pricing will deter investors, as well as keep them from being “rent houses”.
- Holcomb Heights plans on making upgrades available to homeowners that are purchasing the attainable housing. This could potentially push the final selling price above \$120,000. Holcomb Heights would reconsider this policy if the city wishes.

I sincerely hope that this answers the council's questions and assures everyone that Holcomb Heights is acting in good faith on this issue.

Sincerely,

Hank Broyles



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APPIAN CENTRE FOR DESIGN

RECEIVED
APR 13 2007
ENGINEERING DIV.

April 13, 2007

Ron Petrie
City Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Holcomb Heights – Cost Share

Dear Mr. Petrie:

This Monday is the street committee meeting for Holcomb Heights, and we would just like to touch base with you about the situation prior to the committee meeting. The cost for construction of relocation and realignment of Weir Road and Salem Road is estimated at \$185,304, and while a typical qualified city cost share would be 50% of the total cost, approximately \$96,092, we are proposing that the City of Fayetteville's cost share exposure be set to a limit of \$50,000.

In return for the City of Fayetteville sharing a portion of the costs in improvements to Salem Road and Weir Road, we will reduce our attainable housing units in Holcomb Heights to retail for \$120,000 or less.

We realize the actual invoices will be presented to the city for approval prior to payment.

Sincerely,

Todd Jacobs
Appian Centre for Design
1 East Center Street Ste. 212
Fayetteville, AR 72701
Phone: 479-445-6009

CC: Hank and Lex Broyles

Opinion of Probable Cost - Weir Road and Salem Road Turning Lane Improvements

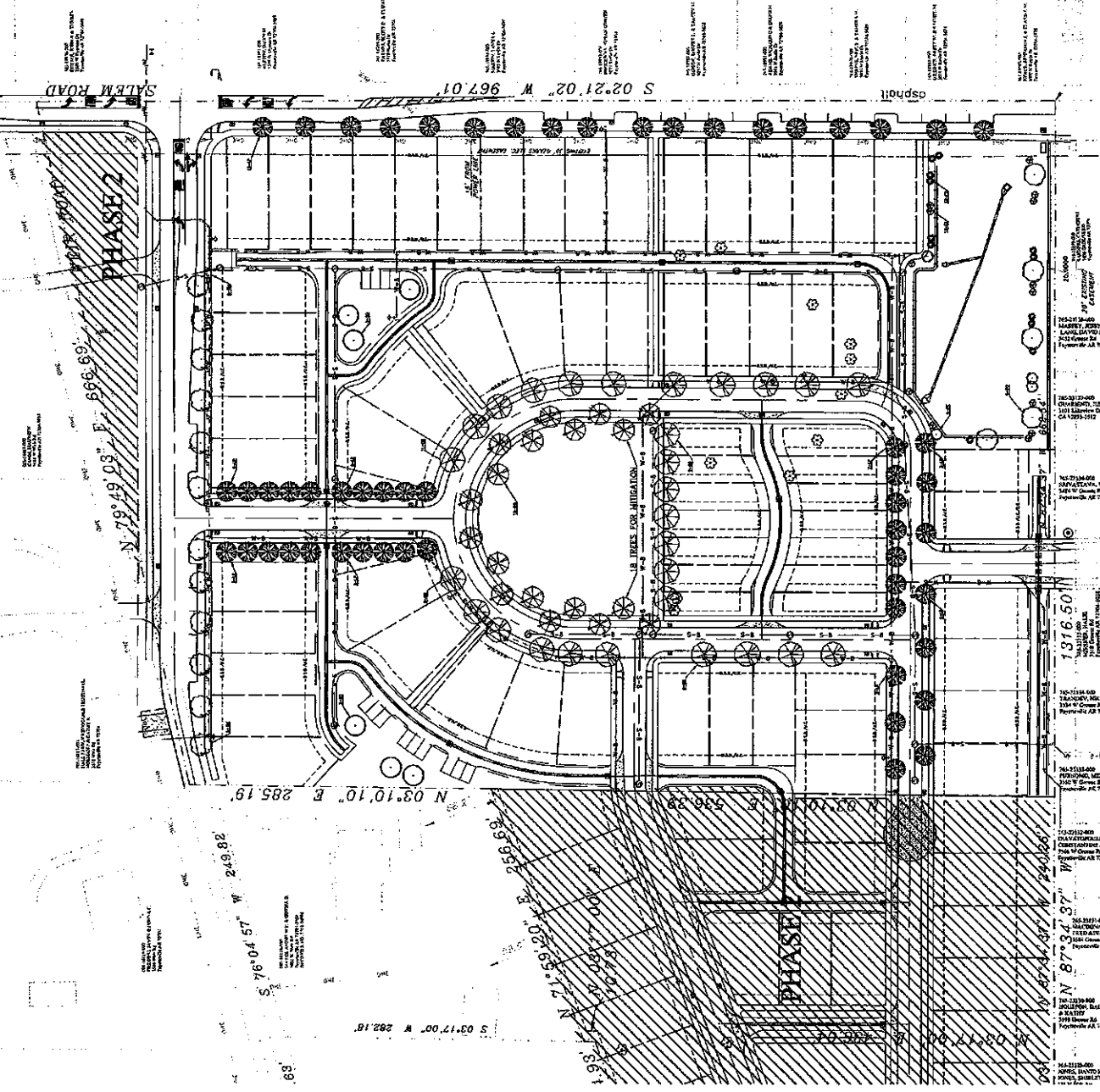
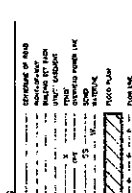
(Calculations below includes onstreet parking totals along Weir Road)

	Quantity	Unit	Unit Cost	Total
Demolition of Weir Road	1,547	S.Y.	\$6.00	\$9,282.00
Weir Road and Turning Lanes on Salem @ 8"/3"/2"	2,887	S.Y.	\$21.95	\$63,369.65
Soil Undercut and Wasted on Site (3' average cut)	3,128	C.Y.	\$6.00	\$18,768.00
Off-site imported fill, hauled in, compaction (2' average fill)	2,086	C.Y.	\$9.00	\$18,774.00
Curb and Gutter for Weir Rd.	1,341	L.F.	\$9.00	\$12,069.00
6' Concrete Sidewalk for Weir Rd -(both sides of road)	1,089	L.F.	\$22.50	\$24,502.50
Backfill Curb	1	Lump Sum	\$4,000.00	\$4,000.00
Concrete Drive Aprons	57	S.Y.	\$6.50	\$370.50
Asphalt Drive Extensions	201	S.Y.	\$13.95	\$2,803.95
18" RCP - Weir Rd.	259	L.F.	\$35.00	\$9,065.00
Curb Inlets and Junction Boxes - Weir Road	6	EACH	\$3,500.00	\$21,000.00
Symbols	13	Each	\$100.00	\$1,300.00
Total				\$185,304.60

Requested Cost Share Weir Road and Salem Road Turning Lane Improvements

(Developer is not requesting cost share for onstreet parking along Weir Road. Calculations below do not include onstreet parking in the totals)

	%	Quantity	Unit	Unit Cost	Total
Demolition of Weir Road	100%	1,547	S.Y.	\$6.00	\$9,282.00
Weir Road and Turning Lanes on Salem @ 8"/3"/2"	50%	2,746	S.Y.	\$21.95	\$30,137.35
Soil Undercut and Wasted on Site (3' average cut)	50%	2,984	C.Y.	\$6.00	\$8,952.00
Off-site imported fill, hauled in, compaction (2' average fill)	50%	1,989	C.Y.	\$9.00	\$8,950.50
Curb and Gutter for Weir Rd.	50%	1,303	L.F.	\$9.00	\$5,863.50
6' Concrete Sidewalk for Weir Rd -(both sides of road)	50%	1,089	L.F.	\$22.50	\$12,251.25
Backfill Curb	50%	1	Lump Sum	\$4,000.00	\$2,000.00
Concrete Drive Aprons	100%	57	S.Y.	\$6.50	\$370.50
Asphalt Drive Extensions	100%	201	S.Y.	\$12.95	\$2,602.95
18" RCP - Weir Rd.	50%	259	L.F.	\$35.00	\$4,532.50
Curb Inlets and Junction Boxes - Weir Road	50%	6	EACH	\$3,500.00	\$10,500.00
Symbols	50%	13	Each	\$100.00	\$650.00
Total					\$96,092.55



YES: _____

E CANOPY CALCULATIONS			
	13.40	42.905	\$83,708 S.F.
HY	0.28	40.85 (2.19 W OF SH)	12,791 S.F.
	0.12	42.815 (0.92 W OF SH)	5,200 S.F.
	0.17	42.835 (1.27 W OF SH)	7,593 S.F.
EU	0.24	42.815 (2.19 W OF SH)	12,791 S.F.
TOTALS REQUIRED			
TOTALS PROVIDED			
TOTALS REQUIRED			
TOTALS PROVIDED			
TOTALS REQUIRED			
TOTALS PROVIDED			
TOTALS REQUIRED			
TOTALS PROVIDED			

TREES WILL BE INTEGRATED ON-SITE AND USED FOR STREET PLANTINGS.
% THE TYPE, SPECIES, AND FINAL LOCATION WILL BE SHOWN ON THE LANDSCAPE PLAN.
% CONSTRUCTION DRAWINGS ARE SUBMITTED.

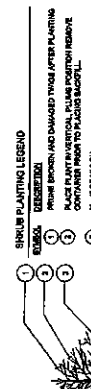
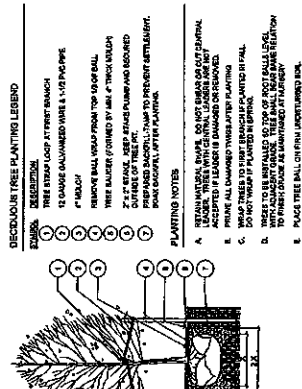
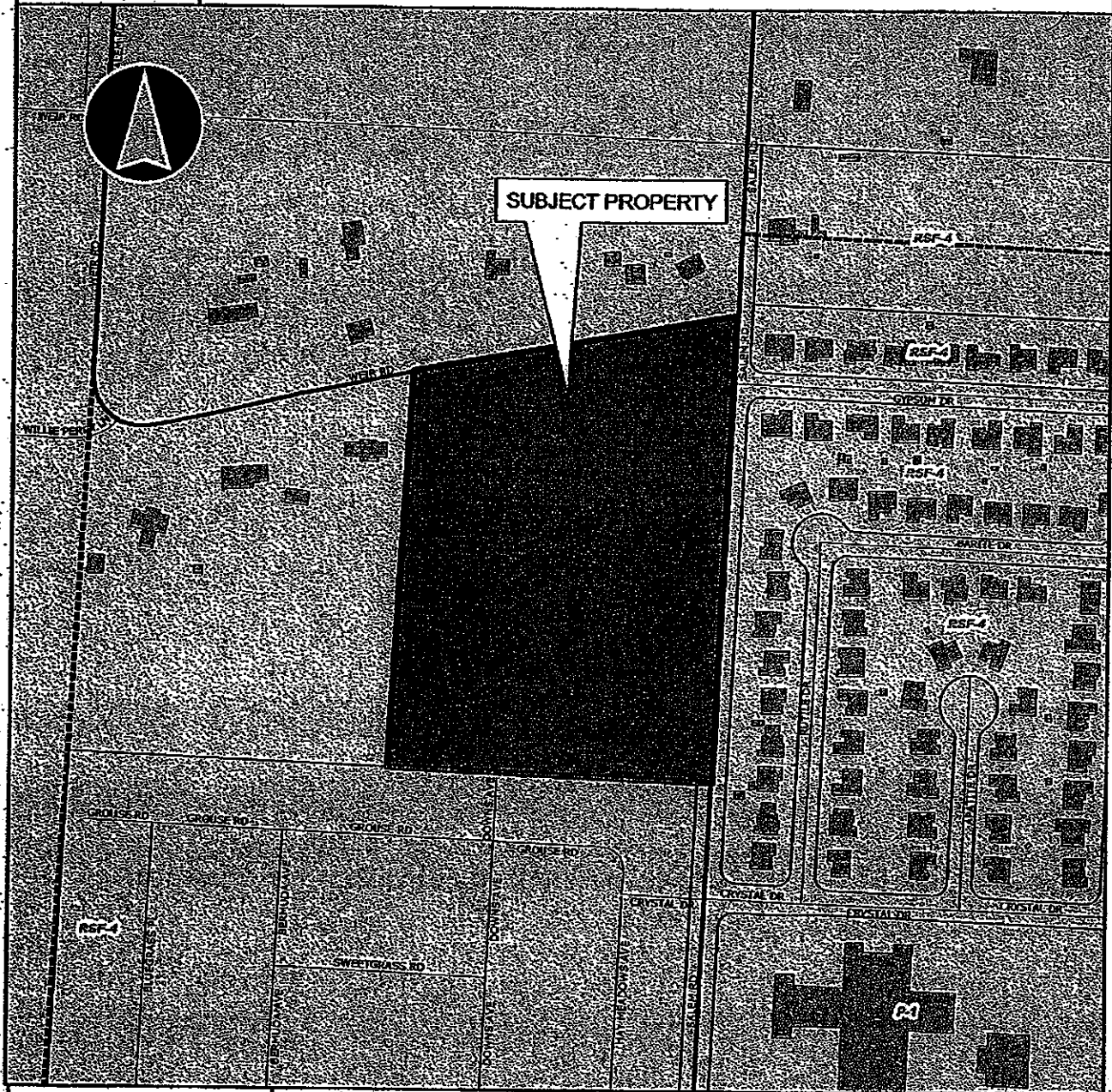


EXHIBIT "A"

RPZD06-2281

Close Up View

HOLCOMB HEIGHTS



Overview

Legend

- ooooo Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- RPZD06-2281
- vector.GDB.Footprint_2004
- Hillside-Hiltop Overlay District

0 125 250 500 750 1,000 Feet

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and Nock-Broyles Land Development, LLC, Witnesseth:

WHEREAS, Nock-Broyles Land Development, LLC is constructing a 105 unit single-family residential development at the intersection of Weir Road and Salem Road; and

WHEREAS, Nock-Broyles Land Development, LLC will be relocating a portion of Weir Road to line up with Gypsum Drive as a part of this development; and

WHEREAS, it will benefit the City of Fayetteville to participate in the relocation of this existing City road and to participate in providing the City of Fayetteville with attainable housing.

NOW, THEREFORE, the City of Fayetteville and Nock-Broyles Land Development, LLC agree as follows:

1. Upon the City Council and/or the Mayor approving the Street Cost-Share, the City of Fayetteville agrees to:
 - A. Pay a maximum-not-to-exceed cost of \$50,000.00 for the afore mentioned street construction.
 - B. Make all efforts to provide payment to Nock-Broyles Land Development, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.
2. Nock-Broyles Land Development, LLC agrees to:
 - A. Provide the necessary and normal project management, inspection, and testing as necessary for a complete and acceptable street installation.
 - B. Provide a copy of the invoice(s) from the Contractor and a completed lien waiver executed by the Contractor upon acceptance of the street construction.
 - C. Provide 5% of the neighborhood (6 units) as attainable housing priced no greater than \$120,000.00.
 - D. Construct the attainable housing units with similar building materials as the other homes in the development.
 - E. Distribute the attainable housing units throughout the development.
 - F. Provide deed-restrictions that require the attainable housing to be owner occupied.

3. It is further understood that the contract for construction is between Nock-Broyles Land Development, LLC and their Contractor and that the City has no contractual obligation with either the Contractor or the Engineer. The City's only obligation shall be to participate in a contractual agreement with a not-to-exceed amount of \$50,000.00 for the street construction.

**IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE
SIGN BELOW:**

CITY OF FAYETTEVILLE

Nock-Broyles Land Development, LLC

By: _____
DAN COODY, Mayor

By:  _____

Agenda Session
5/8/07

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



No Additional
items were
requested.

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 15, 2007**

A meeting of the Fayetteville City Council will be held on May 15, 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

Botanical Garden Annual Report - Catherine Bass.

~~Noland WWTP Annual Report on Operations - Billy Ammons, OMI Regional Business Manager - Agenda Session Only~~

~~Fayetteville Attainable Workforce Housing Policy White Paper Discussion - Leif Olson - Agenda Session Only~~

~~Presentation of the recommended options for street improvements associated with the Fayetteville Expressway Economic Development Corridor Project - Carter & Burgess Engineering Firm - Agenda Session Only~~

A. CONSENT:

✓ 1. Approval of the April 17, 2007 and May 1, 2007 City Council meeting minutes.

✓ 2. **McClelland Consulting Engineers, Inc. Engineering Contract:** A resolution awarding an engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design, bidding, and construction services associated with five (5) trail bridges for Scull Creek Trail.

3. **VAC 07-2519 (Milver Investments):** An ordinance approving VAC 07-2519 submitted by Milver Investments, LLC for property located at 500 West Prairie Street, vacating an un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.
4. **VAC 07-2573 (Chestnut I Apartments):** An ordinance approving VAC 07-2573 submitted for property located at Chestnut I Apartments at Chestnut Avenue and Poplar Street, vacating a 4,676 square foot multi-use trail easement and replacing it with a realigned 2,558 square foot multi-use trail easement as described and depicted herein.
5. **Amend Chapter 173 and 155, Public Nuisance:** An ordinance to amend Chapter 173 and Chapter 155 of the Unified Development Code to regulate unfinished houses as property nuisances and allow an appeal to the City Council.
6. **Nock-Broyles Land Development, LLC:** An ordinance waiving the requirements of formal competitive bidding; approving a cost-share agreement with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road at the intersection with Salem Road; and approving a budget adjustment in the amount of \$13,100.00.

E. INFORMATIONAL:

City Council Tour: ~~May 14, 2007~~ *NONE*

The Agenda Session Meeting
5/2/07

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
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Roll Call
Pledge of Allegiance**

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Move to NB 1

Per Gary

Dumas leave

3. Fayetteville Economic Development Corridor Project: (IN ROUTE FOR SIGNATURES)

On.

2. **VAC 07-2519 (Milver Investments):** An ordinance approving VAC 07-2519 submitted by Milver Investments, LLC for property located at 500 West Prairie Street, vacating an un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.

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Remove to Dead file 4. **ADM 07-2566 Amend Title XV, Use Units:** An ordinance amending various Chapters of Title XV: Unified Development Code of the Code of Fayetteville, to clarify the Zoning Districts in which Sidewalk Cafes, Dance Halls, Government Facilities may occur; to remove C-4 references; and to add Animal Ordinance definitions to the UDC. (IN ROUTE FOR SIGNATURES.)

Remove to Dead file 5. **ADM 07-2588 Amend Title XV, Artist Studio/Home Occupations:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 161: Zoning Regulations and Chapter 163: Use Conditions in order to clarify Artist Studios and Home Occupations and to permit their use in the Downtown Core, Main Street Center and Downtown General Zoning Districts.

Remove to Dead file 6. **ADM 07-2589 Amend Title XV, Driveway Width – Parking Lots:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths.

7. **Amend Chapter 173 and 155, Public Nuisance:** An ordinance to amend Chapter 173 and Chapter 155 of the Unified Development Code to regulate unfinished houses as property nuisances and allow an appeal to the City Council.

8. **Nock-Broyles Land Development, LLC:** An ordinance waiving the requirements of formal competitive bidding; approving a cost-share agreement with Nock-Broyles Land Development, LLC in the amount of \$50,000.00 for the relocation of Weir Road at the intersection with Salem Road; and approving a budget adjustment in the amount of \$13,100.00.

Next Agenda 9. ~~Habitat for Humanity Amendment Contract:~~

E. INFORMATIONAL:

City Council Tour: May 14, 2007

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", with a long horizontal flourish extending to the right.

DATE: **May 15, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of May 15, 2007**

1. **McClelland Consulting Engineers, Inc.:** Resolution awarding engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design, bidding, and construction service associated with five trail bridges for scull creek trail;
2. **Wilson Brothers Construction:** Resolution approving contract with Wilson Brothers Construction in amount of \$1,327,793.62 for improvements to Noland Wastewater Treatment Plant Primary Pond, WSIP subproject EP-1 and approving 5% contingency in amount of \$65,000.00;
3. **Bid #07-36 – Glover's Truck Parts & Equipment:** Resolution awarding Bid #07-36 to Glover's Truck Parts & Equipment for purchase of one low boy semi trailer in amount of \$55,719.00 for use by Transportation Division;
4. **Bid #07-39 – Williams Tractor:** Resolution awarding Bid #07-39 to Williams Tractor for purchase of two compact track excavators in amount of \$99,377.00, one for use by Water & Sewer Division and other for use by Transportation Division and approving budget adjustments in amount of \$41,627.00 and \$750.00 respectively;
5. **Bid #07-40 – Riggs Power Solutions:** Resolution awarding Bid #07-40 to Riggs Power Solutions for purchase of three backup power generators in amount of \$74,268.72 plus all applicable taxes for WSIP subproject EL-4, East Side Lift Station upgrades;

6. Bid #07-40 Riggs Power Solutions: Resolution awarding Bid #07-40 to Riggs Power Solutions for purchase of one additional backup power generator in amount of \$28,066.00 to provide power for new fuel facility and Fleet Operations/Transportation Building;

7. The Links at Fayetteville Bill of Assurance: Resolution approving Bill of Assurance and contract between The Links at Fayetteville and City of Fayetteville;

8. Fayetteville Economic Development Corridor Project: Resolution approving three recommended options for transportation improvements in the Fayetteville Expressway Economic Development Corridor Project;

9. Amendment to Chapters 173 and 155, Public Nuisance: Ordinance amending Chapter 173 and Chapter 155 of the Unified Development Code to regulate unfinished houses as property nuisances and allow an appeal to the City Council;

10. Nock-Broyles Land Development, LLC: Ordinance waiving requirements of formal competitive bidding; approving cost-share agreement with Nock-Broyles Land Development, LLC in amount of \$50,000.00 for relocation of Weir Road at the intersection with Salem Road; and approving budget adjustment in amount of \$13,100.00.

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:

May 14, 2007

Publication Charge: \$152.98

*See
Attached*

Subscribed and sworn to before me
This 14th day of May, 2007.

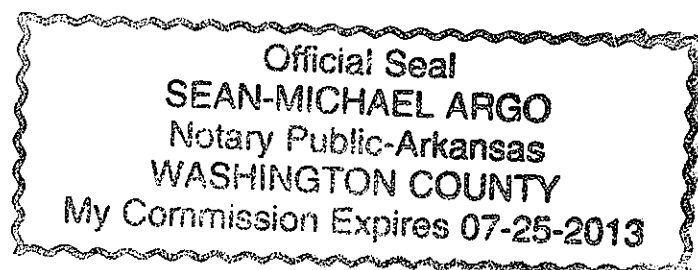
Notary Public

Sean-Michael Argo

My Commission Expires:

07-25-2013

Do not pay from Affidavit, an invoice will be sent



RECEIVED

MAY 17 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
MAY 15, 2007**



A meeting of the Fayetteville City Council will be held on May 15, 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

Botanical Garden Annual Report - Catherine Bass.

A. CONSENT:

1. Approval of the April 17, 2007 and May 1, 2007 City Council meeting minutes.

2. McClelland Consulting Engineers, Inc. Engineering Contract: A resolution awarding an engineering contract to McClelland Consulting Engineers, Inc. in an amount not to exceed \$80,200.00 for geotechnical studies, topographic surveys, flood analysis, design, bidding, and construction services associated with five (5) trail bridges for Scull Creek Trail.

3. Wilson Brothers Construction: A resolution approving a contract with Wilson Brothers Construction in the amount of \$1,327,793.62 for improvements to the Noland Wastewater Treatment Plant Primary Pond, WSIP Subproject EP-1; and approving a 5% project contingency in the amount of \$65,000.00.

4. Bid # 07-36 Glover's Truck Parts & Equipment: A resolution awarding Bid # 07-36 to Glover's Truck Parts & Equipment for the purchase of one (1) Low Boy Semi Trailer in the amount of \$55,719.00 for use by the Transportation Division.

5. Bid # 07-39 Williams Tractor: A resolution awarding Bid # 07-39 to Williams Tractor for the purchase of two (2) Compact Track Excavators in the amount of \$99,377.00, one for use by the Water & Sewer Division and the other for use by the Transportation Division; and approving budget adjustments in the amount of \$41,627.00 and \$750.00 respectively.

6. Bid # 07-40 Riggs Power Solutions, Three Backup Power Generators: A resolution awarding Bid # 07-40 to Riggs Power Solutions for the purchase of three (3) backup power generators in the amount of \$74,268.72 for WSIP Subproject EL-4, East Side Lift Station Upgrades.

7. Bid # 07-40 Riggs Power Solutions, One Emergency Generator: A resolution awarding Bid # 07-40 to Riggs Power Solutions for the purchase of one (1) additional backup power Generator in the amount of \$28,066.00 to provide power for the new fuel facility and the Fleet Operations/Transportation Building.

B. UNFINISHED BUSINESS:

1. 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 ordinance was left on the Third Reading at the May 1, 2007 City Council meeting and Tabled to the May 15, 2007 City Council meeting.*

C. PUBLIC HEARING:

1. Farmington Annexation Public Hearing Date: A public hearing regarding the City of Farmington's desire to annex 25.44 acres currently in the city limits of Fayetteville.

D. NEW BUSINESS:

1. Fayetteville Economic Development Corridor Project: A resolution to approve the three recommended options for transportation improvements in the Fayetteville Expressway Economic Development Corridor Project.

2. RZN 07-2520 (Karas): An ordinance rezoning that property described in rezoning petition RZN 07-2520, for approximately 1.50 acres, located at 4041 West Wedington Drive from R-A, Residential Agricultural to R-O, Residential Office.

3. VAC 07-2519 (Milver Investments): An ordinance approving VAC 07-2519 submitted by Milver Investments, LLC for property located at 500 West Prairie Street, vacating an un-constructed right-of-way along the west side of West Avenue and un-constructed right-of-way bisecting the subject property.

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E. INFORMATIONAL:

City Council Tour: None

RECEIVED

MAY 17 2007

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